

**Mandate of the Special Rapporteur on freedom of religion or belief**

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29 December 2015

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on freedom of religion or belief pursuant to Human Rights Council resolution 22/20.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received **concerning the taking of 42 children of members of the Twelve Tribes religious community into public custody.**

According to the information I received:

On 5 September 2013, at 6:00 a.m., around 100 police officers and 50 youth workers raided two locations in Klosterzimmern and Woernitz, Bavaria, where members of the Twelve Tribes religious community reside, and forcibly seized 42 children from 13 families in that community. The children were placed by the State in foster families. The authorities explained this measure by pointing to the need of protecting the children from corporal punishment, which the Twelve Tribes openly admit to apply as part of their Bible-based education.

While some of the children have reportedly been returned to their parents, others – including some very young children, indeed infants – continue to be separated from their parents.

After the court decision to remove the children from their parents' custody, members of the Twelve Tribes complained about excessive restrictions to their rights as parents, such as rare and short visits, closely monitored, and under the prohibition to discuss religious issues. Some of these families have decided to move to the Czech Republic arguing that the Czech Government does not interfere with their right to educate their children according to their beliefs.

While I do not wish to prejudge the accuracy of information made available to me, I am concerned by the decision of the German authorities to unilaterally remove 42

children from the custody of their parents, on the purported ground that corporal punishment is a practice. I would be interested in knowing the way the Government has handled the case. I agree with the position taken by the UN Committee on the Rights of the Child that corporal punishment against children is “invariably degrading”, and, therefore, do not endorse the practices in this regard as openly admitted by members of the Twelve Tribes. At the same time, the Committee on the Rights of the Child has clarified that separation of children from their parents “should only occur as a last resort measure, as when the child is in danger of experiencing imminent harm or when otherwise necessary; separation should not take place if less intrusive measures could protect the child.” The fundamental principle of the best interest of the child, as enshrined in the Convention on the Right of the Child, places a responsibility on state authorities to weight the harm inflicted to the children through corporal punishment and the harm caused to them from being separated from their families. The separation of children from their families by the State may be justified in cases where instances of corporal punishment may seriously harm the child, physically and psychologically, and undermine his life and/or well-being, in which case the harm has to be assessed on an individual basis and in a reliable, evidence-based manner. I am concerned, however, that removing a number of children from their families and imposing severe restrictions on the important relation between them and their parents, may be a collective approach to an issue the determination of which should be made on a case by case basis, and taking into account the overall and long-term interests of the child.

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. I would, therefore, be grateful for your observations on the following matters:

1. Please provide any additional information and comment you may have on the above-mentioned allegations.
2. Please indicate what measures have been taken to ensure that the right to freedom of religion or belief of the members of the Twelve Tribes was made compatible with the measures taken to protect their children from corporal punishment.
3. Please indicate what measures have been taken, and continue to be taken, to ensure that in each case, the decision to separate these children from their parents and families is in the best interest of the children concerned;
4. Please indicate what alternative measure to the long-term separation of parents and their children have been considered by the Government to ensure the best interests of the children.
5. Please specify the conditions under which the children who have been separated from their families can have access to their parents and vice versa.

6. Please indicate which long-term plans exist for those children who have been removed from their parents.

I would appreciate receiving a response within 60 days.

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 my highest consideration.

Heiner Bielefeldt  
Special Rapporteur on freedom of religion or belief