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Detention, Deportation and Mental Health: A Human Rights Perspective

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ABSTRACT

Deportation, detention and mental health are intertwined, and together they form one of the most important yet least investigated areas of human rights. Although existing studies have addressed the incidence of depression, anxiety and post-traumatic stress disorder among deported and detained populations, this paper adopts a more comprehensive cross-disciplinary perspective, incorporating insights from neuroscience, social psychology, public health and international human rights law. Detention is conceptualised as a legal process that is anything but negligible, one that inflicts specific damage in the form of deteriorating mental health, systemic stigma and injury to communal human dignity. The discussion situates detention and deportation within international standards on arbitrary detention and on cruel, inhuman or degrading treatment, and concludes that a systemic assault on the individual and on the community lies at the core of these practices. The paper examines the neurological harm caused by prolonged uncertainty, isolation and exposure to confinement. Beyond the individual, that harm erodes social cohesion and upends family systems, while social exclusion and stigma undermine personal identity and the sense of belonging within a community. The argument advanced is that human dignity is compromised by detention and deportation as larger structural components rather than as discrete administrative actions, and that immigration detention consistently conflicts with established human rights law once these practices are placed within international legal standards such as the prohibition of arbitrary imprisonment and the prohibition of cruel and inhuman treatment. The paper emphasises the critical need for both legislative and regulatory change to address the extensive human costs associated with these practices.

Keywords: *Detention, Deportation, Mental Health*

I. INTRODUCTION

Detention and deportation are vital components of immigration enforcement systems around the world. Immigration detention systems now operate across most regions of the world, and in many States detention practices closely resemble those used in prisons. Imprisoning and deporting people are not neutral administrative actions. These practices have real, and often

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unaddressed, mental health consequences for individuals and families, and for communities and societies as a whole.

Traditional research on the mental health consequences of detention has underscored the prevalence of depression, anxiety and post-traumatic stress disorder without exploring the underlying neurobiological injury, the absence of a human rights approach to mental health, or the unaddressed community problem of "othering". This article seeks to draw out those issues and to address the human rights implications of deportation and detention in a scientifically grounded manner.

The paper additionally examines the scarcity of mental health treatment in detention and the ways in which such treatment as exists is sometimes delivered in a manner that violates human rights norms. It sheds light on the structural and the individual aspects of immigration confinement through a cross-disciplinary approach drawing on social psychology, public health, neuroscience and international human rights law. The argument advanced is that detention and deportation are methods that systematically undermine human dignity, jeopardise mental health and produce long-term social and legal consequences.

II. The Impact of Immigration Detention and Deportation on Mental Health

A considerable body of literature outlines the negative mental health consequences associated with immigration confinement. Robjant, Hassan and Katona, in a systematic review, found that detained asylum seekers experience higher levels of post-traumatic stress disorder, depression and anxiety than their non-detained counterparts.[1] The severity of these outcomes is linked to the overall duration of detention, and is most pronounced where detention is prolonged or indefinite.[2]

Research undertaken in the United States and Europe also illustrates how the process of deportation unfolds over time and destabilises not only the deported person but the family. Studies of children of deported parents report a higher incidence of trauma symptoms and of difficulties including sleep disorders, school avoidance and clinically significant anxiety. Deportation is therefore better understood not as a single event but as a psychological rupture with significant and long-lasting consequences.

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[1] Katy Robjant, Rita Hassan & Cornelius Katona, *Mental Health Implications of Detaining Asylum Seekers: Systematic Review*, 194 Brit. J. Psychiatry 306 (2009).

[2] Martha von Werthern et al., *The Impact of Immigration Detention on Mental Health: A Systematic Review*, 18 BMC Psychiatry 382 (2018); Altaf Saadi, Caitlin Patler & Paola Langer, *Duration in Immigration Detention and Health Harms*, 8 JAMA Network Open e2456164 (2025).

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III. The Neurobiological Effect of Indefinite Detention

Recent developments in neuroscience indicate that indefinite confinement is a form of toxic stress with measurable effects on the brain.

A. Hyperactivity of the Amygdala

The amygdala, the brain's primary centre for processing fear, becomes overactive under continuous stress.[3] That overactivity produces a constant state of vigilance, an exaggerated startle response and a persistent sense of insecurity, which can continue after an individual is released from detention. Many former detainees report symptoms such as nightmares and hyperarousal that align with post-traumatic stress disorder.

