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13 Stetson J. Advoc. & L. 339 (2026)

“Equal Vision” Denied: Rethinking *Padilla* Through the Lens of Dignity

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I. Introduction

339. The Supreme Court’s decision in *Padilla v. Kentucky* reshaped the constitutional landscape by holding that the Sixth Amendment’s guarantee of effective assistance of counsel includes a duty to advise noncitizen defendants of the immigration consequences of a guilty plea. This ruling acknowledged that deportation (removal), although technically a civil consequence, is often a direct and severe penalty, integral to criminal convictions, thus eroding the longstanding collateral-consequences doctrine. The Supreme Court’s decision heightened awareness of the constitutional duty incumbent upon criminal defense attorneys to advise noncitizen defendants of the immigration consequences of a guilty plea, recognizing deportation as a “particularly severe penalty” that is “intimately related to the criminal process.”² This mandate has had far-reaching implications, especially for defense counsel representing vulnerable populations at risk

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2 *Padilla v. Kentucky*, 559 U.S. 356, 483 (2010).

of detention and removal. The burden on public defenders is considerable, particularly in jurisdictions where resources are scarce and caseloads are overwhelming. The complexity of immigration law compounds this challenge, making it difficult for even well-meaning attorneys to provide constitutionally sufficient advisals.

340. Despite *Padilla*'s clear directive, its implementation has been uneven. Courts have varied in their interpretations of what constitutes effective immigration advice, with some jurisdictions accepting vague or equivocal statements that fail to meet the standard envisioned by the Supreme Court.³ Inadequate training and limited access to immigration experts have led to continued instances of ineffective assistance, in which noncitizen defendants are left unaware of the life-altering consequences of their pleas.⁴ These failings are particularly harmful to mentally ill and medically vulnerable detainees, who often find themselves funneled into mandatory detention as a result of pleas entered without meaningful understanding.⁵ The decision in *Padilla* did not account for the compounding effects of inadequate representation, mental illness, and lack of access to healthcare, gaps that remain largely unaddressed in immigration detention today.⁶

341. In this article, I argue that *Padilla* can serve as a foundational precedent for expanding dignity-based arguments in constitutional litigation, particularly in the immigration detention context, where prolonged confinement and inadequate medical care infringe upon detainees' rights to liberty and humane treatment. I start with an overview of the Supreme Court's decision in *Padilla*, with the postulation that most readers are already familiar with its holding. To ground the analysis in real-world impact, I include examples of how erroneous legal advice can lead to devastating, and often irreversible, consequences for noncitizens. This is followed by an overview of the mandatory detention framework in the U.S. as well as its impact on noncitizens' mental health.

342. In the last part of the article, my analysis centers on how dignity-based legal principles can reframe the constitutional rights of mentally ill noncitizens, with particular attention to the requirement for humane treatment and procedural fairness in both criminal and immigration proceedings. I argue that enforceable dignity rights are essential to confronting the systemic injustices faced by mentally ill detainees and are critically relevant in addressing the failures of the immigration detention system. By examining the intersection of *Padilla*'s due process expansion and the dignity rights of vulnerable noncitizens, I hope to contribute a novel framework for advancing humane and constitutionally grounded treatment for this population.

3 *People v. Valdez*, 2016 IL 119860, 67 N.E.3d 233 (Ill. 2016).

4 Nisha Agarwal et al., *Judicial Obligations After Padilla v. Kentucky: The Role of Judges in Upholding Defendants' Rights to Advice About the Immigration Consequences of Criminal Convictions*, IMMIGRANT DEF. PROJECT & N.Y.U. SCH. OF L. IMMIGRANT RIGHTS CLINIC 11, 33 (2011).

5 Sarah Mehta, *Deportation by Default: Mental Disability, Unfair Hearings, and Indefinite Detention in the US Immigration System*, HUMAN RIGHTS WATCH (July 25, 2010).

6 *Franco-Gonzalez v. Holder*, No. CV 10-2211, 2013 WL 8115423, 13-14 (C.D. Cal. 2013).

II. *Padilla v. Kentucky*: Constitutional Expansion and Its Limitations

343. In *Padilla*, the Supreme Court held that the Sixth Amendment requires defense attorneys to advise noncitizen clients of the deportation consequences of a guilty plea.⁷ The case involved José Padilla, a lawful permanent resident for over 40 years and a Vietnam War veteran, who pled guilty to a drug offense after receiving erroneous advice from his criminal defense counsel that he would not face deportation. The Court concluded that such misadvice constituted ineffective assistance under *Strickland v. Washington*.⁸

344. Justice Alito characterized the *Padilla* holding as a major upheaval in Sixth Amendment law, and some lower courts have since treated *Padilla* as creating a new rule. *Padilla* fundamentally recognized that immigration consequences are too severe and predictable to be excluded from the effective assistance inquiry. Despite its doctrinal significance, *Padilla* has been unsuccessful in delivering uniform protection for noncitizens considering that courts have diverged in interpreting what constitutes clear or effective advice.⁹ Some jurisdictions have accepted ambiguous advisals, or even substituted warnings from judges or police officers, as constitutionally sufficient.¹⁰

345. A 2024 study found that many public defender offices in Pennsylvania lacked standardized protocols to identify noncitizen clients, and that immigration advisals often depended on individual attorney initiative. The findings of the report reflect a broader national concern: *Padilla*'s promise is increasingly contingent on jurisdictional luck. The study, based on surveys, interviews, and courtroom observations, documented that immigration advisals varied significantly by county, with some public defenders receiving specialized training while others lacked even basic immigration law knowledge. Many offices did not have a routine intake mechanism for identifying immigration status, and few maintained referral relationships with immigration experts or institutional support structures. Some defenders provided only generic warnings or deferred entirely to judges or prosecutors, practices that run contrary to *Padilla*'s requirement that the duty to advise rests squarely with defense counsel.¹¹ Additionally, in some states, courts have insisted on clear, individualized advisals, while others have accepted vague warnings or permitted judicial and prosecutorial advisals to substitute for defense counsel's

7 *Padilla v. Kentucky*, 559 U.S. 356, 374 (2010).

8 *Strickland v. Washington*, 466 U.S. 668 (1984).

9 Judge Robert Pratt, *The Implications of Padilla v. Kentucky on Practice on United States District Courts*, 31 ST. LOUIS U. PUB. L. REV. 169, 176–78 (2011).

