



# **GHANA: DETENTION AND REMOVAL OF THIRD COUNTRY NATIONALS TRANSFERRED FROM THE UNITED STATES**

**SUBMISSION TO THE UN  
COMMITTEE ON THE PROTECTION  
OF THE RIGHTS OF ALL MIGRANT  
WORKERS AND MEMBERS OF THEIR  
FAMILIES**

**SUBMITTED: APRIL 2026**

## **ABOUT ASIAN AMERICANS ADVANCING JUSTICE**

[Asian Americans Advancing Justice](#) is a national affiliation of four leading Asian American civil rights organizations committed to advancing the civil and human rights of Asian Americans and building a more just society for all. In 2025, Asian Americans Advancing Justice-Atlanta and Asian Americans Advancing Justice | AAJC filed a lawsuit in the U.S. District Court for the District of Columbia on behalf of individuals who were deported by the U.S. to Ghana as a “third country.”

## **ABOUT DEMOCRACY HUB**

Democracy Hub is a Ghanaian human rights and public interest organisation, registered as a non profit. Its work is organised around four areas. The first is the protection of constitutional and international human rights, in particular the rights to personal liberty, freedom from arbitrary arrest and detention, fair trial, freedom of expression, and peaceful assembly and association under the 1992 Constitution of Ghana and the International Covenant on Civil and Political Rights. The second is public interest litigation, through which Democracy Hub brings applications for the enforcement of fundamental human rights before the High Court (Human Rights Division), constitutional actions before the Supreme Court of Ghana, and supervisory proceedings including certiorari, prohibition, and habeas corpus, in its own name and on behalf of affected citizens. The third is the documentation of protest-related abuses, including legal observation of public assemblies and the recording of arrests, charges, bail conditions, durations of pre-trial custody, and conditions under which detained persons are held, together with legal analysis of State conduct affecting civic freedoms. The fourth is the organisation and accompaniment of peaceful protest, including the FixTheCountry and OccupyJulorbiHouse mobilisations. Democracy Hub maintains records of arrest and detention arising from the policing of assemblies in Ghana, and engages with international and regional human rights mechanisms on questions of arbitrary detention, freedom of peaceful assembly and association, and the situation of human rights defenders.

## **ABOUT THE GLOBAL STRATEGIC LITIGATION COUNCIL**

[The Global Strategic Litigation Council](#) unites civil society to advance the rights of displaced communities through impactful strategic litigation and advocacy. We support a growing coalition of over 700 refugee and migrant leaders, lawyers, NGOs, advocates and academics across the world. Together, we use our collective power to work towards a world where all forcibly displaced people can rebuild their lives in dignity and in safety.

## **ABOUT THE GLOBAL DETENTION PROJECT (GDP)**

The [Global Detention Project \(GDP\)](#) is committed to ending arbitrary and harmful migration-related detention practices around the world, and to ensuring respect for the fundamental human rights of all migrants, refugees, and asylum seekers. To achieve this, we seek to:

- Increase public knowledge and awareness of immigration detention policies.
- Expand coverage of immigration detention by human rights monitoring bodies and other international agencies.
- Expand partnerships with local and international civil society organisations working to end arbitrary and harmful immigration detention practices.
- Strategically target research and advocacy so that it effectively challenges arbitrary and harmful detention laws and policies.