B. Reduction in Hippocampal Volume

The hippocampus, an area essential to learning, memory and emotional regulation, is significantly affected by stress. Neuroimaging research indicates that sustained stress can reduce hippocampal volume, with consequent impairment of cognitive capacity and emotional resilience.[4] Detainees frequently report cognitive difficulties such as brain fog, inattention and memory problems, which hamper their ability to manage legal proceedings and to reintegrate into society following release.

This neurological burden is aggravated by the conditions of immigration detention, which include solitary confinement and enforced idleness. The effects compound one another. They make it harder for detainees to comprehend and actively manage their own affairs and to find a place back in the community, and they further marginalise communities that are already vulnerable. From a human rights perspective, the neurological effects of confinement show that these practices are not administrative inconveniences but potentially damaging interventions that jeopardise mental capacity as well as the fundamental rights to liberty, due process and dignity.

C. Learned Helplessness and Neurological Conditioning

Extended periods of confinement foster a condition of "learned helplessness", in which individuals cease to make efforts to improve their circumstances.[5] The condition presents as apathy, pessimism and a heightened risk of suicide. Confinement therefore does more than damage mental health: it conditions detainees towards inactivity.

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[3] Bruce S. McEwen, Carla Nasca & Jason D. Gray, *Stress Effects on Neuronal Structure: Hippocampus, Amygdala, and Prefrontal Cortex*, 41 NEUROPSYCHOPHARMACOLOGY 3 (2016).
[4] McEwen, Nasca & Gray, *supra* note 3.
[5] Martin E.P. Seligman, *Learned Helplessness*, 23 ANN. REV. MED. 407 (1972).

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IV. The "Social Curse" of Systemic Othering

Mental health scholarship commonly speaks of stigma. The social identity literature offers a more targeted concept, the "social curse", which names the ways in which group memberships and social identities can damage health and wellbeing rather than protect it.[6] It is the counterpart of the "social cure", the protective effect that a shared identity can otherwise confer.[7]

A related process operates through institutions rather than through identity. Structural stigma is the systematic marginalisation, exclusion and denigration of non-dominant groups within political, social and economic institutions. It directs attention to institutionalised mechanisms such as laws, regulations and administrative practices that harden inequity over time, in contrast to stigma expressed as individual prejudice or discrimination.

- **Degradation of social identity.** Immigration enforcement systems typically label individuals as "undocumented", "detainee" or "deportable". That simplification weakens personal and cultural identities and undermines dignity and the sense of belonging.[8]
- **Barriers to accessing health care.** Stigmatised populations commonly perceive mainstream institutions as intimidating or punitive. Even where the need is urgent, fear of deportation deters individuals from using mental health services.[9] That hesitation spreads untreated trauma across whole communities.
- **Fear as a public health problem.** The fear does not affect the detainee alone. It creates a chilling effect across entire communities, including lawful residents and citizens living in families of mixed immigration status.[10] Research associates immigration enforcement with reduced access to health care, worsened chronic illness and lower birth weights among newborn infants.[11] Fear on that scale becomes a public health problem.

[6] Blerina Kellezi & Stephen Reicher, *Social Cure or Social Curse?*, in THE SOCIAL CURE (Jetten, Haslam & Haslam eds., 2012).
[7] Orla T. Muldoon et al., *Social Cure and Social Curse*, 49 EUR. J. SOC. PSYCH. 1272 (2019).
[8] Myriam Vidal Valero, *U.S. Immigration Policy: Mental Health Impacts of Increased Detentions and Deportations*, MONITOR ON PSYCH. (Sept. 1, 2025), https://www.apa.org/monitor/2025/09/mental-health-immigration-enforcement.
[9] Vidal Valero, *supra* note 8.
[10] Miguel Pinedo & Carmen R. Valdez, *Immigration Enforcement Policies and the Mental Health of US Citizens: Findings from a Comparative Analysis*, 66 AM. J. CMTY. PSYCH. 119 (2020).
[11] Nicole L. Novak, Arline T. Geronimus & Aresha M. Martinez-Cardoso, *Change in Birth Outcomes Among Infants Born to Latina Mothers After a Major Immigration Raid*, 46 INT'L J. EPIDEMIOLOGY 839 (2017).