10 Lilia S. Stantcheva, *Padilla v. Kentucky: How Much Advice Is Enough?* 89 N.Y.U. L. REV. 1838–40 (2014).

11 Mikaela Wolf-Sorokin et al., *Padilla's Broken Promise: Pennsylvania Case Study*, 26 U. PA. J. CONST. L. 1046, 1088–90 (2024).

constitutional obligation.¹²

346. Another concern is that the increased routinization of *Padilla* advisals may render them perfunctory, reducing the constitutional safeguard to an abstract disclaimer, often buried in plea forms or delivered in language too technical or opaque to foster actual understanding. When warnings devolve into standardized documents or rapid-fire advisals, the substantive promise of *Padilla* is lost, transforming what should be a moment of meaningful notice into a procedural ritual.¹³ This concern is not novel; the legal system has historically tolerated similar breakdowns of procedural rights. As Cloud and his co-authors have observed in the context of *Miranda*, standardized warnings frequently provide only constructive, not actual, notice for individuals with cognitive impairments, thereby undermining the very constitutional protections they purport to uphold.¹⁴

347. While *Padilla* marked a pivotal moment in expanding the Sixth Amendment's reach to include immigration consequences of guilty pleas, the jurisprudence and subsequent implementation have failed to adequately consider the unique position of noncitizen defendants with mental health impairments. To date, the intersection of *Padilla* obligations and mental illness remains significantly under-explored in legal scholarship. This gap is not merely academic, it reflects a broader structural failure in the delivery of constitutionally adequate defense for a class of individuals whose ability to comprehend and evaluate legal advice is often compromised.¹⁵

348. Expansion of *Padilla* advisals for mentally ill noncitizens are imperative when considering the structural reality of prolonged immigration detention, in which mental illness is often exacerbated by isolation, limited access to medication, and substandard mental health care. These conditions further diminish a detainee's capacity to participate in legal decision-making, making accurate and comprehensible legal advice even more essential. Yet without affirmative safeguards, such as mental competency evaluations tailored to *Padilla*-related advice, or enhanced training for criminal defense counsel in identifying and addressing psychiatric vulnerabilities, *Padilla* protections remain aspirational for many.

349. The imperative to broaden *Padilla* protections for mentally ill noncitizens is underscored when juxtaposed with constitutional doctrines developed to protect individuals with mental illness in civil legal settings. In *Gagnon v. Scarpelli*, the Supreme Court recognized that due process may require the appointment of counsel during probation revocation hearings, particularly where the individual faces significant obstacles to

12 *United States v. Delgado-Ramos*, 635 F.3d 1237, 1239–40 (9th Cir. 2011).

13 Jenny Roberts, *Ignorance Is Effectively Bliss: Collateral Consequences, Silence, and Misinformation in the Guilty-Plea Process*, 95 IOWA L. REV. 119, 149–51 (2009).

14 Morgan Cloud et al., *Words Without Meaning: The Constitution, Confessions, and Mentally Retarded Suspects*, 69 U. CHI. L. REV. 495, 571–72 (2002).

15 E. Lea Johnston, *Mental Health Courts and Sentencing Disparities*, 62 VILL. L. REV. 685, 730 (2017).

self-representation.¹⁶ Similarly, in *Vitek v. Jones*, the Court held that involuntary physical transfer of mentally ill individuals from prisons to mental hospitals triggers a categorical right to counsel, adequate notice, an adversary hearing before an independent decisionmaker, and a written statement by the factfinder of the evidence relied on and the reasons for the decision. The *Vitek* court further described the lack of such safeguards as “a massive curtailment of liberty.”¹⁷ If the involuntary transfer of a mentally ill person warrants such robust procedural safeguards, surely the permanent exile of a noncitizen via an uninformed plea entered under the cloud of mental illness demands at least equal concern.

350. In the immigration sphere, *Franco-Gonzalez v. Holder* marked a significant advancement in immigration proceedings by establishing the right to appointed counsel for detained, mentally incompetent noncitizens within the Ninth Circuit.¹⁸ This led to the creation of the National Qualified Representative Program (“NQRP”), which extended similar protections nationwide.¹⁹ However, the NQRP’s implementation has faced challenges, including disparities in coverage and concerns about consistent application across jurisdictions. Moreover, the *Franco-Gonzalez* ruling was grounded in the Rehabilitation Act, sidestepping broader constitutional questions under the Due Process Clause.²⁰ Consequently, while *Franco-Gonzalez* and the NQRP represent meaningful progress, they underscore the need for a more expansive and uniform framework that ensures mentally ill noncitizens receive adequate legal protections throughout the immigration process.

351. Addressing this gap requires more than refining procedural safeguards; it demands a paradigm shift toward a dignity-centered framework. Such a framework would acknowledge that individuals with serious mental illness face distinct and often insurmountable barriers to understanding, participation, and self-advocacy. For purposes of a dignity-centered framework, “serious mental illness” would need to be defined with reference to consistent diagnostic or functional criteria. While no single standard currently governs across legal systems, courts in the criminal context often assess competency and culpability using clinical evidence of major psychiatric disorders that substantially impair rational understanding, communication, or behavioral control.²¹ The legal system must, therefore, respond not only with formalistic protections, but with

16 *Gagnon v. Scarpelli*, 411 U.S. 778, 790 (1973).

17 *Vitek v. Jones*, 445 U.S. 480, 491 (1980); *Humphrey v. Cady*, 405 U.S. 504, 509 (1972).

18 *Franco-Gonzalez v. Holder*, 767 F. Supp. 2d 1034, 1058–61 (C.D. Cal. 2010).

19 Aimee Mayer-Salins and Ann Garcia., *Practice Advisory: Representing Noncitizens with Mental Illness*, CATHOLIC LEGAL IMMIGRATION NETWORK, INC. 17–18 (2020).

20 Leslie Wolf, *After Franco-Gonzalez v. Holder: The Implications of Locating a Right to Counsel Under the Rehabilitation Act*, 23 REV. L. & SOC. JUST. 329, 357 (2014).

21 *Dusky v. United States*, 362 U.S. 402, 402 (1960).

a commitment to honoring the inherent worth of each individual. This need is especially acute in the context of *Padilla* advisals, where deportation frequently follows as a virtually automatic consequence, and the stakes, family separation, loss of community, and permanent exclusion, are often irreversible. For defendants with mental illness or developmental disabilities, the mere delivery of an adval is insufficient; what is essential is a capacity-sensitive, accessible explanation that takes into account cognitive and psychiatric barriers and maximizes the individual's ability to understand.²² Failure to do so raises profound due process concerns, ones that current doctrine addresses inadequately.²³ Without embedding dignity as a constitutional imperative, particularly in the contexts of prolonged detention and civil exile, the promise of justice remains, for the most vulnerable, largely illusory.

