

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76321

AT AUCKLAND

<u>Before:</u>	B L Burson (Member)
<u>Representative for the Appellant:</u>	The appellant represented himself
<u>Appearing for the Department of Labour:</u>	No Appearance
<u>Date of Hearing:</u>	7 April 2009
<u>Date of Decision:</u>	4 May 2009

DECISION

[1] This is an appeal against the decision of a refugee status officer of the Refugee Status Branch (RSB) of the Department of Labour (DOL) declining the grant of refugee status to the appellant, a national of Turkey.

INTRODUCTION

[2] The appellant arrived in New Zealand on 7 June 2008. He lodged his claim for refugee status with the RSB on 17 July 2008. He was interviewed by a refugee status officer on 13 August 2008. By decision dated 19 February 2009 the RSB declined the appellant's claim. The appellant duly appealed to this Authority.

[3] The appellant claims to have a well-founded fear of being persecuted in Turkey by reason of his being an Alevi, a minority group in Turkey.

THE APPELLANT'S CASE

[4] What follows is a summary of the appellant's evidence in support of his claim. An assessment follows thereafter.

[5] The appellant was born in X, in Western Turkey, in mid-1973. He has two siblings. The appellant's father was a Sunni Muslim. His mother was a Bektashi Alevi. Both of his parents are deceased.

[6] The appellant's family lived in a particular suburb of X. This was predominantly populated by Alevi families although some Sunni Muslim families lived there as well. The appellant explained that the marriage between his parents was of an uncommon nature but that his parents did not encounter any particular difficulties with the authorities or other members of the community. However, the appellant explained that his mother hid her Alevi identity in her public life. He explained by way of example that, while the Alevi faith does not require women to wear head scarves when in public, his mother always did so. Also, Alevis do not pray in mosques but rather in buildings known as *cemevis*. When the appellant was growing up there were no *cemevis* in X and his mother went to other Alevis' houses to take part in prayer and other religious ceremonies.

[7] The appellant explained that he grew up in a non-religious environment. His father never went to the mosque and his parents never counselled him or his siblings that they needed to observe any particular religious creed. However, the appellant's mother did make it clear to him and his siblings that they were Alevis and told them something of the Alevi history and background. She explained to him the fundamental principles of the Alevi faith and told him how Alevis had been discriminated against and killed by Sunni Muslims.

[8] The appellant stated that he first had formal religious instruction when he went to primary school in around 1980. Religious instruction was by that time compulsory in Turkish schools and he was made to learn about Sunni Islam. This was the only religion that was taught in schools. After completing his five years of primary school the appellant completed four years of high school. He did not experience any particular problems at these schools because of his being from an Alevi background.

[9] After completing high school in the late 1980s, the appellant attended a technical school. While there he became a member of the youth wing of the

Sosyaldemokrat Halkci Parti (SHP) (the Social Democratic Populist Party, a political party to the left of the political spectrum). The SHP was supported by the majority of Alevi in his neighbourhood, including his parents. The school population was divided amongst supporters of left-wing parties and those supporting right-wing parties. There were frequent fights between the members of the youth wings of these respective parties after school, during one of which the appellant had his nose broken.

[10] Generally, although the teachers at the technical college were meant to discourage politics and keep the schools politically neutral they were always harder on the left-wing students. Being an Alevi was, in the eyes of his teachers and right-wing people generally, synonymous with being a communist or a leftist. In addition to this generalised perception, while at technical college the appellant acquired a particular reputation for being a particularly outspoken left-wing student. He particularly took issue with the compulsory classes on Turkish nationalism. He challenged his teachers during these classes by arguing 'Turkishness' was an artificial construct used by Ataturk, the founder of modern Turkey, to describe a bundle of other nationalities and ethnic groups. His teachers could not provide him with any satisfactory response. Such 'impertinence' marked him out as a troublesome left-wing student and he was given greater punishments from the teachers for any infractions of the college's rules. Nevertheless, in late 1993, the appellant completed his course at his technical school and was given his diploma.