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V. The Invisibility of a Human Rights Perspective

In spite of substantial evidence of harm, human rights frameworks are still not used effectively within mental health frameworks. Three aspects are especially noteworthy.

- **Arbitrary and indefinite detention.** Arbitrary and indefinite confinement engages both the prohibition of arbitrary detention and the prohibition of cruel, inhuman or degrading treatment, and prolonged arbitrary detention has been characterised as a form of psychological torture.[12] In the immigration context, uncertainty and powerlessness are themselves sources of psychological suffering. The harm goes beyond confinement, because acute uncertainty about one's future adds to the anguish.
- **The deportation pipeline.** Deportation is sometimes depicted as a straightforward outcome. It is instead the end of a lengthy process that includes custody, separation from family, judicial proceedings and forced removal. The trauma persists after deportation, as removed persons face violence, insecurity and financial hardship in their country of origin.[13]
- **Labelling.** Detainees with post-traumatic stress disorder or depression are often labelled difficult or non-compliant. They may as a result be subjected to solitary confinement, which is itself widely regarded as a form of psychological torture.[14]

VI. Case Studies

A. The Immigration Policy of India

Indian policy reflects a contradiction. The consolidation of laws and processes has enhanced administrative clarity, but it has also weakened the constitutional guarantees of equality and non-discrimination. Recent developments have highlighted the connection between legislative change, judicial oversight and opaque executive action, with significant consequences for human rights and for mental health.

Migrant communities are now more exposed. In addition to raising the possibility of arbitrary detention and deportation, these changes have produced conditions of institutional

[12] International Covenant on Civil and Political Rights arts. 7, 9, opened for signature Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976); Human Rights Comm., General Comment No. 35: Article 9 (Liberty and Security of Person), U.N. Doc. CCPR/C/GC/35, paras. 18, 57-58 (Dec. 16, 2014); Special Rapporteur on Torture, *Report on Psychological Torture*, U.N. Doc. A/HRC/43/49 (Mar. 20, 2020).

[13] Human Rights Watch, Deported to Danger: United States Deportation Policies Expose Salvadorans to Death and Abuse (Feb. 5, 2020).

[14] Dani Anguiano, *Ice Puts More Than 10,000 People in Solitary in a Year, and Figures Are Rising Under Trump*, The Guardian (Sept. 17, 2025), https://www.theguardian.com/us-news/2025/sep/17/ice-solitary-confinement-trump.

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discrimination, social marginalisation and protracted uncertainty for asylum seekers, refugees and undocumented migrants who are already vulnerable. Administrative efficiency cannot serve as a justification for action that jeopardises mental and physical health as well as essential constitutional rights. A rights-based approach to immigration policy is therefore crucial, one that strikes a balance between the goals of enforcement and the need to safeguard the equality, dignity and mental wellbeing of every person under the control of immigration institutions.

i. The Immigration and Foreigners (Exemption) Order, 2025

The Order, notified by the Ministry of Home Affairs, replaced the disjointed colonial-era regulations that preceded it.[15] Its key features include the continued right of free movement for nationals of Nepal and Bhutan, recognition of Tibetan refugees by reference to their dates of arrival, and exemptions for members of six named minority communities from Afghanistan, Bangladesh and Pakistan, namely Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, who entered India on or before 31 December 2024. It also protects Sri Lankan Tamil refugees who were registered before 9 January 2015.

At the same time, the Order provides for holding centres for undocumented immigrants and mandates biometric processing for all visa and OCI applications. Although it streamlines immigration administration, its humanitarian effect is limited. Citizens for Justice and Peace argues that it entrenches a classification rooted in the Citizenship (Amendment) Act 2019, favouring particular religious groups while excluding Muslims who face comparable forms of persecution.[16]

The Order also expands executive discretion over eligibility requirements, documentation and the level of legal protection offered to immigrants and refugees. Even where this increases administrative efficiency and provides clarity to the affected population, it raises questions of consistency, transparency and equal application. Identity-based classification combined with strict temporal cut-offs creates confusion and increases the risk of detention, deportation and statelessness for everyone who does not meet the stated requirements.

ii. The Case of *Mozida Begum v. State of Assam*

The case of Hasinur, who had been declared a foreigner, illustrates the reality of wrongful detention.[17] Despite having been on bail since 7 June 2021, granted under the Supreme Court's