III. Mandatory Detention, Prolonged Incarceration, and the Collapse of Dignity

352. The consequences of constitutionally deficient immigration advisals are particularly severe for noncitizens with mental illness who unknowingly accept plea agreements that trigger mandatory detention under 8 U.S.C. § 1226(c).²⁴ Unlike discretionary detention under § 1226(a), which allows for bond hearings, mandatory detention under § 1226(c) provides no opportunity for release, even for individuals who pose no danger to the community and whose psychiatric conditions impair their ability to comprehend or navigate legal proceedings.²⁵ This regime, while civil in form, operates as prolonged incarceration without meaningful procedural safeguards.

353. The application of mandatory detention to vulnerable populations, such as those with mental illness, raises significant due process concerns, particularly when detention becomes prolonged without individualized assessments.²⁶ The lack of procedural protections in such cases has been criticized for failing to account for the unique challenges faced by mentally ill detainees, effectively subjecting them to indefinite confinement

22 *Ingrid v. Eagly*, *Criminal Justice for Noncitizens: An Analysis of Variation in Local Enforcement*, 88 N.Y.U. L. Rev. 1126, 1183–85 (2013).

23 *Indiana v. Edwards*, 554 U.S. 164, 177–78 (2008); *Vitek v. Jones*, 445 U.S. 480, 491–94 (1980).

24 See *Padilla v. Kentucky*, 559 U.S. 356, 366 (2010); 8 U.S.C. § 1226(c) (2018); *Demore v. Kim*, 538 U.S. 510, 513, 531 (2003); Kristen C. Ochoa et al., *Disparities in Justice and Care: Persons with Severe Mental Illnesses in the U.S. Immigration Detention System*, 38 J. AM. ACAD. PSYCHIATRY & L. 392, 396 (2010); Aimee Mayer-Salins & Ann Garcia, *Practice Advisory: Representing Noncitizens with Mental Illness*, CATH. LEGAL IMMIGR. NETWORK, INC. (May 2020).

25 8 U.S.C. § 1226 (2023); *Jennings v. Rodriguez*, 804 F.3d 1060 (2018).

26 Paulina D. Arnold, *How Immigration Detention Became Exceptional*, 75 STAN. L. REV. 261, 300–05 (2023).

without adequate legal recourse.²⁷ More recently, the Board of Immigration Appeals (“BIA”) in *Matter of Q-Li*, adopted an expansive interpretation of 8 U.S.C. § 1225(b), holding that noncitizens apprehended shortly after unlawful entry and placed directly into full removal proceedings are subject to mandatory detention without eligibility for bond hearings. This decision extends the reach of mandatory detention to individuals who may have been released on parole and later re-detained, including noncitizens with serious mental illnesses.²⁸ By eliminating the possibility of individualized bond determinations, *Q-Li* exacerbates the vulnerabilities of mentally ill detainees, effectively subjecting them to prolonged detention without consideration of their mental health status or potential for rehabilitation.

354. Despite the increasingly expansive reach of mandatory detention, the Supreme Court’s jurisprudence on its constitutional limits remains fragmented and inconsistent. In *Demore v. Kim*, the Supreme Court upheld the constitutionality of mandatory detention for certain noncitizens during “brief” removal proceedings, yet failed to impose substantive limits on the duration of such detention or account for systemic delays.²⁹ In contrast, in *Zadvydas v. Davis*, the Supreme Court held that indefinite detention without a reasonable prospect of removal violates due process.³⁰ In *Jennings*, the Supreme Court reaffirmed DHS’s statutory authority to detain individuals pending removal, but declined to recognize a constitutional requirement for periodic bond hearings.³¹ In *Johnson v. Arteaga-Martinez*, the Supreme Court held that noncitizens detained under 8 U.S.C. §1231(a) are not entitled to bond hearings after six months, narrowing the path to release even further.³² Ultimately, one of these preceding rulings sufficiently address the unique harms faced by mentally ill detainees.

355. Some lower courts have recognized that prolonged detention without bond hearings may implicate substantive due process, but such rulings remain inconsistent and underdeveloped.³³ For those with cognitive impairments, detention is both a deprivation of liberty as well as a setting that accelerates psychological deterioration and renders legal remedy nearly inaccessible.³⁴ Habeas corpus, the sole avenue for relief in

27 Sarah R. Sherman-Stokes, No Restoration, No Rehabilitation: Shadow Detention of Mentally Incompetent Noncitizens, 62 Vill. L. Rev. 787, 791 (2017).

28 *Matter of Q-Li*, 29 I&N Dec. 66 (BIA 2025); 8 U.S.C. § 1225(b) (2008).

29 *Demore v. Kim*, 538 U.S. 510, 511 (2003).

30 *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

31 *Jennings v. Rodriguez*, 804 F.3d 1060 (2018).

32 *Johnson v. Arteaga-Martinez*, 596 U.S. 573 (2022); 8 U.S.C. 1231(a) (2006).

33 *Doe v. Tompkins*, 6 F.4th 27 (1st Cir. 2021); *Gonzalez v. Bonnar*, No.18-cv-05321-JSC, 4–8 (N.D. Cal. 2019).

34 Katherine Peeler, MD et. al., *Praying for Hand Soap and Masks: Health and Human Rights Violations in U.S. Immigration Detention during the COVID-19 Pandemic*, PHYSS. FOR HUM. RTS. & NAT’L IMMIGRANT JUST. CTR., 11–14, 19–20, 27, 35 (2021).

many such cases, is functionally out of reach for individuals lacking mental competence or legal support, particularly given the protracted adjudication timelines in some district courts.³⁵ Cognitive impairments, language barriers, lack of legal representation, and limited understanding of procedural rights render this safeguard illusory for many detainees. The Ninth Circuit recognized in *Allen v. Calderon* that a pro se prisoner is entitled to a competency hearing in habeas proceedings where there is “substantial evidence” of incompetence, implicitly acknowledging the procedural complexities facing mentally impaired litigants.³⁶ Nonetheless, few jurisdictions have adopted mechanisms to ensure that habeas corpus can be meaningfully pursued by those with diminished capacity.³⁷ For mentally ill detainees, the absence of appointed counsel and structurally inadequate screening mechanisms means that habeas petitions are rarely filed, let alone granted.³⁸ In such cases, the legal fiction of access to habeas relief masks a deeper constitutional infirmity: that some of the most vulnerable individuals in civil detention are left without any realistic means of challenging the legitimacy of their confinement.