[11] After completing his education the appellant became eligible to perform his compulsory military service. He did not wish to do so and to avoid being conscripted he enrolled in a four-year course at an open university. He also began working as a technician in an electrical appliance repair shop, the owner of which was an Alevi neighbour. He worked for his neighbour for approximately the next three years. Around this time, the appellant moved to a small town near Istanbul where he began working in a shipyard. He obtained this job through the foreman who also lived in X and was an Alevi. Many of the people working in the shipyard were Alevi. He worked at this shipyard on and off for the next three or so years. During this time the appellant worked on tourist yachts in Western Turkey doing a variety of jobs. At the close of the tourist season he would return to work in the shipyard.

[12] Throughout the 1990s the appellant remained politically active. In the early

1990s the SHP merged with another party to become the *Sosyal Demokrasi Partisai* (SODEP), which subsequently merged with another party in the early 1990s to become the Republican People's Party (CHP). The appellant was a low-level supporter of these various parties. He attended many demonstrations and meetings organised by these parties in his area. He also attended various demonstrations organised by a particular trade union.

[13] The appellant encountered low-level harassment from supporters of right-wing parties living in his area. The appellant explained that members and supporters of the left and right-wing parties tended to congregate in certain tea houses in X. Over time, people came to know who was who. During election time, he found he was being subjected to increased verbal abuse and rude gestures. This also happened to other left-wing supporters. He was not, however, physically attacked.

[14] In the late 1990 the first *cemevi* was established in X. It was located in his neighbourhood. Its establishment led to some opposition amongst the local Sunni Muslim population and the *cemevi* was often vandalised with rocks thrown through its windows and graffiti sprayed on its walls. While the owner of the tea house under the *cemevi* acted as an erstwhile guard, he could not prevent the attacks from happening. Outraged by the continuation of these events, the community protested and complained to the local police who began setting up patrols in the area. They too, however, were unable to stop these things from happening. Nevertheless, over time, the demography of the neighbourhood became more weighted in favour of Alevis who wanted to live in proximity to the *cemevis*. This brought about a reduction of attacks on the *cemevi* although from time to time these did continue.

[15] The appellant told the Authority that following the establishment of the *cemevi* in his area he began attending it from time to time. He was not a regular attendee and did not go every week. Rather, he went for special occasions such as weddings, funerals or when an Alevi religious scholar known as a *dede* came to give a talk.

[16] In around 1999 or 2000, the appellant became a qualified and registered seaman passing the required exams. He wanted to find a job in the maritime industry because if he was working on a ship registered under a foreign flag he could further obtain an exemption from his military service obligations. He had by this time abandoned the course at the XYZ University. However, before he could

take advantage of this, in late 2000, he received his military call-up papers and was conscripted into the army.

[17] The appellant served in the army until mid-2002. After completing basic training he was made a sergeant. He was posted to a particular barracks which were populated by conscripts drawn mainly from the Kurdish and Alevi communities and given responsibility for training other conscripts. The other officers were mainly Sunni Muslims. The appellant experienced discrimination from the superior officers because he was Alevi. He was often given dangerous or dirty assignments. In particular, it was the appellant who was typically required to put together a team of conscripts to put out the brush fires that were ignited by shrapnel during live fire exercises.

[18] After the appellant completed his military service he spent the next two years looking after his father who had by then developed Alzheimer's disease. The appellant's father died in 2004. Following his death, the family home was sold by the appellant's siblings who did not give him any share of the proceeds. This has led to an estrangement between them and the appellant has not spoken to his siblings since then.

[19] Following the death of his father, the appellant worked as a labourer in the construction industry for the next year or so. He renewed his seaman's passport in 2005 and in mid-2006 began taking on employment contracts with various shipping companies. He now began working as a crewman on merchant vessels travelling between a variety of countries around the Mediterranean and Black Sea region. In late 2007, he applied for and was issued with a Turkish passport because he found that some countries did not accept the seaman's passport as a valid travel document.

[20] In 2008, the appellant obtained a position on a particular boat which was eventually to bring him to New Zealand. On board this ship, he found he became ostracised from other crew members when discussions turned to political matters and his left-wing sympathies became clear. Although he did not specifically refer to his being Alevi the other crew members assumed he was one simply because he held left-wing views. They refused to sit with him, share meals with him or even return his greetings.