[15] The Immigration and Foreigners (Exemption) Order, 2025, Gazette of India, pt. II sec. 3(ii) (Sept. 1, 2025), issued under s. 33, The Immigration and Foreigners Act, 2025 (India).
[16] Citizens for Justice and Peace, *India's New Immigration Order 2025: Consolidation or Continuity of Exclusion?* (Sept. 3, 2025), https://cjp.org.in/indias-new-immigration-order-2025-consolidation-or-continuity-of-exclusion/.
[17] *Mozida Begum v. State of Assam*, W.P. (Crl.) (Gauhati H.C.), orders of June 6, 11, 16 and 20, 2025 (Surana and Nandi, JJ.), as reported by Citizens for Justice and Peace (June 20, 2025).

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COVID-19 guidelines, he was taken back into custody in May 2025 without the correct legal procedure being followed. The Gauhati High Court found in his favour, holding that the detention was unlawful and ordering his release on the ground that executive measures cannot override a judicial grant of bail. It declined to award compensation because the related proceedings before the Foreigners Tribunal remained pending. That cautious position illustrates the judiciary's dual role, guarding against arbitrary detention while withholding full reparation, and it leaves persons declared foreigners in a continuing cycle of legal and psychological instability.

iii. India's Largest Detention Centre and Its Challenges

The Chief Minister of Assam acknowledged in May 2025 the extensive deportation of Rohingya refugees and other persons declared foreigners from Matia, India's largest detention facility. According to the investigation published by Citizens for Justice and Peace, almost all of the 203 Convicted Foreign Nationals previously held there had been removed and essential legal procedures were not followed.[18] Action of that kind, particularly where it concerns stateless Rohingya individuals, is difficult to reconcile with the norm of non-refoulement recognised in international law.

iv. Erosion of Non-Refoulement and Constitutional Protections

High Courts have recognised non-refoulement as an aspect of Article 21 of the Constitution.[19] The Supreme Court has taken a firmer position, declining to restrain the deportation of Rohingya refugees and holding that the right to reside under Article 19(1)(e) is confined to citizens while Articles 14 and 21 extend to all persons.[20] India is a party neither to the 1951 Refugee Convention nor to its 1967 Protocol,[21] so the obligation of non-refoulement binds India, if at all, as a matter of customary international law and through the constitutional guarantee of Article 21. By tying the absence of citizenship to liability to removal, the Court's approach risks permitting executive deportation without procedural safeguards, which raises serious questions of consistency with constitutional principle and with India's international commitments.

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[18] Citizens for Justice and Peace, *From Detention to Deportation: The Mass Deportations and Detention Crisis at Assam's Matia Centre* (May 16, 2025), https://cjp.org.in/from-detention-to-deportation-the-mass-deportations-and-detention-crisis-at-assams-matia-centre/.

[19] *Ktaer Abbas Habib Al Qutaifi v. Union of India*, 1999 Cri. L.J. 919 (Guj. H.C.); *Dongh Lian Kham v. Union of India*, (2015) 226 D.L.T. 208 (Del. H.C.).

[20] *Mohammad Salimullah v. Union of India*, (2021) 6 S.C.C. 469; order of May 8, 2025, in W.P. (C) No. 793 of 2017 (declining to stay the deportation of Rohingya refugees).

[21] Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137. India is a party neither to the Convention nor to its 1967 Protocol.

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From the standpoint of international law, that position sits uneasily with the principle of non-refoulement, which prohibits returning a person to a place where they would face torture, persecution or other grave harm. These developments weaken both constitutional and human rights safeguards, with concerns of security and sovereignty displacing humanitarian duties. The change places disadvantaged groups at greater risk, and it invites a broader re-evaluation of how the Indian legal system balances individual rights against governmental power.

v. Implications for Mental Health and Human Rights

The cumulative effect of India's immigration policies is considerable. Indefinite detention produces prolonged anxiety, hopelessness and trauma. Errors by Foreigners Tribunals affect families and communities well beyond the individual concerned. Deportations carried out without judicial process instil fear and promote social exclusion. In practice, the pursuit of administrative efficiency has displaced human dignity and due process.