# Ghana: Detention and Removal of Third Country Nationals Transferred from the United States

## Submission to the UN Committee on the Protection of the Rights of all Migrant Workers and Members of their Families

42<sup>nd</sup> Session, May/June 2026

### 1. INTRODUCTION

- 1.1 Asian Americans Advancing Justice, Democracy Hub, the Global Strategic Litigation Council, and the Global Detention Project welcome the opportunity to provide information relevant to the review of Ghana’s second periodic report during the 42<sup>nd</sup> session of the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW).
- 1.2 This submission focuses on Ghana immigration enforcement policies and practices, with a particular focus on the country’s recent agreement with the United States to accept deported third-country nationals, as well as its subsequent detention and removal of these individuals, in light of Articles 9,10, 16, 17, and 22 of the Convention.
- 1.3 We also make this submission keeping in mind the CMW’s long-standing concerns and recommendations about immigration detention, which it has provided in several important expert opinions and general comments, including in:
  - Joint General Comment No. 4 (2017) with the Committee on the Rights of the Child (No. 23) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return;
  - General Comment No. 5 (2020) on migrants’ rights to liberty and freedom from arbitrary detention;
  - Joint General Comment No.8 (2025) with the UN Committee on the Elimination of Racial Discrimination (No. 39).
- 1.4 In each of these analyses, the Committee on Migrants Workers underscores the inherently harmful impact of immigration detention. In the recent General Comment with the Committee on the Elimination of Racial Discrimination (CERD), the CMW and CERD affirm the need to work to end immigration detention measures:

*“The Committees recall that immigration detention is always harmful and disproportionate as an interim measure during administrative procedures or in response to an administrative irregularity or infraction. The Committees strongly recommend that States Parties take all appropriate measures without*

*delay to progressively abolish migration-related detention policies and practices.”<sup>1</sup>*

- 1.5** In addition, we also draw the Committee’s attention to the UN Special Rapporteur on the Human Rights of Migrants’ report on the externalisation of migration governance, in which he urged states to:

*“Abide at all times with the principles of non-refoulement and prohibition of collective expulsion, including at borders and on the high seas” and “Refrain from any measure that would amount to or lead to arbitrary detention, torture and ill-treatment, arbitrary deprivation of life, enforced disappearance and racial discrimination, and ensure that people are able to enjoy socioeconomic rights and the right to leave any country, including one’s own.”<sup>2</sup>*

## **2. CONTEXT**

- 2.1** In its List of Issues Prior to Reporting, the Committee requested detailed information about Ghana’s immigration detention practices<sup>3</sup>—including disaggregated data on the number of migrant workers detained for immigration-related offences and the number of expulsions; the location, average duration, and conditions of detention, including whether immigration detainees are held separately from criminal detainees; and measures to ensure that children and their families are not detained.
- 2.2** However, Ghana failed to provide adequate responses in its State Report. Instead, it merely noted: “Immigration detainees are separated from criminal detainees where feasible. Alternatives to detention are being expanded.”<sup>4</sup>
- 2.3** The limited nature of its response to the Committee’s questions raises concerns regarding transparency and oversight in Ghana’s immigration detention regime. These concerns are heightened by recent developments involving the country’s reception of third-country nationals under external migration arrangements.
- 2.4** On 5 September 2025, 14 West African migrants and asylum seekers were removed from the United States and flown to Ghana. The transfers were

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<sup>1</sup> Committee on the Elimination of Racial Discrimination Joint General Recommendation No. 39 (2025) of the Committee on the Elimination of Racial Discrimination and General Comment No. 8 (2025) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on Thematic Guidelines for Eradicating Xenophobia Towards Migrants and Others Perceived as Such, CERD/C/GC/39-CMW/C/GC/8, 3 February 2026, <https://docs.un.org/en/CMW/C/GC/8>

<sup>2</sup> Special Rapporteur on the Human Rights of Migrants, “Externalization of Migration Governance and its Effect on the Human Rights of Migrants,” A/80/302, 4 August 2025, <https://www.refworld.org/reference/themreport/unga/2025/en/151182>

<sup>3</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, “List of Issues Prior to Submission of the Second Periodic Report of Ghana,” 11 July 2024, <https://bit.ly/4ec3xrM>

<sup>4</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, “Second Periodic Report Submitted by Ghana Under Article 73 of the Convention, Due in 2019 – Replies to the List of Issues Prior to Reporting,” 3 March 2026, <https://bit.ly/4cMn5Rj>

carried out under an arrangement in which Ghana agreed to receive deportees from other West African countries—justified by Ghanaian authorities under the ECOWAS free movement protocol<sup>5</sup>—as part of broader U.S. efforts to carry out removals to third countries when return to countries of origin is not immediately feasible.