356. Labeling immigration detention “civil” does not neutralize its punitive effects. In *Wong Wing v. United States*, the Court made clear that detention cannot be used to punish without full constitutional safeguards, including the right to a criminal trial. While the Court acknowledged the legitimacy of temporary confinement to facilitate removal, it warned against detention conditions and durations that exceed the inherent limits of civil enforcement.³⁹ Today, thousands of noncitizens, including many with severe mental illness, remain detained for extended periods without individualized review, undermining the very rationale for their detention and eroding due process.⁴⁰

357. If *Padilla* is to be meaningful, its promise must extend beyond the moment of the guilty plea. The advisal required under *Padilla*, often initiates a chain of events leading directly into prolonged detention. For mentally ill individuals, that path is especially treacherous. When plea agreements funnel vulnerable defendants into systems devoid of mental health care, legal access, or hope of release, *Padilla* becomes a hollow protection for those it was meant to serve.

35 Christie Thompson, *They’re Facing Deportation with Severe Mental Illness — And Now Without a Lawyer*, [THE MARSHALL PROJECT](#) (May 24, 2025); Roger A. Hanson & Henry W.K. Daley, *Federal Habeas Corpus Review: Challenging State Court Criminal Convictions*, [U.S. DEP’T OF JUST. BUREAU OF JUST. STAT.](#) (1995).

36 *Allen v. Calderon*, [No. 02-16917](#) (9th Cir. 2005).

37 Joshua D. Marcin, *Expanding Cause: How Federal Courts Should Address Severe Psychiatric Impairments that Impact State Post-Conviction Review*, [60 AM. CRIM. L. REV.](#) 79, 81–82 (2023).

38 Aditi Shah, *Constitutional and Procedural Pathways to Freedom from Immigration Detention: Increasing Access to Legal Representation*, [35 GEO. IMMIGR. L.J.](#) 181 (2021).

39 *Wong Wing v. United States*, [163 U.S.](#) 228, 237 (1896).

40 *Jennings v. Rodriguez*, [804 F.3d 1060](#) (2018); Sarah Mehta, *Deportation by Default: Mental Disability, Unfair Hearings, and Indefinite Detention in the US Immigration System*, [HUMAN RIGHTS WATCH](#) (July 25, 2010).

358. A few years ago, I represented a client, diagnosed with schizoaffective disorder, bipolar type, who had accepted a plea deal on the advice of his criminal defense attorney.⁴¹ That single plea subjected him to mandatory immigration detention under Section 236(c) of the Immigration and Nationality Act (“INA”), which requires the detention of noncitizens convicted of certain criminal offenses without a bond hearing.⁴² It also resulted in his indefinite detention and near-certain removal to a country he had not visited since infancy. He spent nine months in ICE custody, during which he was transferred among multiple detention facilities. His psychiatric medications did not follow him during these transfers, and he remained unmedicated for an extended period until he was eventually evaluated by a psychiatrist at a new facility. During that time, he was placed in solitary confinement. Upon release from isolation, he was prescribed new medication that caused severe side effects and worsened his mental state.

359. Given my client’s visible confusion, disorientation, and deteriorating psychological condition, I requested a competency hearing under *Matter of M-A-M*.⁴³ The immigration judge ultimately found him competent to proceed but acknowledged the need for procedural safeguards to ensure fairness. He had arrived in the United States as a lawful permanent resident as an infant. He had no meaningful connection to the country of removal, no cultural ties, and no fluency in the language. Yet under current law, these factors had no bearing on the outcome.

360. In another matter, my client was detained after pleading guilty to an offense that constituted an “aggravated felony” under the Immigration and Nationality Act, a designation that severely restricts access to relief from removal.⁴⁴ He was diagnosed with major depressive disorder and substance use disorder, a mental health condition under the Diagnostic and Statistical Manual of Mental Disorders.⁴⁵ Upon reviewing the criminal court records, I discovered that the prosecutor had extended two plea options: one that constituted an aggravated felony under the INA, and another that did not. My client selected the former, as it offered a lesser prison sentence, though it was clear from my discussions with him that he had not fully grasped the concepts and options that had been presented to him. Neither could he comprehend how or why he was then transferred to ICE custody, where he remained for three and a half years while we litigated his case. During that period, he was denied bond at three separate hearings before the immigration judge, pursued an appeal before the Board of Immigration Appeals, and received a remand to the immigration court, all while we sought post-conviction relief

41 The factual and procedural history set forth in this section is based on the author’s direct knowledge in her capacity as the noncitizens’ attorney of record at the time.

42 8 U.S.C. § 1226(c).

43 *Matter of M-A-M*, 25 I&N Dec. 474 (BIA 2011).

44 8 U.S.C. § 1101(a)(43); Office of Immigration Litigation, *Immigration Consequences of Criminal Convictions: Padilla v. Kentucky*, U.S. DEP’T OF JUST., CIV. DIV. (2010).

45 Meghan A. Marty & Daniel L. Segal, *DSM-5*, AM. PSYCHIATRIC ASS’N (2015).

in criminal court. One of our central arguments for release emphasized his desire to care for his ailing, elderly mother. She passed away while he lingered in detention.

361. Both matters illustrate a profound disjunction between the criminal and immigration legal systems, particularly in how each evaluates mental competency and safeguards vulnerable individuals. In criminal proceedings, the Sixth Amendment guarantees not only the right to effective assistance of counsel but also the right not to be tried or to plead guilty while mentally incompetent.⁴⁶ A defendant must possess both “a rational as well as factual understanding of the proceedings against him” and “sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding.”⁴⁷

362. But competency is different in immigration court. There is no constitutional right to appointed counsel.⁴⁸ Nor is there a clearly articulated standard for mental competency equivalent to that in criminal law. In *Matter of M-A-M-*, the Board of Immigration Appeals articulated a presumption of competency in removal proceedings and imposed on immigration judges the responsibility to evaluate “indicia of incompetency” and to implement appropriate procedural safeguards if necessary. These safeguards may include simplifying the proceedings, allowing assistance from family members or friends, continuing the hearing to obtain medical evaluations, or taking testimony in alternative formats.⁴⁹ However, these measures fall far short of the procedural rigor and protections afforded to criminal defendants.