B. Taiwan and Hong Kong SAR

Although formally different, the detention systems of Taiwan and Hong Kong display common structural flaws, including unclear processes, insufficient safeguards and significant human rights problems.

i. The Detention Framework of Taiwan

Immigration detention is an important part of Taiwan's immigration enforcement framework. Taiwan operates four detention facilities, at Taipei, Yilan, Nantou and Kaohsiung, and local civil society has regularly criticised the circumstances at them, citing congestion, inadequate sanitation and a lack of privacy.[22] The Taipei facility is reported to have discontinued operations after being removed from the National Immigration Agency's website in 2024, although that position is not confirmed in the published country profiles. Taiwan's international status also complicates external scrutiny. Because the People's Republic of China is recognised as the sole representative of China, Taiwan is unable to join the United Nations or to participate in international human rights treaty monitoring.

Taiwan has nonetheless adopted the ICCPR and the ICESCR through an Implementation Act that mandates self-monitoring through national reports and independent review. Although Taiwan is expected to receive several thousand asylum seekers, no comprehensive refugee statute exists, and political disagreement over extending protection to persons from Mainland

[22] GLOBAL DETENTION PROJECT, IMMIGRATION DETENTION IN TAIWAN: DETENTION "SHELTERS," INTERNATIONAL ISOLATION, GROWING MIGRATION PRESSURES, https://www.globaldetentionproject.org/immigration-detention-in-taiwan-detention-shelters-international-isolation-growing-migration-pressures.

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China, Hong Kong and Macau has slowed progress. The number of detainees rose from 7,090 in 2014 to 13,585 in 2019. The number of visa overstayers grew from 44,417 in 2012 to more than 90,000 by October 2024. Deportations followed a similar path, increasing from 9,296 in 2015 to 16,577 in 2019, and entry prohibitions rose from 17,542 in 2014 to 29,026 in 2018. Some reforms have been introduced. Statutory limits on detention periods were set in 2011, initially excluding residents from Mainland China, and by 2017 those limits were applied to all groups, including persons from Mainland China, Hong Kong and Macau. Protection from detention was extended in 2015 to children under 12 and to women who are five months or more pregnant or within two months of giving birth or of miscarriage. Most detention-related statistics have not been updated since 2019.[23]

ii. The JP Model of Hong Kong SAR

Immigration detention in Hong Kong has become more securitised over time, producing an increasing overlap between administrative detention and criminal punishment.[24] The framework, governed principally by the Immigration Ordinance (Cap. 115)[25] and the Hong Kong Bill of Rights Ordinance (Cap. 383),[26] allows the detention of non-citizens for investigation, for removal or deportation, and while non-refoulement claims are being processed. Detention for investigation is initially limited to 48 hours, extendable by a further five days, but no statutory time limit applies to custody after a removal order has been made. The Immigration (Amendment) Ordinance 2021, introduced as a Bill in 2020 and in force from 1 August 2021, broadened the grounds justifying lengthy detention to include administrative and resource considerations,[27] raising questions about compliance with the Hardial Singh principles.[28]

In *Harjang Singh*, the first known successful habeas corpus challenge to immigration detention in Hong Kong, the Court of Appeal ordered the release of a man who had been held for more

[23] GLOBAL DETENTION PROJECT, *supra* note 22; Immigration Act art. 38-1 (Taiwan) (2015 amendments protecting children under 12 and women who are five months or more pregnant or within two months of giving birth or of miscarriage).

[24] GLOBAL DETENTION PROJECT, IMMIGRATION DETENTION IN HONG KONG (SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA): SEVERE DETENTION REGIMES AND PALTRY CONDITIONS (Mar. 2024), https://www.globaldetentionproject.org/wp-content/uploads/2024/03/240314-Hong-Kong-Profile-Online-Version.pdf.

[25] Immigration Ordinance, (1997) Cap. 115 (H.K.), s. 26 (detention for investigation), s. 32 (detention pending removal or deportation).

[26] Hong Kong Bill of Rights Ordinance, (1991) Cap. 383 (H.K.), s. 8 art. 5.

[27] Immigration (Amendment) Bill 2020, LegCo Bill No. b202012041 (H.K.), enacted as the Immigration (Amendment) Ordinance 2021, in force Aug. 1, 2021.

[28] *R v. Governor of Durham Prison, ex parte Hardial Singh*, [1984] 1 W.L.R. 704 (Q.B.) (Eng.).