- 2.5 Upon arrival, the third-country nationals were held in airport holding cells and under armed guard in a military camp, until they were refouled or deported. Another flight brought more third-country nationals on 5 November 2025. It is estimated that up to 100 persons have been transferred to the country to date.
- 2.6 Ghana also remains a country of destination and transit for significant numbers of non-nationals, including large numbers of ECOWAS labour migrants. Situated within a region experiencing significant cross-border displacement, particularly from the Sahel, it also hosts a substantial population of registered and unregistered refugees and asylum seekers.

### 3. LEGAL FRAMEWORK: DETENTION, DEPORTATION, REFOULEMENT

- 3.1 There are several laws regulating the treatment of non-citizens in Ghana, including the Immigration Act, 2000 (Act 573), the Refugee Law, 1992 (PNDCL 305D), the ECOWAS Protocol, and the country's Constitution.
- 3.2 The **Immigration Act, 2000 (Act 573)** is the primary legislation governing the admission, residence, employment, removal, and deportation of foreigners in Ghana. It establishes the basic statutory framework within which the Ghana Immigration Service regulates entry into, stay in, and departure from Ghana.
- 3.3 The Act provides the statutory basis for immigration enforcement. Any arrest, detention, removal, or deportation carried out in the immigration context must therefore be grounded in the powers conferred by Act 573, read together with the Constitution, the Immigration Regulations, and other applicable laws.
- 3.4 Section 4 of the Act sets out the basic legal conditions for entry into Ghana by non-citizens; Section 8 details who may be classed as a “prohibited immigrant” and provides fines and imprisonment for entry by a prohibited immigrant. Part III of the law sets out the legal framework for deportation under Ghanaian law, and includes identifying the circumstances in which a foreign national may become liable to deportation (Section 35), providing for the requirement of a deportation order before any removal (Section 36), permitting the arrest and detention of persons subject to deportation (Section 38), and providing an alternative to detention or deportation where removal cannot be conducted (Section 40).

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<sup>5</sup> GBC Ghana Online, “Opinion: Ghana’s Deportation Deal Exposes Fissures in West Africa,” 16 September 2025, [https://www.gbghanaonline.com/opinion/ghanas-deportation-deal-exposes-fissures-in-west-africa/2025/#google\\_vignette](https://www.gbghanaonline.com/opinion/ghanas-deportation-deal-exposes-fissures-in-west-africa/2025/#google_vignette)

- 3.5 The law does not provide time limits for detention, or any special protection for vulnerable groups including children, the elderly, refugees, or trafficking victims.
- 3.6 The country's **Refugee Law (1992)** also provides for the detention of refugees, with Section 3 permitting detention or expulsion "for reasons of national security or public order," while noting that "no refugee shall be expelled to a country where he has reason to fear persecution."
- 3.7 Further, Section 1 gives domestic effect to the principle of non-refoulement, prohibiting the refusal of entry, expulsion, extradition, or return of a refugee to a frontier or territory where the person's life, physical integrity, liberty, or freedom would be threatened. This obligation applies notwithstanding ordinary immigration law. It also covers indirect or chain refoulement. Ghana cannot remove a person to a country that may then send the person onwards to persecution, torture, death, or other serious harm. The State cannot do indirectly what it is prohibited from doing directly. Section 8 permits a person to apply for refugee recognition whether they entered the country lawfully or unlawfully.
- 3.8 The result is that deportation, removal, or transfer decisions must be preceded by an assessment of protection risk. Where a person has a credible fear of persecution or serious harm, Ghana must suspend removal and process the claim through the appropriate refugee and protection mechanisms.