[21] The appellant explained that when the ship reached its final destination in New Zealand he decided that he would jump ship and claim refugee status. The

treatment he had suffered on the ship was symptomatic of the way in which the Turkish population looked at and treated Alevis. Alevis were always discriminated against. Alevis generally found it more difficult to get employment because people were prejudiced. The appellant explained that more than 40 million of Turkey's 75 million or so population were illiterate. Even then he was of the view that many of the educated people acted as though they were illiterate and held bigoted and prejudicial views against Alevis and others. As far as the Turkish state was concerned the only identity that counted was the Turkish identity; the only religion that existed was Sunni Islam.

[22] The appellant agreed that there had been some changes in Turkey in that he now believed that the state may provide some assistance to established *cemevis* but was doubtful whether this would lead to any fundamental change. The Turkish people would always be prejudiced and bigoted against Alevis.

[23] Furthermore, there was no real freedom of speech in Turkey. If he were to truly express his opinions about the nature of the Turkish state and Turkish society he would be at risk of being beaten and possibly killed by right-wing elements within society. People were becoming more strident and right-wing in their views and not adverse to using violence against others. The appellant told the Authority that he had reached an epiphany in his life. He had made a conscious decision to not involve himself in politics following completion of his military service but as he got older he found he could not keep quiet. This led him to have the discussions with his shipmates which led him to be ostracised. He fears that if he were to do similar things in Turkey he would be at risk of harm.

THE ISSUES

[24] The Inclusion Clause in Article 1A(2) of the Refugee Convention provides that a refugee is a person who:

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

[25] In terms of *Refugee Appeal No 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

ASSESSMENT OF THE APPELLANT'S CASE

Credibility

[26] The appellant presented as an honest, highly intelligent and very articulate man. He was able to clearly articulate his point of view which he expressed with demonstrable passion. The Authority has no doubt that his antipathy towards being labelled "a Turk" is deep, profound, and goes to the heart of his self-identity. His account as to his past experiences and beliefs are accepted.

A well-founded fear of being persecuted

[27] While the Authority has on a number of occasions dealt with appeals by members of the Alevi community in Turkey, these have hitherto always been Kurdish Alevis – see *Refugee Appeal No 73965* (10 February 2005); *Refugee Appeal No 73852* (3 March 2004); *Refugee Appeal No 74573* (7 January 2004); *Refugee Appeal No 74000* (17 December 2003); *Refugee Appeal No 74546* (16 September 2003); and *Refugee Appeal No 73122* (20 June 2002). The Authority has not dealt with a case by a non-Kurdish Alevi. As this case demonstrates, not all Alevis are Kurds. Different and significant considerations may well apply in relation to Kurdish Alevi claimants who, as the previous decisions of the Authority make clear, often have an association with a political party or organisation that has been outlawed by the Turkish state. In any event, in no case has the Authority undertaken a thorough review of Alevism in Turkey. Such an undertaking is necessary to answer the question of whether this appellant can be said to have a well-founded fear of being persecuted in Turkey.

Country information on Alevis in Turkey

The Alevi community in Turkey

[28] The Alevis of Turkey are not a homogenous group. Historically, the Alevi or, more accurately, proto-Alevi communities have comprised two separate and

distinct groups named the *Bektashi* and the *Kizilbashi* – see M Dressler (2008) “Religio-Secular Metamorphoses: The Re-Making of Turkish Alevism” *Journal of the American Academy of Religion* Vol 76, No 2 at p283. D McDowell, *Asylum Seekers from Turkey II: Report to Asylum Aid* Asylum Aid (London, November 2002) at p56, notes the *Bektashis* venerate a 12th century mystic Haji Bektashi Weli and were enormously powerful within the Ottoman Empire. This branch of Alevism was followed by a very large number of Turks in the Anatolian countryside but not by Kurds. The *Kizilbashi* were tribes from Eastern Anatolia and it was they who fought with the Persians against the Ottomans for control of the region. After the Ottomans’ victory these tribes retained their *Kizilbashi* beliefs but found themselves openly reviled and adopted the name Alevi. Over time these beliefs became fused with some Kurdish tribes inhabiting what is now south-eastern Turkey.

