

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

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Excellency,

We have the honour to address you in our capacity as First Vice-Chair of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/7, 25/2, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged arbitrary arrest, detention and conviction of Dr. Eyad Qunaibi (قنايبي إيداد) for the exercise of his right to freedom of opinion and expression.**

Dr. Qunaibi is a professor of pharmacology at the University of Applied Sciences in Amman, Jordan.

According to information received:

On 10 June 2015, Dr. Eyad Qunaibi posted an article on Facebook that was critical of the Jordanian Government. Following his Facebook posting of the article, he received summons from the General Intelligence Directorate (GID) headquarters in Amman, which he complied with and he was interrogated on issues relating to his Facebook account. On 15 June 2015, Dr. Qunaibi was once again summoned and interrogated by the GID and arrested.

On 18 June 2015, Dr. Qunaibi was brought before the State Security Court Prosecutor and accused of "undermining the political regime in the Kingdom or incitement against it" under article 149(1) of the Jordanian Penal Code. He was then transferred to the high security Muwaqqar II Prison in the Amman Governorate.

On 8 August 2015, Dr. Qunaibi was formally charged with “undermining the political regime in the Kingdom or incitement against it” under article 149(1) of the Jordanian Penal Code, although his lawyer did not receive the charges until 16 August 2015. The evidence that was included to substantiate the charges made direct reference to specific sections of the article published by Dr. Qunaibi on his Facebook account.

On 7 December 2015, Dr. Qunaibi was brought before the State Security court and sentenced to two years’ imprisonment. Dr. Qunaibi's lawyer appealed his conviction before the Court of Cassation in January 2016.

Dr. Qunaibi has been detained in Muwaqqar II Prison since 18 June 2015 under conditions that are alleged to amount to prolonged solitary confinement. While he can receive visits from his family and his lawyer regularly and is allowed to make a one hour call to his family every week, the rest of the time he is held in an individual cell from where he normally does not have access to the other inmates. He is only allowed to go out of his cell for one hour per week, during which he can meet with the other inmates.

It is reported that Dr. Qunaibi carried out a hunger strike in protest against his detention from 15 December 2015 to 4 January 2016. During this period, he was transferred to another section of Muwaqqar II Prison, where a regime of strict solitary confinement is implemented. During this time, he was denied any contact with the outside world. He was prevented from the regular visit and calls with his family and lawyer and from spending time outside his cell with the other inmates.

We express grave concern at the arrest, detention and conviction of Dr. Qunaibi, reportedly as a result of an article he posted on Facebook that was critical of the Government, in the legitimate exercise of his right to freedom of expression. Serious concern is expressed at the broader effect that his arrest would have on the enjoyment of the right to freedom of expression in the country, including a situation of fear and self-censorship for individuals and groups, particularly those with dissenting views. We express particular concern at the conditions of detention of Dr. Qunaibi, in particular the use of solitary confinement, which may amount to torture and other cruel, inhuman or degrading treatment or punishment.

In connection to the above alleged facts and concerns, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

Without expressing at this stage an opinion on the facts of the case and on whether the deprivation of liberty of Dr. Qunaibi is arbitrary or not, we would like to appeal to your Excellency’s Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), which was ratified by Jordan on 28 May 1975, and articles 9 and 10 of the Universal Declaration of Human

Rights (UDHR). We also wish to recall the principle of equality of arms and the right to have adequate time and facilities for the preparation of one's defence, including access to a lawyer, as provided in the UN Basic Principles on the Role of Lawyers.

We would like to refer your Excellency's Government to the rights to freedom of opinion and expression, as contained in article 15 of the Constitution of the Kingdom of Jordan and articles 19 of the UDHR and the ICCPR. We also recall that any restrictions to the right to freedom of expression must comply with the provisions of the ICCPR; can only be imposed on legitimate grounds as set out in article 19(3) of and must conform to the strict tests of necessity and proportionality. We would also like to remind your Excellency's Government of the Report of the UN Special Rapporteur on freedom of expression, A/HRC/17/27, which provides further analysis on the exercise of the right to freedom of expression on the internet.

We also would like to refer to the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which it is stated that the use of prolonged solitary confinement in itself runs afoul of the absolute prohibition against torture. We also would like to recall paragraph 6 of General Comment No. 20 of the Human Rights Committee (adopted at the 44th session of the Human Rights Committee, 1992), which states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 of the ICCPR. Further, we draw the attention of your Excellency's Government to "the Mandela Rules" (a revised version of the Standard Minimum Rules adopted unanimously at the 70th session of the UN General Assembly in Resolution A/RES/70/175 on 17 December 2015). Rule 43 states that in no circumstances may restrictions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited: indefinite or prolonged solitary confinement (referred to as a time period in excess of 15 consecutive days).

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide additional information and any comment you may have on the above mentioned allegations.
2. Please provide information on the legal grounds for the arrest and detention of Dr. Qunaibi, and explain how these measures are compatible with international human rights norms and standards, in particular with articles 9 and 14 of the ICCPR.

3. Please provide information about the reasons for conviction of Dr. Qunaibi and explain how they are in compliance with international human rights norms and standards, in particular with article 19 of the ICCPR on the right to freedom of expression.
4. Please provide information about the measures and laws used to regulate the right to freedom of opinion and expression in the country, including the Penal Code, and how they comply with international human rights norms and standards.
5. Please provide information about the measures taken to ensure that Dr. Qunaibi is granted all the guarantees of due process, including the right to access his lawyer in the preparation of his defense, as established by the UN Basic Principles on the Role of Lawyers.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

José Guevara  
First Vice-Chair of the Working Group on Arbitrary Detention

David Kaye  
Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading  
treatment or punishment