### **ECOWAS Free Movement**

- 3.9 The general entry framework under the Immigration Act 573 must be read together with Ghana's obligations under the **ECOWAS Protocol** relating to Free Movement of Persons, Residence and Establishment. The Protocol modifies the ordinary entry regime for nationals of ECOWAS Member States by recognising a regional right of entry, movement, residence, and establishment, subject to the conditions set out in the Protocol and applicable national law.
- 3.10 The effect is that ECOWAS nationals are not to be treated in the same way as all other foreign nationals for purposes of entry. Their right of entry is supported by Ghana's regional commitments, although it is not absolute. Immigration authorities may still verify identity, nationality, travel documents, duration of stay, and whether any lawful ground of refusal applies. However, the starting point is regional free movement, not ordinary visa-controlled admission.
- 3.11 This creates an important distinction in immigration enforcement. For non-ECOWAS nationals, entry is primarily governed by Act 573 and the Regulations. For ECOWAS nationals, including Nigerians, Togolese, Burkinabè, Ivorians, Liberians, and other Community citizens, Act 573 must be applied consistently with the ECOWAS free movement regime. Any refusal of entry, detention at the border, or removal of an ECOWAS national must therefore be justified by reference to a lawful exception, and not by the mere fact that the person is a non-citizen.
- 3.12 The ECOWAS regime also contains important safeguards against arbitrary expulsion. Article 11(1) of the 1979 Protocol requires that a decision to expel an

ECOWAS citizen be notified to the affected person, the person's home State, and the ECOWAS Executive Secretary. This notification requirement promotes transparency, interstate accountability, and regional oversight of domestic expulsion decisions.

**3.13** The 1985 and 1986 Supplementary Protocols reinforce the human rights dimension of free movement. They require humane treatment of migrants, including those in irregular situations, and prohibit expulsions carried out in a manner that violates dignity, property, or fundamental rights. The 1986 Protocol further prohibits collective expulsion, limits the grounds for expulsion, requires consular notification and respect for the right of defence, and preserves rights guaranteed under national and international law. Thus, even where Ghana may lawfully refuse entry, terminate stay, or remove an ECOWAS citizen, it must do so through lawful, individualised, humane, and rights-compliant procedures.

### **Constitutional Protections**

**3.14** The rights of non-nationals are also protected by the country's **Constitution**, Chapter 5 of which contains a dedicated Bill of Rights which defines and guarantees fundamental human rights and freedoms. Particularly relevant guarantees include the right to personal liberty (and protection against arbitrary detention); the right to a fair trial; respect for human dignity (and protection against torture or cruel, inhuman, or degrading treatment or punishment); protection of the right to life; and administrative justice.

**3.15** These guarantees apply to "every persons" or "a person" in Ghana, unless the Constitution expressly limits a particular right to citizens. Migrants, including persons arrested, detained, investigated, prosecuted, or removed in connection with immigration matters, therefore remain within the protective reach of Chapter 5.

**3.16** Immigration status does not place a person outside constitutional protection. Once a migrant is arrested, detained, or otherwise placed under the control of the State, the Constitution imposes obligations on the relevant public authorities, including immigration officers, police officers, prison officers, and any other state actors involved in custody, interrogation, removal, or prosecution. Those obligations include respect for dignity, protection from inhuman or degrading treatment, compliance with lawful arrest and detention procedures, access to counsel, judicial oversight, fair hearing guarantees, and humane conditions of detention.

## 4. AVAILABLE INFORMATION CONCERNING GHANA'S AGREEMENT WITH THE UNITED STATES

- 4.1 In September 2025, Ghana confirmed that it had reached an understanding with the United States to receive deported West African nationals from US immigration detention facilities.<sup>6</sup>
- 4.2 However, public information on Ghana's arrangement with the United States remains limited. The Government has acknowledged an arrangement under which Ghana receives West African nationals deported from the United States. The actual MOU, agreement, operational protocol, or exchange of correspondence has not been publicly disclosed. The US Supreme Court has ordered that the MOU be disclosed by giving the litigants access to view it. As of April 2026, access has not yet been provided.
- 4.3 The position is therefore that the existence of the arrangement is publicly known, and judicial disclosure has been ordered, but the contents remain unavailable to the affected litigants and the public. This lack of access is legally significant. Until the MOU is seen, it remains unclear what obligations Ghana assumed, whether the arrangement required parliamentary ratification under Article 75, and what safeguards exist for detention, screening, asylum claims, access to counsel, onward transfer, consular notification, and protection against refoulement.