[29] The two groups subscribe to virtually the same belief structure but are separately organised. The *Kizilbashi* are traditionally rural whereas *Bektashis* are predominantly urban – see Minority Rights Group International *World Directory of Minorities 2008: Alevis* (London, 2008) (“the MRGI World Directory”) at p1. See also David Shankland, *The Alevis in Turkey* (Routledge Curzon, London, 2003) at pp18 and 19.

[30] The number of Alevis living in Turkey is a contentious matter. The MRGI World Directory observes:

“Estimates range from around 10 per cent to as much as 40 per cent of the total population. An academic study launched in November 2006 estimates that Alevis are around 11.4 per cent of the population. A survey conducted for the daily *Milliyet* and launched on 21 March 2007 claims that the proportion of those who disclosed themselves as Alevis is much lower per cent (4.5 million). The methodology and findings of the survey were criticized by all Alevi organizations. The Alevi-Bektasi Federation claims that there are around 25 million Alevis in Turkey, constituting nearly 33 per cent of the population.”

[31] Another report estimates that Alevis comprise approximately one-fifth of Turkey’s total population or somewhere between five and 12 million people – see The Immigration and Refugee Board of Canada report, *Turkey: The Alevi faith, principles, beliefs, rituals and practices (1995-2005)*, 7 April 2005 TUR3515.E (“the 2005 CIRB report”).

[32] In terms of their geographical distribution, Shankland (*op cit* at 13) notes:

“At the Republic’s outset, the Alevis were a predominantly rural community, inhabiting mainly, though by no means entirely, an area to the central east, and south-east part of the country. Today, after several decades of rapid migration,

they are predominantly urban, occupying usually the outlying areas of large cities, such as Istanbul, Ankara or Izmir.

The Alevi faith

[33] The 2005 CIRB report cites an interview with the General Chairman of the United Federation Alevi-Bektashi Organisations who describes the Alevi faith in the following manner:

“... Alevism is neither a religion nor a sect ... [T]he only point (Alevism) shares with Islam is that it incorporates “the trinity of God, Mohammed, and Ali.” ... Alevism [is] “a unique philosophy, a faith, a way of life a culture, a teaching, and indeed a social formula peculiar to Anatolia that is anthropocentric and that goes beyond all these.”
...

“Alevism took shape long before Islam with influences from Central Asian faiths such as Shamanism, Zoroastrianism, and Manichaeism. Later, after the emergence of monotheistic religions, it was influenced by Judaism and Christianity. Finally it was most strongly influenced by Islam and adopted the trinity of God, Mohammed, and Ali as its guide.”

[34] The significance of the reference to Ali is to posit the Alevi faith in distinction to Sunni Islam. This derives from the schism that arose in Islam in the decades following the death of Mohammed in 632AD. Tensions between powerful cliques over control of the then nascent but expanding Islamic world resulted in a hitherto unified community splitting between those faithful to the Sunni Caliph Muawiwa and his successors and those faithful to Mohammed’s bloodline through Ali Ibin Abi Talib and his two sons, Hassan and Hussein. The latter group has become known broadly as Shi’as – see A Hourani *A History of the Arab People* (Faber & Faber, 1991) p25. However, while Alevis venerate Ali, aspects of their faith mark it out as a distinct faith from the Shi’a Islamic faith.

[35] N Oktem “Religion in Turkey” *Brigham Young University Law Review* Vol 2002 No 2, at p4 also places the Alevi faith within this process of “religious aggregation” and notes the “distinctive character of the Alevis” when compared to the tenets of Sunni Islam. As Oktem notes, Alevis do not perform prayer at set times, they do not fast during Ramadan nor do they undertake a pilgrimage to Mecca. Other differences noted by the 2005 CIRB report include the fact that Alevis do not pray in mosques but rather in specific religious buildings called *cemevis*, which are also used as socio-cultural centres. Alcohol is not prohibited and there is no requirement for Alevi women to cover their heads. Generally Alevi women seem to hold a more prominent place in society than their Muslim

counterparts; they are entitled to sit in cafés with men and Alevism allows men and women to pray together.

The situation of Alevis in Turkey

[36] The situation of Alevis in Turkey has been conditioned by two forces. First, prejudices flowing from their separate religious identity as well as historical and political prejudice. Second, the constitutionalisation of Sunni Islam in an otherwise secular Turkish Republic.