363. As a result, individuals with mental illness are routinely funneled into removal proceedings with minimal procedural protections. For noncitizens with mental impairments, a single unadvised plea may serve as the decisive step toward mandatory detention in facilities rife with documented human rights violations and governed by statutes that are as opaque as they are unforgiving.⁵⁰ *Padilla* recognized the critical role of pre-plea advisals in preventing such outcomes, yet its promise remains largely unrealized for the most vulnerable.⁵¹ For these individuals, the adequacy or absence of a prelim-

46 U.S. Const. amend. VI.

47 *Dusky v. United States*, 362 U.S. 402, 402 (1960); *Godinez v. Moran*, 509 U.S. 389, 396 (1993).

48 *Turner v. Rogers et al.*, 564 U.S. 431, 441 (2011).

49 *Matter of M-A-M-*, 25 I&N Dec. 474, 479–80 (BIA 2011).

50 See *Demand for Civil Rights Investigation into Inadequate Mental Health Care and Use of Solitary Confinement in ICE Detention*, NAT’L IMMIGRANT JUST. CTR. (2022); Caroline H. Lee et al., *Endless Nightmare: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention* PHYSS. FOR HUM. RTS. (2024); *Courts in Name Only: Repairing America’s Immigration Adjudication System*, 136 HARV. L. REV. 908, 910 (2023).

51 Nisha Agarwal et al., *Judicial Obligations After Padilla v. Kentucky: The Role of Judges in Upholding Defendants’ Rights to Advice About the Immigration Consequences of Criminal Convictions*, IMMIGRANT DEF. PROJECT & N.Y.U. SCH. OF L. IMMIGRANT RIGHTS CLINIC 11 (2011).

inary *Padilla* advisal can mean the difference between remaining in the community or being lost in an incomprehensible legal labyrinth with life-altering consequences.⁵²

364. A growing body of empirical research confirms that immigration detention, particularly when prolonged or indefinite, inflicts profound and lasting psychological harm.⁵³ Individuals with preexisting mental illness are especially vulnerable, yet the detention environment itself can generate or exacerbate psychiatric conditions. A systematic review in *PLOS Medicine* found disproportionately high rates of PTSD, depression, and anxiety among detained asylum seekers, with symptoms persisting long after release.⁵⁴

365. In the U.S., the use of solitary confinement in immigration detention has drawn particular concern. A 2023 report by Physicians for Human Rights documented ICE's frequent resort to solitary confinement, often in violation of agency guidelines, and detailed numerous instances where mentally ill detainees exhibited acute trauma, paranoia, and suicidal ideation.⁵⁵ Solitary confinement has consistently been associated with severe psychological effects, including hallucinations, dissociation, and self-harm. In a study of New York City jails, detainees in solitary confinement were 6.9 times more likely to commit acts of self-harm and 6.3 times more likely to attempt potentially fatal self-harm than the general jail population.⁵⁶ Recognizing these harms, President Barack Obama in 2016 banned the use of solitary confinement for juveniles in federal prisons, warning that such isolation "is linked to depression, alienation, withdrawal, a reduced ability to interact with others, and the potential for violent behavior."⁵⁷

366. Despite these findings and policy shifts, ICE facilities continue to use solitary confinement (often masked under the guise of protective custody), including against individuals with severe mental illness.⁵⁸ Beyond the clinical symptoms, prolonged detention erodes an individual's sense of self and meaning. Mental health professionals describe a process of "temporal rupture," in which detainees experience their past as irretriev-

52 *Drax v. Reno*, 338 F.3d 98, 99 (2d Cir. 2003); Karen Berberich et al., *The Case for Universal Representation*, *VERA INST. JUST.* (2018).

53 M. von Werthen, et. al., *The Impact of Immigration Detention on Mental Health: a Systematic Review*, 18 *BMC PSYCHIATRY* 382 (2018).

54 Rebecca Blackmore et al., *The Prevalence of Mental Illness in Refugees and Asylum Seekers: A Systematic Review and Meta-Analysis*, 17 *PLOS MED.* 9 (2020).

55 Caroline H. Lee et al., *Endless Nightmare: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention* *PHYSS. FOR HUM. RTS.* (2024).

56 Fatos Kaba et al., *Solitary Confinement and Risk of Self-Harm Among Jail Inmates*, 104 *AM. J. PUB. HEALTH* 442 (2014).

57 Barack Obama, *Barack Obama: Why We Must Rethink Solitary Confinement*, *WASH. POST* (Jan. 25, 2016).

58 Caroline H. Lee et al., *Endless Nightmare: Torture and Inhuman Treatment in Solitary Confinement in U.S. Immigration Detention* *PHYSS. FOR HUM. RTS.* (2024).

able and their future as nonexistent.⁵⁹ In contrast, regular contact with family has been linked to improved outcomes, preserved self-worth, and reduced recidivism.⁶⁰

367. Ultimately, the convergence of mandatory detention, indefinite confinement, and systemic neglect has created a regime that is not preventive but punitive.⁶¹ A dignity-based legal framework would assess detention not only in terms of due process but considering its compatibility with evolving standards of dignity and taking into account the human experience. It would ask not only whether the government may detain, but whether it may do so under conditions that degrade, isolate, and psychologically destroy those least capable of resisting.

IV. Human Dignity as a Constitutional Minimum: A Framework for Mentally Ill Detainees

368. The Universal Declaration of Human Rights affirms that all people are “born free and equal in dignity and rights” and grounds human rights in the inherent dignity of every individual.⁶² Dignity-oriented jurisprudence represents a meaningful evolution in constitutional analysis, one that shifts the focus from governmental purpose or administrative expediency to the substantive effects of state conduct on the individual.⁶³ Rather than privileging considerations such as regulatory efficiency, institutional economy, or policy justification, this approach directs judicial inquiry toward the experiential and relational dimensions of rights enforcement.⁶⁴ It compels courts to assess how governmental action or omission impacts an individual’s capacity for self-determination, social inclusion, and recognition as a bearer of inherent worth.⁶⁵

369. This body of jurisprudence reflects a foundational legal attitude: that human dignity is inviolable.⁶⁶ In many dignity rights cases, courts depart from conventional rights-

59 Zachary Steel & Derrick M Silove, *The mental health implications of detaining asylum seekers*, 175 *MED. J. AUST.* 11 (2001).