## 5. THIRD-COUNTRY DEPORTEES FROM THE UNITED STATES

- 5.1 Because the Ghanaian government has not been transparent about the operation of the arrangement with the United States, the exact number of persons deported into Ghana is currently unknown. As of early 2026, Asian Americans Advancing Justice, Democracy Hub, and the Global Strategic Litigation Council have been working directly with 34 deportees (**23 men and 11 women ranging from ages 21- 65**), but based on available information, we anticipate that the total number of persons brought into Ghana under the arrangement may be between 70 and 100.
- 5.2 The deportees are West African nationals from various countries in the sub-region. The overwhelming majority appear to have been onward deported or transferred from Ghana to their countries of origin or other neighbouring States. On the information presently available, approximately **98 percent** of the deportees received into Ghana have already been removed from Ghanaian territory.
- 5.3 Many of the individuals had been granted various protection claims in the United States, including withholding/deferral of removal under the Convention Against Torture (CAT), withholding of removal under the Immigration and Nationality Act (INA), asylum and refugee status.

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<sup>6</sup> Human Rights Watch, "US/Africa: Expulsion Deals Flour Rights," 23 September 2025, <https://www.hrw.org/news/2025/09/23/us/africa-expulsion-deals-flout-rights>

5.4 These people were removed on flights on 5 September 2025 and 5 November 2025.

## Detention

5.5 Upon arriving in Ghana, third country nationals deported by the U.S. were detained under armed guard in military camps including [Dema Camp/Bundase Training Camp](#), a hotel, and [holding cells at Kotoka Airport](#) for days and weeks until they were refouled or deported.

5.6 Victims described the military camp as an indoor-outdoor compound surrounded by wilderness “in the middle of nowhere.” They described the sleeping quarters as one large room filled with mosquitos. Victims were given beds, but no bedding. The bathroom was squalid and had an overpowering smell of urine and faeces. The food and water were of poor quality, causing several people to fall ill. Individuals reported having symptoms of malaria while detained in the camp. Access to phones and WiFi was intermittent, limiting victims’ contact with lawyers and loved ones. At times, guards confiscated victims’ phones or disabled the WiFi as punishment. (According to a declaration by the wife of one of the detainees, on 15 September camp officials informed the detainees that they would no longer permit them access to the internet.<sup>7</sup>)

5.7 Ghanaian armed forces with AK-47s guarded the victims at all times. Some of the guards were verbally abusive toward the victims and told them that if they attempted to escape, they would be shot. Guards also told victims that the military camp was surrounded by bombs that would detonate if they tried to run away. At least one person attempted suicide while detained in the military camp.

5.8 Conditions in the airport holding rooms are also of concern. According to a declaration by one of the deportees (a Gambian), they were held here for five days “with no access to phones, no showers, and no changes of clothes.”<sup>8</sup>

## Deportation and Refoulement

5.9 Most were then refouled to their home countries, including to Nigeria, Senegal, Sierra Leone, Togo, and Mali where they feared persecution. This raises serious concerns that Ghana’s reception, detention, and onward transfer of these individuals may have exposed them to indirect or chain refoulement, contrary to Ghanaian constitutional law, refugee law, and international human rights obligations.