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than three years and three months, and found that the Immigration Department had relied on ineffective review procedures rather than on genuine oversight.[29]

Hong Kong is not covered by the 1951 Refugee Convention,[30] and asylum claims are processed instead through a Unified Screening Mechanism, which critics argue enforces illegality by requiring visa overstayers to lodge claims. Cumulative substantiation rates under the mechanism were 0.55 per cent in 2017, 0.38 per cent in 2018 and 0.59 per cent in 2019, and the UN Committee against Torture has expressed concern that the threshold for protection is "distinctly high".[31] Claimants cannot work, receive limited social assistance, and risk imprisonment if they seek informal employment.

Hong Kong recorded 3,819 immigration detention cases in 2022, down from about 11,000 in 2018, with average daily populations of 261 at Castle Peak Bay and 54 at Ma Tau Kok.[32] During 2022-23 the average daily cost of detention at the Castle Peak Bay Immigration Centre was HKD 1,672 per detainee.[33] These figures illustrate both the human rights concerns and the financial implications of an increasingly securitised system.

Vulnerable groups, especially unaccompanied minors, face additional difficulties and may be held in juvenile or in adult facilities, despite calls by United Nations bodies to end the practice.[34]

Conditions within detention facilities, and particularly at the Castle Peak Bay Immigration Centre, have faced recurring criticism for overcrowding, excessive force, isolation and insufficient medical care.[35] Newer facilities at the Tai Tam Gap and Nei Kwu Correctional Institutions apply the Prison Rules, underscoring the punitive character of immigration detention. Transparency is limited, since data are rarely disclosed in response to access to information requests, and oversight by Justices of the Peace has been deemed ineffective.

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[29] *Harjang Singh v. Sec'y for Sec. & Dir. of Immigration*, [2022] HKCA 781, CACV 183/2021 (C.A.) (H.K.).

[30] Convention Relating to the Status of Refugees, *supra* note 21 (never extended to Hong Kong).

[31] GLOBAL DETENTION PROJECT, Hong Kong Profile, *supra* note 24, at 20.

[32] GLOBAL DETENTION PROJECT, Hong Kong Profile, *supra* note 24. The Global Detention Project data profile additionally records 5,549 administrative migration detainee entries for 2022, while the Immigration Department's own 2022 figures give 2,793 admissions at Castle Peak Bay and 2,566 at Ma Tau Kok, a total of 5,359.

[33] GLOBAL DETENTION PROJECT, Hong Kong Profile, *supra* note 24, at 26 (average daily cost per detainee at Castle Peak Bay of HKD 1,672 in financial year 2022-23; the report's data annex gives HKD 1,652).

[34] GLOBAL DETENTION PROJECT, Hong Kong Profile, *supra* note 24.

[35] GLOBAL DETENTION PROJECT, Hong Kong Profile, *supra* note 24 (recording excessive use of force, regular solitary confinement, overcrowding, strip searches causing injury, verbal abuse, and multiple deaths, suicides and cases of self-harm at Castle Peak Bay); see also Press Release, Immigration Dep't (H.K.), Person Under Detention Commits Suicide at Castle Peak Bay Immigration Centre (Feb. 24, 2022), https://www.info.gov.hk/gia/general/202202/24/P2022022400299.htm.

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iii. Mental Health Consequences

Both jurisdictions display features that intensify trauma, including overcrowding, language barriers, insufficient legal support and anxiety about what will follow. In Hong Kong, strict control and discipline create a climate of fear and enforced silence, and detention in prison-run institutions places migrants under a penal regime. Both systems fall short of the requirements of the ICCPR for humane treatment, despite the number of control procedures in place.

Despite numerous administrative control mechanisms, such as regular inspections and health provision, both systems fall short of the requirements of international instruments. Article 7 of the ICCPR prohibits torture and cruel, inhuman or degrading treatment, and Article 10 requires that all persons deprived of their liberty be treated with humanity and with respect for the inherent dignity of the human person.[36] The Hong Kong model's reliance on inflexible institutional procedures often gives priority to carceral management over a rights-based mandate.

The psychological deterioration observed in these facilities is not an accidental by-product or a one-off oversight. From a neuroscientific perspective it is a predictable outcome. Where people are subjected to hyper-vigilance, social isolation and a loss of agency, the brain remains in a state of chronic stress, which in turn contributes to cognitive decline, severe depression and complex post-traumatic stress disorder. This underlines the urgent need for legislative reform to align detention procedures with international human rights obligations and with evidence-based health practice, while ensuring that dignity is maintained within the legal process.