60 William D. Bales & Daniel P. Mears, *Inmate Social Ties and the Transition to Society: Does Visitation Reduce Recidivism?*, 45 *J. RESEARCH IN CRIME & DELINQ.* 287 (2008).

61 Clara Long & Grace Meng, *Systemic Indifference: Dangerous & Substandard Medical Care in US Immigration Detention*, *HUMAN RIGHTS WATCH* (2017).

62 *Universal Declaration of Human Rights* G.A. Res. 217A (III), *U.N. GAOR*, 3D SESS., U.N. DOC. A/810, 72 (Dec. 10, 1948).

63 See generally ERIN DALY, *DIGNITY RIGHTS: COURTS, CONSTITUTIONS, AND THE WORTH OF THE HUMAN PERSON*, (Updated ed. 2020).

64 Leslie Meltzer Henry, *The Jurisprudence of Dignity*, 160 *U. PA. L. REV.* 169, 169-172 (2011).

65 Neomi Rao, *Three Concepts of Dignity in Constitutional Law*, 86 *NOTRE DAME L. REV.* 183, 201-02 (2011).

66 Vicki C. Jackson, *Constitutional Dialogue and Human Dignity: States and Transnational Constitutional Discourse*, 65 *MONT. L. REV.* 15, 25-26 (2004).

balancing approaches such as proportionality analysis or the U.S. framework of strict scrutiny—which permits infringement of even fundamental rights if the government can offer a compelling justification.⁶⁷ Instead, once a violation of dignity is established, the action is often deemed inherently impermissible, without further balancing. For example, in *Bouyid v. Belgium*, the Grand Chamber of the European Court of Human Rights held that a single slap by a police officer against a young man in custody constituted inhuman and degrading treatment under Article 3 of the European Convention because the intent of the slap was not only physical but symbolically and psychologically degrading, especially since it occurred while the individual was in police custody, a position of vulnerability and power imbalance. The Court there emphasized that “Any interference with human dignity strikes at the very essence of the Convention . . . [f]or that reason any conduct by law-enforcement officers vis-à-vis an individual which diminishes human dignity constitutes a violation of Article 3 of the Convention.”⁶⁸

370. The German Federal Constitutional Court invalidated legislation that permitted the government to shoot down hijacked civilian aircraft to prevent greater loss of life, declaring that human dignity, enshrined in Article 1 of the German Basic Law, cannot be weighed against utilitarian considerations.⁶⁹ Similarly, in *Masangano v. Attorney General & Ors.*, the Malawi Supreme Court of Appeal rejected the state’s argument that financial constraints justified overcrowded and degrading prison conditions, affirming that economic hardship does not excuse violations of prisoners’ dignity.⁷⁰ In these decisions, courts affirm that dignity is not a right to be balanced, but a non-negotiable foundation of justice.

371. Building on these insights and grounded in the U.S. experience, I propose a dignity-centered framework organized around three pillars: (1) Constitutional Recognition of Vulnerability, (2) Institutional Adaptation and Procedural Accommodation, and (3) Dignity-Based Remedies and Accountability. This structure reimagines and expands the scope of *Padilla* by centering the lived experiences and distinctive vulnerabilities of mentally ill noncitizens, thereby urging courts, counsel, and adjudicators to reconsider the normative foundations of due process in immigration proceedings.

A. Constitutional Recognition of Vulnerability

372. The first pillar of a dignity-centered framework begins with the recognition that mental illness is not simply a medical classification; it is a constitutionally significant

67 Christopher McCrudden, *Human Dignity and Judicial Interpretation of Human Rights*, 19 EUR. J. INT’L L. 655, 715-716 (2008).

68 *Bouyid v. Belgium*, App. No. 23380/09, Eur. Ct. H.R. (Grand Chamber, 2015).

69 Proceedings on the Constitutional Complaints, Case No. 1 BvR 357/05 (Ger. 2006).

70 *Masangano v. Attorney General & Ors.* (15 of 2007), MWSC 31 (Malawi, 2009).

condition that implicates core principles of due process, equal protection, and human dignity. The Supreme Court has long acknowledged that the state's treatment of individuals with psychiatric disabilities engages heightened constitutional scrutiny. In *Vitek v. Jones*, the Supreme Court described the involuntary civil commitment of mentally ill individuals as a "massive curtailment of liberty," holding that such proceedings require rigorous procedural safeguards, including notice, a hearing, and the right to counsel.⁷¹ In *Jackson v. Indiana*, the Supreme Court held that indefinite detention of a criminal defendant solely due to incompetency to stand trial violates due process, emphasizing that states must pursue less restrictive alternatives when competency cannot be restored.⁷² In *Youngberg v. Romeo*, the Supreme Court recognized that involuntarily committed individuals have constitutionally protected liberty interests in reasonable safety and freedom from undue bodily restraint, which must be balanced against legitimate state interests.⁷³ Similarly, in *Franco-Gonzalez v. Holder*, a federal court ruled that immigration detainees with serious mental illness could not be expected to meaningfully participate in removal proceedings without the appointment of legal representation.⁷⁴ These precedents reflect a judicial awareness that mental incapacity, when left unaccommodated, renders legal processes structurally unjust.

373. A dignity-based approach builds upon this jurisprudence by treating psychiatric vulnerability as a structural factor that must inform legal decision-making at every stage of the criminal-immigration continuum. The criminal legal system has evolved institutional mechanisms to address psychiatric vulnerability as a constitutionally salient factor. For example, defendants found not guilty by reason of insanity are often diverted to secure treatment facilities rather than punitive incarceration.⁷⁵ Mental health courts, specialized judicial fora designed to address the needs of defendants with serious psychiatric conditions, offer treatment-focused alternatives to traditional prosecution and sentencing.⁷⁶ These courts recognize diminished culpability due to mental illness and provide tailored interventions aimed at reducing recidivism and promoting recovery.

374. Immigration law, however, charts a starkly different course. The Second Circuit in *Reid v. Bondi* underscored this gap when it noted that immigration authorities are not required to halt removal proceedings, even where the respondent is demonstrably incompetent, absent specific statutory direction.⁷⁷ In light of these gaps, adjudicatory bodies, including immigration judges and the BIA, could strengthen existing safeguards

71 *Vitek v. Jones*, 445 U.S. 480, 491–94 (1980).

72 *Jackson v. Indiana*, 406 U.S. 715, 731 (1972).

73 *Youngberg v. Romeo*, 457 U.S. 307, 324 (1982).