5.10 Many were either sneaked across the Ghana-Togo border via irregular routes, where they then had to pay for taxis to take them onwards, or left somewhere close to the Togo border without money or assistance. Others were

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<sup>7</sup> United States District Court for the District of Columbia, “Declaration of Wife of D.A.,” 15 September 2025, [https://storage.courtlistener.com/recap/gov.uscourts.dcd.284773/gov.uscourts.dcd.284773.36.1\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.dcd.284773/gov.uscourts.dcd.284773.36.1_1.pdf)

<sup>8</sup> United States District Court for the District of Columbia, “Declaration of Plaintiff K.S.,” 12 September 2025, [https://storage.courtlistener.com/recap/gov.uscourts.dcd.284773/gov.uscourts.dcd.284773.1.1\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.dcd.284773/gov.uscourts.dcd.284773.1.1_1.pdf)

shackled/chained and placed on planes to their home countries. Some stopped en route because they were so scared to return. To provide a few examples:

- A young woman from Nigeria. She fled Nigeria after being arrested for kissing her girlfriend, during which she was beaten and sexually assaulted in detention. She was granted INA withholding of removal by a US immigration judge. She was removed to Ghana on the second flight. She stopped in a country in between Ghana and Nigeria as she fears being arrested or killed if she returns to Nigeria.
- A young woman from Senegal. She fled Senegal as her father, who works with the government, promised her to an influential man who is almost 30 years her senior and has 2 wives and 5 kids. Her father told her that he would kill her if she did not accept. She was granted INA withholding of removal. She was removed to Ghana on the first flight and was then put on a plane to Senegal.
- A young man from Mali. He was granted INA withholding of removal as he fears he will be killed in Mali on account of his sexual orientation. He was removed to Ghana on the first flight. After 3 days being detained at a hotel, officers chained him up and forced him to board a plane to Mali. He is currently at the border between Mali and Guinea.
- A man from Nigeria. He is bisexual. He fled Nigeria after being persecuted by a government-backed vigilante group known as ONELGA Security and Peace Advisory Committee (OSPAC) after they caught him with his male partner. He was granted CAT and INA withholding of removal by a US immigration judge. He was removed to Ghana on the second flight. He is currently in Nigeria, in the same area he fled where he first encountered OSPAC and where OSPAC exerts significant control. He remains in hiding in Nigeria due to fear of encountering OSPAC or the police.
- A man from Nigeria. He was captured and tortured in Nigeria because of his political views. He was granted withholding of removal by a US immigration judge on this basis. His wife, a US citizen, subsequently filed an I-130 petition (first step for green card) on his behalf, which was approved in 2025. He was removed to Ghana on the first flight and is currently in an undisclosed location (unwilling to disclose due to fear of persecution).
- A man from Sierra Leone. He entered the US as a refugee at age 14 and lived there for 25 years as a refugee. He is currently in Sierra Leone, having been removed from Ghana to Sierra Leone. His children (who he has custody of) are still in the US, living with his mother.
- A man from Nigeria. He fled Nigeria after receiving threats and discovering that members of his family had been attacked by Boko Haram. He previously served in the Special Anti-Robbery Squad (SARS) of the Nigeria Police Force and later cooperated with an investigation into his unit's corruption and alleged links to Boko Haram. Despite being granted CAT withholding of removal, he was removed to Ghana on the second flight. He was subsequently refouled to Nigeria, where he currently resides.

- A man from Liberia. He fled Liberia to escape the Liberian tribal war that killed his parents. He was granted political asylum in the US in 1993 and adjusted his status to lawful permanent resident in 1994. He was arrested and applied for withholding of removal which was pending in the Court at the time of deportation. He was deported to Ghana on the first flight and is currently still in Ghana.
- A man from Nigeria. He was granted withholding of removal in 1987, having arrived in the US in 1986. He was an activist in the US and feared returning to his home country due to his outspoken criticism of Nigerian politics. He was removed to Ghana on the second flight. He is currently in Nigeria. He has three children who still live in the US.