C. United States and Canada

i. The United States: ICE Directive 11063.2

Reports from the United States describe significant problems with both physical and mental health care for detainees, especially minors, alongside deplorable living conditions. A review of the medical records of 165 children detained at a family detention centre in Texas found a median period in custody of 43 days, with 88 per cent of the children held beyond the 20-day limit set by the Flores settlement.[37] The same review found inadequate medical treatment, understaffing and inadequate supervision, poor record-keeping, and faulty screening for chronic disease, malnutrition, tuberculosis and mental health needs.

[36] International Covenant on Civil and Political Rights, *supra* note 12, arts. 7, 10.

[37] FRANCOIS-XAVIER BAGNOUD CENTER FOR HEALTH AND HUMAN RIGHTS, HARVARD UNIVERSITY, CHILD MIGRANTS IN FAMILY IMMIGRATION DETENTION IN THE UNITED STATES (Jan. 2024).

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Conditions at California City, the largest ICE facility in that state and operated by CoreCivic, have been described as horrific and neglectful. Detainees have reported unsanitary cells with broken toilets, no access to clean drinking water and a scarcity of hygiene products. Medical services were frequently denied or delayed, leaving detainees without their medication and waiting weeks for care. Staff were reported to be harsh and to employ prolonged isolation, with detainees often confined to their cells for as long as 20 hours a day.[38] Lockdowns and threats of violence in response to protests have also been reported, indicating a punitive environment that aggravates both physical and psychological harm.[39]

In order to address systemic problems, ICE issued a directive intended to strengthen protections for detained individuals with serious mental disorders.[40] Its measures include improved identification and monitoring of detainees with mental illness, the sharing of information with immigration courts for the assessment of competency, and enhanced safeguards on transfer and removal. The directive is a policy-level attempt to incorporate mental health considerations into immigration enforcement and to signal a shift towards more organised, rights-based protection. Its practical effect remains open to question, since reporting for the same period records that ICE placed more than 10,000 people in solitary confinement in a single year, with the figures rising.[41]

ii. Canada: Systemic Failures and Calls for Abolition

The principal enforcement agency is the Canada Border Services Agency, which operates without independent civilian oversight. The Immigration and Refugee Board conducts detention reviews, at 48 hours, at seven days and every 30 days thereafter. Most individuals are detained for administrative reasons, chiefly as perceived flight risks, rather than on public safety grounds. Canada imposes no legal time limit on immigration detention, and since 2016 more than 300 people have been held for over a year, the longest period exceeding 11 years. Detainees are held in immigration holding centres or in provincial jails, often alongside sentenced prisoners, where overcrowding, unsanitary conditions and harsh regimes contribute to psychological distress.[42]

[38] Sam Levin, *"Hell on Earth": Immigrants Held in New California Detention Facility Beg for Help*, THE GUARDIAN (Sept. 27, 2025).
[39] Levin, *supra* note 38.
[40] U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, DIRECTIVE 11063.2, IDENTIFICATION, COMMUNICATION, RECORDKEEPING, AND SAFE RELEASE PLANNING FOR DETAINED INDIVIDUALS WITH SERIOUS MENTAL DISORDERS OR CONDITIONS AND/OR WHO ARE DETERMINED TO BE INCOMPETENT BY AN IMMIGRATION JUDGE (Apr. 5, 2022).
[41] Anguiano, *supra* note 14.
[42] HUMAN RIGHTS WATCH & AMNESTY INTERNATIONAL, "I DIDN'T FEEL LIKE A HUMAN IN THERE": IMMIGRATION DETENTION IN CANADA AND ITS IMPACT ON MENTAL HEALTH (June 17, 2021).