74 *Franco-Gonzalez v. Holder*, 767 F. Supp. 2d 1034, 1058–61 (C.D. Cal. 2010).

75 *Jones v. United States*, 463 U.S. 354, 370 (1983).

76 Lauren Almquist & Elizabeth Dodd, *Mental Health Courts: A Guide to Research-Informed Policy and Practice*, COUNCIL OF STATE GOV'TS JUSTICE CTR. (2009).

77 *Reid v. Bondi*, No. 20-3324 (2d Cir. 2025).

by adopting a rebuttable presumption: that individuals with documented diagnoses of serious mental illness are presumed to require heightened procedural review before key determinations proceed. While immigration law already provides certain accommodations, such as service on custodians⁷⁸ or discretionary safeguards under *Matter of M-A-M-*, these protections are not automatically triggered. Instead, respondents must first undergo a judicial competency inquiry.⁷⁹ Only when indicia of incompetency are identified may the process move to an independent evaluation. Yet, for detained respondents, “independent” evaluations have at times been conducted by the very treating physician, raising concerns under the American Psychological Association standards.⁸⁰ A presumptive framework, particularly for those entering removal proceedings directly from the criminal justice system with established mental health records, would reduce these procedural hurdles, ensure earlier intervention, and shift the burden of proof away from the most vulnerable individuals.⁸¹

375. Additionally, given the absence of statutory accommodations within the immigration system, it would be beneficial to frontload enhanced procedural protections during the criminal legal process, particularly at the plea negotiation stage. A robust, dignity-based approach demands that criminal courts and defense counsel recognize serious mental illness as a factor that can fundamentally impair a noncitizen’s ability to assess the immigration consequences of a plea. Because the immigration adjudicatory framework provides neither statutory mechanisms for diversion nor adequate safeguards post-conviction, the plea itself often functions as the decisive, and effectively unreviewable, event in a noncitizen’s removal trajectory.⁸² Enhanced safeguards at this critical juncture are, therefore, essential to ensuring that psychiatric vulnerability does not become a silent conduit to detention, banishment, and systemic dehumanization.

B. Institutional Adaptation and Procedural Accommodation

376. Recognition alone is insufficient without the institutional capacity to respond. The second pillar of the dignity-based framework demands procedural innovation and structural reform across agencies tasked with enforcing immigration law and adjudicating criminal and removal proceedings. These institutions, including criminal courts, immigration judges, and the Department of Homeland Security, must proactively identify, assess, and accommodate psychiatric vulnerability, rather than relying on ad hoc or crisis-driven responses.

78 8 C.F.R. § 103.8(c)(2)(ii) (2011).

79 *Matter of M-A-M-*, 25 I&N Dec. 474, 480 (BIA 2011).

80 *Specialty Guidelines for Forensic Psychology*, 68 AM. PSYCHOL. 7, 15 (2013).

81 Michael L. Perlin, “His Brain Has Been Mismanaged with Great Skill”: How Will Jurors Respond to Neuroimaging Testimony in Insanity Defense Cases?, 42 AKRON L. REV. 885, 893–95 (2009).

82 Ingrid V. Eagly, *Remote Adjudication in Immigration*, 109 NW. U. L. REV. 933 (2015).

377. While some jurisdictions within the criminal justice system implement mental health screening tools at booking or jail intake, tools such as the Correctional Mental Health Screen (“CMHS”) and the Brief Jail Mental Health Screen (“BJMHS”) have been validated and recommended, their use remains uneven, especially in non-accredited facilities, where subjective observations persist.⁸³ While the Sequential Intercept Model (“SIM”) offers a framework for early intervention within criminal justice, no parallel model exists within immigration adjudication.⁸⁴

378. Likewise, ICE’s Performance-Based National Detention Standards require improved mental health care services in detention, but do not mandate systematic screening linked to adjudicatory stages, underscoring the absence of a unified framework across immigration and criminal legal systems.⁸⁵ Adjudicatory bodies should be encouraged to adopt trauma-informed procedures, including the use of simplified evidentiary rules, plain-language advisals, and expanded opportunities for testimonial support through amici, guardians ad litem, or mental health professionals.⁸⁶ The Executive Office for Immigration Review and DHS should also explore piloting specialized dockets or diversion tracks for noncitizens with documented psychiatric diagnoses, modeled on the treatment-oriented approaches developed in mental health courts within the criminal legal system.⁸⁷

379. In parallel, the effective provision of legal representation must be recalibrated to account for diminished capacity. Both criminal defense and immigration counsel would benefit from receiving specialized training in recognizing psychiatric symptoms, engaging in capacity-sensitive advisals, and modifying communication styles to promote comprehension. Beyond the individual attorney, agencies must invest in communicative equity by providing translated, accessible, and visual materials that explain rights and procedures to individuals with cognitive or linguistic limitations. These reforms serve to protect individual liberty and affirm the legal personhood of individuals whose vulnerabilities have too often excluded them from meaningful participation in adjudicatory processes.

83 Arthur J. Lurigio & James A. Swartz, *Mental Illness in Correctional Populations: The Use of Standardized Screening Tools for Further Evaluation or Treatment* 70 *FED. PROBATION* 1, 6-8 (2021).

84 *Sequential Intercept Model (SIM)*, *SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN.* (May 24, 2024).

85 *Performance-Based National Detention Standards 2011*, *IMMIGR. & CUSTOMS ENF’T* (rev. 2016).

86 Anna E. Carpenter, *Active Judging and Access to Justice*, 93 *NOTRE DAME L. REV.* 647, 683–86 (2018); Aimee Mayer-Salins & Ann Garcia, *Practice Advisory: Representing Noncitizens with Mental Illness*, *CATH. LEGAL IMMIGR. NETWORK, INC.* 7–8 (May 2020); Carol M. Suzuki, *Unpacking Pandora’s Box: Innovative Techniques for Effectively Counseling Asylum Applicants Suffering from Post-Traumatic Stress Disorder*, 4 *HASTINGS RACE & POVERTY L.J.* 235 (2007).

87 Lauren Almquist & Elizabeth Dodd, *Mental Health Courts: A Guide to Research-Informed Policy and Practice*, *COUNCIL OF STATE GOV’TS JUSTICE CTR.* 1, 7-9 (2009).

