

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION, as Next Friend, on behalf of
Unnamed U.S. Citizen in U.S. Military Detention,

Petitioner,

v.

GEN. JAMES N. MATTIS,
in his official capacity as SECRETARY OF
DEFENSE,

Respondent.

No. 17-cv-2069 (TSC)

DECLARATION OF BELKIS WILLE

I, Belkis Wille, declare as follows:

1. I am the senior Iraq researcher in the Middle East and North Africa division of Human Rights Watch (“HRW”), and my job includes conducting fact-finding investigations into human rights violations in Iraq. I previously served as the Yemen and Kuwait researcher for HRW and conducted similar fact-finding investigations in those countries.
2. HRW is a nonprofit, nongovernment human rights organization made up of approximately 400 staff members. HRW’s staff consists of country experts, lawyers, journalists, and academics. Since its establishment in 1978, HRW has documented human rights violations in countries throughout the world. It publishes its findings in hundreds of reports and briefings each year and meets with governments and institutions around the globe to advance respect for and adherence to international human rights standards.

3. At HRW, I have conducted investigations into human rights violations in Iraq, including abuses of suspected members or supporters of the Islamic State in Iraq and the Levant (“ISIS”). My conclusions are informed by: five fact-finding missions to Iraq; direct observations of judicial proceedings and detention conditions in Iraq; and interviews of senior judicial authorities from the Government of Iraq (“Iraqi government”) and the Kurdistan Regional Government (“Kurdish government”), the official ruling body of the predominantly Kurdish region of Northern Iraq.
4. I do not have any personal knowledge of the facts surrounding the United States’s detention of the unnamed U.S. citizen who is the subject of this habeas corpus action. I submit this Declaration to describe how the Iraqi government and Kurdish government generally treat suspected members or supporters of ISIS.
5. Under Iraq’s federal system, the Iraqi and Kurdish governments are each responsible for the administration of criminal justice within their respective territory. Courts of the Iraqi and Kurdish governments each contain specialized criminal courts or chambers that handle counterterrorism cases under their respective counterterrorism laws, including cases involving suspected ISIS fighters and affiliates (“ISIS suspects”).
6. The Iraqi and Kurdish government forces, supported by the United States and other countries, have attempted to defeat ISIS in a military campaign to retake areas controlled by ISIS in Iraq. During the course of this campaign, the Iraqi and Kurdish forces have detained thousands of ISIS suspects, many of whom are charged only with membership in ISIS and with no other offense.
7. HRW has documented serious problems with and flaws in the current screening, detention, treatment, and prosecution of ISIS suspects.

8. The quality of the incriminating information and the opacity of the process used to identify individuals as ISIS-related can result in the misidentification and detention of individuals who have no ties to ISIS and who are fleeing the conflict in ISIS-held territory. It can also result in the detention of individuals who unwillingly joined ISIS under threats of violence and death or who carried out civilian activities supported by ISIS, including providing medical assistance. Iraqi and Kurdish government forces have detained individuals with little real evidence or grounds, in some cases relying only on their identification as ISIS members by community members and without conducting any further investigation. As a result, wrongfully accused individuals may spend prolonged periods in mass arbitrary detention in overcrowded, inhuman, and dangerous conditions of confinement that violate basic international standards and that have led to deaths in custody. HRW has documented at least four prisoners' deaths in cases that appear to be linked to lack of proper medical care and poor conditions, and two prisoners' legs have been amputated, apparently because of lack of treatment for treatable wounds.
9. Authorities for the Iraqi and Kurdish governments systematically violate the due process rights of ISIS suspects, including by denying them prompt access to a judge, access to a lawyer during interrogations, and any opportunity to contact or communicate with their families.
10. Iraqi and Kurdish government security forces frequently engage in torture during interrogations of ISIS suspects to extract confessions. Iraqi and Kurdish judges do not intervene to prevent the use of torture or other coercive interrogation methods and they routinely allow the use of evidence obtained through those methods to secure

convictions. Iraqi and Kurdish judges do not even order a medical examination for detainees who have alleged torture.

11. HRW is unaware of a single instance in which Iraqi and Kurdish government prosecutors have charged ISIS suspects under Iraq's criminal code. Instead, prosecutors are bringing charges under their respective counterterrorism legislation based solely on a person's alleged or suspected membership in or support for ISIS. The sweeping nature of Iraq's counterterrorism legislation allows charges to be brought against individuals who are not implicated in any specific violent act and who have not committed any other crime. This has included individuals deemed to have assisted ISIS, including doctors who worked in ISIS-run hospitals, cooks who prepared food for fighters, and a man who ran a teashop frequented by fighters daily. It also includes a significant number of children. The sweeping nature of the counterterrorism legislation, coupled with systemic due process violations, including reliance on evidence of membership in ISIS based solely on a coerced confession, creates a significant risk that Iraqi and Kurdish judges will convict innocent individuals.
12. Additionally, anyone tried under Iraqi and Kurdish government counterterrorism laws, which is what a suspected ISIS fighter would necessarily be tried under, automatically faces the death penalty. Further, based on my numerous conversations with members of military and security forces and judicial authorities in Iraq, it is clear to me that these individuals feel strongly that foreigners who came to Iraq or Syria to join ISIS are the most culpable and most deserving of the death penalty.
13. Based on my experience and research, I believe that if the United States transferred a suspected ISIS fighter to Iraqi or Kurdish government custody, there is a substantial

likelihood that the person would be tried, convicted, and sentenced, possibly to death, in a proceeding that violates internationally recognized fair trial standards. I also believe there is a substantial likelihood that such a person would be subjected to torture and other abuse during his detention and that statements coerced through those methods would be used to convict him.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed on November 1, 2017
Kiev, Ukraine

A handwritten signature in cursive script that reads "Belkis Wille". The signature is written in dark ink and is positioned above a horizontal line.

Belkis Wille