## 6. LEGAL CHALLENGES

### The High Court of Ghana, Human Rights Division

- 6.1** On **17 September 2025**, an application for the enforcement of fundamental human rights was filed before the High Court, Human Rights Division, on behalf of **eleven members of the first group of fourteen individuals** deported from the United States to Ghana.
- 6.2** The application challenged the circumstances of their removal from the United States, their reception and detention in Ghana, and the threatened onward removal to their countries of origin. It also relied on the fact that some of the affected persons had obtained withholding or deferral of removal before competent United States immigration authorities. The application alleged violations of the principle of non-refoulement, unlawful and arbitrary detention, and breaches of their constitutional rights.
- 6.3** The reliefs sought included declarations that the conduct of the Government of Ghana was unconstitutional; orders for the release of the affected persons; injunctive relief restraining further removal; disclosure of the agreement or arrangement governing the deportations; orders requiring the Government to ensure the physical safety and protection of the individuals; and general damages.
- 6.4** Two urgent applications were filed together with the substantive human rights motion. The first was an *ex parte* application for an interim injunction to restrain the Government of Ghana and persons acting on its behalf from removing the deportees from Ghana. The second was an *ex parte* application for *habeas corpus ad subjiciendum*, seeking disclosure of the detainees' location and their production before the Court.
- 6.5** The matter first came before the High Court on **18 September 2025**. Despite the urgency, the Court adjourned the hearing to **23 September 2025**. Between those dates, the affected individuals were removed from Ghana. By the time the matter returned to Court, the interim injunction and *habeas corpus* applications had been overtaken by events because the individuals

were no longer within Ghana’s jurisdiction. Those two applications were consequently struck out as withdrawn.

- 6.6** The substantive human rights application remains pending before the Human Rights Division. The matter is now expected to be set down for hearing, with directions to be given for the filing of witness statements and trial processes.

## **The Supreme Court of Ghana**

- 6.7** Following the High Court proceedings, **Democracy Hub** commenced an action in the Supreme Court of Ghana on **13 October 2025** in respect of persons who had been, and may continue to be, deported from the United States to Ghana under the disputed arrangement.

- 6.8** The Supreme Court action challenges the constitutionality of the memorandum of understanding or other arrangement between Ghana and the United States. The central claim is that the arrangement constitutes an international agreement within the meaning of Article 75 of the Constitution and required parliamentary ratification. Since no such ratification was obtained, the Plaintiff contends that the arrangement is unconstitutional, void, and incapable of supporting any lawful executive action.

- 6.9** The writ also challenges the reception, detention, and onward transfer of the deportees from Ghana, including the first two groups of fourteen persons each. It alleges that the Government misapplied the ECOWAS Protocol on Free Movement of Persons, Residence and Establishment by relying on it to justify the involuntary transfer of West African nationals from the United States to Ghana and their subsequent onward removal. The Plaintiff contends that the ECOWAS Protocol facilitates regional mobility by Community citizens; it does not authorise forced reception, detention, or non-consensual transfer from a non-ECOWAS State.

- 6.10** The reliefs sought include declarations that the MOU or arrangement is an international agreement requiring parliamentary ratification; that actions taken under it are unconstitutional and ultra vires; that Ghana’s reception, detention, and onward transfer of the affected persons violated constitutional, statutory, and international law; that Ghana violated the peremptory norm of non-refoulement; and that the ECOWAS Protocol does not authorise the conduct complained of. The Plaintiff also seeks orders restraining the Government from receiving, detaining, transferring, deporting, or otherwise facilitating the removal of persons under the disputed arrangement.

- 6.11** On the same day, **13 October 2025**, the Plaintiff filed an application for interlocutory injunction to restrain the Government and all persons acting on its behalf from further receiving, detaining, transferring, or deporting West African nationals pursuant to the disputed MOU or arrangement.

- 6.12** On **15 October 2025**, the Plaintiff also filed an application for discovery, seeking production of the memorandum of understanding or agreement between Ghana and the United States concerning Ghana’s reception, detention, and

onward deportation of West African nationals removed from the United States. The Attorney-General opposed both applications.