C. Dignity-Based Remedies and Constitutional Accountability

380. The final pillar of a dignity-based framework affirms that the denial of access to care, meaningful legal participation, or humane confinement conditions constitutes not a mere procedural irregularity, but a constitutional harm. These harms are not collateral; they are the precise violations that the dignity doctrine seeks to surface and redress. As the Supreme Court emphasized in *Brown v. Plata*, a penal institution that deprives individuals of adequate medical care is incompatible with the concept of human dignity.⁸⁸ When mentally ill individuals are subjected to prolonged immigration detention without treatment, legal representation, or comprehension of their legal status, they experience conditions that violate baseline moral and constitutional norms.⁸⁹

381. Dignity-based remedies must be structured accordingly. Depending on the severity and context, such remedies may include immediate release under due process doctrines where mental deterioration or incompetence is evident.⁹⁰ The appointment of counsel under equitable authority may also be required, as recognized in the remedial order in *Franco-Gonzalez*.⁹¹ Injunctive or declaratory relief may target systemic failures, such as the absence of treatment protocols, lack of accommodations, or structurally inadequate hearings, especially where such conditions undermine a detainee's legal capacity. Courts may also impose compliance-monitoring frameworks, modeled on the approach endorsed in *Brown*.⁹² Beyond their immediate function, these remedies affirm the individual's legal personhood, not merely as an object of state custody, but as a subject of constitutional protection.

382. Crucially, this approach rejects the prevailing tendency to evaluate constitutional claims through a lens of administrative convenience or cost-efficiency. As articulated by international courts, including the German Federal Constitutional Court⁹³ and the European Court of Human Rights in *Bouyid*,⁹⁴ dignity may operate as a threshold principle: one that, once crossed, renders the practice in question legally indefensible.

383. In the immigration context, the relevant inquiry is not whether indefinite detention of a mentally ill noncitizen facilitates bureaucratic efficiency, but whether it violates one's status as a human being entitled to care, dignity, and legal agency. Where that threshold is crossed, courts must respond with full constitutional accountability:

88 *Brown v. Plata*, 563 U.S. 493, 510 (2011).

89 Sarah Mehta, *Deportation by Default: Mental Disability, Unfair Hearings, and Indefinite Detention in the US Immigration System*, HUMAN RIGHTS WATCH (July 25, 2010).

90 *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

91 *Franco-Gonzalez v. Holder*, 767 F. Supp. 2d 1034, 1058–61 (C.D. Cal. 2010).

92 *Brown et al. v. Plata et al.*, 563 U.S. 493, 510–12 (2011).

93 Proceedings on the Constitutional Complaints, Case No. 1 BvR 357/05 (Ger. 2006).

94 *Bouyid v. Belgium*, App. No. 23380/09, Eur. Ct. H.R. (Grand Chamber, 2015).

recognizing the violation, enforcing structural remedies, and imposing damages where appropriate. Only then can the immigration system begin to align itself with the evolving constitutional jurisprudence of human dignity and the moral imperative to protect the most vulnerable.

V. Conclusion

384. The U.S. legal system, though rooted in constitutional guarantees of liberty and fairness, has failed to meaningfully protect one of its most vulnerable populations: noncitizens with mental illness in immigration detention. This failure is not a marginal oversight; it reflects a systemic disregard for the legal personhood of those whose cognitive and psychiatric conditions often place them beyond the reach of existing procedural protections.

385. While *Padilla* rightly recognized that deportation is a severe penalty, it offered no doctrinal framework for addressing how mental illness may impair a noncitizen's capacity to evaluate the consequences of a plea. As a result, mentally ill defendants remain exposed to prolonged and often mandatory immigration detention, frequently without fully understanding the conviction or plea that triggered their removal proceedings in the first place.⁹⁵

386. The discussion in this article reveals a troubling doctrinal gap. Although U.S. courts have acknowledged dignity as an animating value, they have never recognized it as a standalone, enforceable constitutional norm.⁹⁶ A dignity-centered constitutional framework is needed to fill this void. The model advanced here, grounded in Constitutional Recognition of Vulnerability, Institutional Adaptation and Procedural Accommodation, and Dignity-Based Remedies and Constitutional Accountability, offers a constitutional and morally defensible blueprint for reform. First, courts and agencies must formally recognize that mental illness alters a noncitizen's capacity to comprehend the immigration implications of a plea, thereby triggering a heightened duty to implement safeguards. Second, legal institutions must adapt structurally, introducing trauma-competent adjudication, early mental health screening, specialized dockets, diversion programs, and simplified advisals—measures long implemented in the criminal context but almost nonexistent in immigration proceedings.⁹⁷ Third, courts must be willing to affirm that prolonged detention under conditions of isolation, untreated mental illness, or cognitive incompetency constitutes not only a due process violation, but a stand-alone constitutional injury rooted in the denial of human dignity.

95 Fatma E. Marouf, *Incompetent but Deportable: The Case for a Right to Mental Competence in Removal Proceedings*, 65 *HASTINGS L.J.* 929, 936, 986 (2014).

96 *Brown et al. v. Plata et al.*, 563 U.S. 493 (2011).

97 E. Lea Johnston, *Mental Health Courts and Sentencing Disparities*, 62 *VILL. L. REV.* 685, 686–69 (2017).

387. In *Brown*, Justice Kennedy stated that “[a] prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society.”⁹⁸ This principle echoes across jurisdictions. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, the Indian Supreme Court affirmed that the right to life “includes the right to live with human dignity,” not merely “animal existence.”⁹⁹ These rulings share a moral through-line: that a just legal system must account not only for procedural correctness, but for the lived experience of the person subject to its power.

388. Philosophically, this moral baseline resonates with global traditions that affirm the intrinsic worth of all persons, regardless of their capacity or legal status. In classical Vedic thought, the enlightened individual is described as one who sees “with equal vision” all forms of life, human and nonhuman, privileged and outcast, as possessing inherent worth. This perspective reinforces the normative view that dignity is not earned through legal status or capacity but is intrinsic to personhood itself. Legal systems that claim to protect human rights must reflect that principle, especially when addressing the treatment of those least able to advocate for themselves.

389. In the context of immigration detention, this insight compels us to ask not merely whether the government may detain, but whether it may do so under conditions that degrade, isolate, and psychologically destroy. Due process must begin with dignity as a constitutional minimum. Dignity is not a luxury; it is the moral and legal litmus test of how the state treats those least able to defend themselves.

⁹⁸ *Brown et al. v. Plata et al.*, 563 U.S. 493, 510 (2011).

⁹⁹ *Coralie Mullin v. Administrator, Union Territory of Delhi*, 1981 AIR 746 (India, 1981).