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Those with psychosocial disabilities are particularly vulnerable. They are often placed in provincial jails, misidentified as "non-cooperative", and held for extended periods because of suicidality. Solitary confinement, the frequent use of handcuffs, restricted communication and exposure to violence worsen pre-existing trauma. Groups at heightened risk include children, detainees of colour and refugees, with minors often separated from their parents or placed in circumstances contrary to the best interests of the child.[43]

The COVID-19 pandemic exposed the system's unnecessary rigidity. Many detainees were released, which demonstrated the feasibility of alternatives to custody. Lockdowns, cancelled visits and overcrowding added further risks for those who remained in detention. Despite assertions of specialised care, detainees in these facilities often encounter isolation and neglect. The absence of independent civilian oversight of the Canada Border Services Agency intensifies these systemic deficiencies. Human rights organisations argue that the Canadian system fundamentally violates international law, and they call for its gradual abolition and replacement with non-punitive alternatives.[44]

VII. Towards Alternatives Grounded in Human Rights

Evidence from several jurisdictions, including Taiwan, Hong Kong, the United States and Canada, indicates that immigration detention systems cause substantial psychological, physical and social harm while failing to achieve their stated objectives of efficiency and public safety. Facilities in these jurisdictions operate on a carceral model, which involves prolonged detention without limits, as in Hong Kong and Canada, indefinite detention of particular groups, as in Taiwan, or the detention of children and other vulnerable individuals, as in the United States, Hong Kong and Canada. Such practices aggravate mental health problems, undermine essential human dignity and often result in discriminatory treatment of marginalised individuals.

Studies and practical experience indicate, by contrast, that human rights-based alternatives such as community-based case management, open reception centres and supervised release achieve higher rates of compliance with immigration procedures, including attendance at hearings and cooperation with removal, at significantly lower cost. The release of immigration detainees during the pandemic in Canada and the United States showed that non-custodial methods can be implemented in practice and expanded.[45] These approaches also treat migrants as individuals with rights rather than as threats to be eliminated or burdens to be ignored.

[43] Human Rights Watch & Amnesty International, *supra* note 42.
[44] Human Rights Watch & Amnesty International, *supra* note 42.
[45] Human Rights Watch & Amnesty International, *supra* note 42.

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That change of perspective aligns with international human rights standards, including the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. Neither of the latter two treaties contains an express prohibition on the immigration detention of migrants, but the treaty bodies have read them as requiring that children never be detained on the basis of their own or their parents' migration status, and that disability never furnish a ground for deprivation of liberty.[46]

VIII. CONCLUSION

Detention and deportation, though commonly portrayed as administrative obligations, must be acknowledged as systematic practices that cause direct suffering. Neuroscience indicates that indefinite detention, uncertainty and solitary confinement can impair brain function, contributing to anxiety, depression and post-traumatic stress disorder. Research in Canada and the United States shows that confinement can increase suicidal ideation and worsen pre-existing psychosocial conditions. Social psychology reveals how systematic discrimination, such as the disparate treatment of Black detainees in Canada or the misidentification of mental illness as non-cooperation, not only affects individual mental health outcomes but also undermines societal trust in institutions.

Long-term or indefinite immigration detention, the solitary confinement of people with disabilities, and the detention of children and families are increasingly recognised as forms of torture or of cruel, inhuman and degrading treatment under international law. To protect mental health it is essential to improve access to medical treatment within detention facilities while simultaneously dismantling the carceral frameworks that habitually cause harm. Deportation and detention are not neutral administrative tools. They engage human rights and carry serious consequences for individuals, families and societies. Addressing them requires a swift transition to rights-based, non-custodial alternatives that value dignity, wellbeing and justice.

The psychological burden is compounded by the fact that many people held in immigration detention are not given timely access to legal advice, health care or social assistance. The right to liberty, the prohibition of arbitrary detention and protection from cruel and inhuman treatment are affirmed by international human rights instruments, including the Convention against Torture and the International Covenant on Civil and Political Rights.[47] There remains a structural disconnect between the law and the reality, since these standards are frequently

[46] Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3; Convention on the Rights of Persons with Disabilities, Dec. 13, 2006, 2515 U.N.T.S. 3; Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and No. 23 (2017) of the Committee on the Rights of the Child, U.N. Doc. CMW/C/GC/4-CRC/C/GC/23, paras. 5-13 (Nov. 16, 2017); Committee on the Rights of Persons with Disabilities, Guidelines on Article 14 of the Convention (2015).

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breached in practice. Beyond the threat to the individual, the consequences have wider social ramifications that undermine confidence in governmental institutions and in community cohesion. Placing detention and deportation within these cross-disciplinary and legal contexts makes clear that they are active mechanisms sustaining injustice and human suffering rather than mere bureaucratic processes.

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[47] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85; International Covenant on Civil and Political Rights, *supra* note 12.

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