- 6.13** At the first hearing, the Supreme Court held that the discovery application should be heard before the injunction application, since the Court needed clarity on the exact document underlying the challenged arrangement. The Court directed the filing of written submissions. The Plaintiff filed its written submissions on **19 November 2025**.
- 6.14** Before that filing, on **18 November 2025**, the Attorney-General filed a notice indicating the Government’s readiness to voluntarily disclose “a copy of the note sent from the Ministry of Foreign Affairs to the Accra Embassy of the United States of America, concerning Ghana’s willingness to consider accepting the transfer from the United States of America of nationals of West African countries present in the United States of America.”
- 6.15** The Plaintiff objected to the limited nature of this proposed disclosure. The notice referred only to a single note sent by Ghana to the United States, rather than the full agreement or complete exchange constituting the arrangement between the two States. It also did not disclose whether the United States responded to the note, what terms were agreed, whether further assurances were exchanged, or whether conditions, limitations, obligations, safeguards, or mutual expectations were set out.
- 6.16** On **11 February 2026**, the Supreme Court ruled on the discovery application and ordered that the document covering the repatriation of West African nationals from the United States to Ghana be produced to the Plaintiff for inspection, without permitting the making of a copy.
- 6.17** Following the order, the Plaintiff wrote to the Attorney-General’s office requesting a convenient date and time for inspection of the document. As at the date of this note, no response has been received, and the Plaintiff has still not been given access to inspect the document.
- 6.18** The Supreme Court proceedings therefore remain pending. The interlocutory injunction application is expected to proceed only after the Plaintiff has been given access to inspect the document ordered to be produced by the Court.

## **7. RECOMMENDATIONS**

- 7.1** In light of the above information, Asian Americans Advancing Justice, Democracy Hub, the Global Strategic Litigation Council, and the Global Detention Project encourage the Committee to issue the following recommendations:
- Provide full transparency regarding any bilateral or multilateral arrangements governing the reception of non-nationals, including the immediate disclosure of any memorandum of understanding, agreement, exchange of correspondence, or operational protocol underpinning the transfer of third country nationals from the United States.

- Suspend the acceptance of third-country deportees from the United States pending a comprehensive legal, constitutional, and human-rights review.
- Release any immigration detainees currently confined without a detention order. Instead, they should be provided with appropriate reception and assistance.
- Guarantee that any deprivation of liberty of non-nationals is grounded in clear, accessible legal provisions, is non-automatic, and is subject to individual assessment of necessary and proportionality by first assessing whether any alternative measures short of detention may be sufficient to complete the intended immigration procedure.
- Begin taking measures to curtail immigration detention measures with a view to eventually eliminating such measures, taking into account the CMW's and CERD's recent Joint General Comment, in which they "*strongly recommend that States Parties take all appropriate measures without delay to progressively abolish migration-related detention policies and practices.*"
- Cease the use of military camps, informal holding sites, and non-dedicated facilities for immigration detention and ensure that any detention occurs only in designated facilities that meet international minimum standards.
- Ensure that all immigration detention conditions comply with international standards, including adequate sanitation, bedding, nutrition, healthcare, and protection from disease; and ensure that detention conditions do not amount to cruel, inhuman, or degrading treatment.
- Ensure detainees' access to legal counsel, interpretation, and communication with family members, including access to phones and internet services, and prohibit the use of communication restrictions as a disciplinary measure.
- Uphold the principle of non-refoulement, as enshrined in Ghanaian legislation and international law, to ensure that no individual is transferred, deported, or forcibly removed to any country where they may face persecution, torture, or other serious harm.
- Ensure that all deportations are subject to individualised assessments, with deportees provided with written decisions subject to review, and guaranteed access to legal representation and interpretation.
- Amend laws that provide for immigration-related detention measures that contravene Ghana's international obligations, including repealing:
  1. the detention measures provided for in Section 3 of the Refugee Law, which may contravene Ghana's non-penalisation obligations under Article 31 of the UN Refugee Convention;
  2. provisions in the Immigration Act, 2000 (Act 573) that allow for the arrest and prosecution of non-citizens based solely on their irregular

status, which the UN Working Group on Arbitrary Detention, in its Revised Deliberation No. 5 on deprivation of liberty of migrants (2018), determined to be an inherently arbitrary form of detention, concluding that “*the criminalization of irregular migration will therefore always exceed the legitimate interests of States in protecting their territories and regulating irregular migration flows*” (paragraph 10).