Religiously situated prejudice

[37] The marked and fundamental differences in religious observance between the Alevi faith and the Sunni Islamic faith have led to widespread prejudice against Alevis. In general terms, Alevis are seen as heretics or outcasts by Sunni Muslim traditionalists who view Alevi theology as wrong. Some Sunnis even argue that Alevis are not Muslims, a position shared by many Alevis themselves – see Canadian Immigration and Refugee Board, Research Directorate *TUR102821.E Turkey: Situation of Alevis 2005-May 2008* (27 May 2008) (“the 2008 CIRB report”) at p1; United States Commission on International Religious Freedom *Annual Report 2008 – Turkey* (1 May 2008).

[38] The dynamic by which religious prejudice has become entrenched in Turkish society is convincingly explained by Shankland. He argues (*op cit*) at 17, that aspects of the Alevi belief structure such as not giving priority to fasting or praying in a mosque means the Alevis have not been “automatically incorporated into one of the most important means by which diverse peoples have been socialised into a Turkish national community” thereby fostering a sense of difference from the majority. It has led to prejudicial attitudes becoming entrenched amongst the majority Sunni Muslim population who ascribe to Alevis, and Alevi women in particular, immoral sexual conduct and other scandalous practices.

Historically situated prejudice

[39] Alevis are viewed with suspicion in Turkey because of the involvement of *Kizilbash* tribes in the Persian army which vied with the Sunni Ottoman Empire for control of Anatolia in the late 15th and early 16th century as detailed above. The term “*kizilbash*” (redheads) once a reference to the red headgear worn by the first

Alevi is now often a term of abuse in Turkey – see the 2005 CIRB Report (*op cit* at p4); David McDowell (*ibid*); Martin van Bruinessen “Kurds, Turks and the Alevi revival” *Middle East Report* No 200 (Summer 1996) at p4. As observed in the MRGI World Directory:

“Isolated within what became the Sunni Ottoman territory, Alevi have been reviled as non-muslims of dubious loyalty, victims of scurrilous libel.”

Politically situated prejudice

[40] During the 1960s and 1970s, left/right-wing politics became increasingly polarised within Turkey. Many Alevi, if not most, gravitated towards the political left which led to increasing conflict with ultranationalist elements in Turkish society who denounced them as “*Kizilbaş* (that is, heretics), Kurds, and communists, thus portraying them as at once threatening the religious, ethnic and political identity of the nation” – M Dressler (*op cit*) at p285. As McDowell (*op cit*) at p60 observes, “the scene was set for conflict”. This ushered in a period in which a number of well-publicised attacks and killings of Alevi took place. In particular, in December 1978, 109 Alevi were killed in one incident in Maras and other massacres occurred around that time in other parts of Turkey.

[41] In summary on the prejudice against Alevi in Turkey, N Oktem *Being Muslim at the margins: Alevi and the AKP* (2008) *Middle East Report* 246 at p4 succinctly charts the history of prejudice against the Alevi when he states:

“Turkey’s Alevi were treated as a fifth column of the Safavid state in Iran in the early Ottoman Empire, as unruly villagers by the secular republic and as unclean unbelievers by the Sunni establishment. Due to this experience of exclusion, and deepened by a strong proto-socialist thread in Alevi tradition, many developed an affinity for anti-capitalist and communitarian left-wing movements. Throughout the 1970s, Alevi were attacked by changing coalitions of nationalist, fascist and Islamist groups, as well parts of the security apparatus, culminating in a number of anti-Alevi pogroms in central and eastern Anatolia. State agencies, with their deep-seated suspicion of all ethnic and religious minority groups, treated the Alevi as potential enemies.”

The constitutionalisation of Sunni Islam in Turkey since the 1980s

[42] Turkey may be categorised as a state founded on the principle of constitutional secularism. Secularism is one of the basic pillars of the Turkish Republic and is enshrined in both the Constitution of 1982 imposed by the military after the 1980 coup, and its two predecessors. Article 24 of the Constitution articulates the principle of freedom of religion and conscience and guarantees

freedom of conscience, religious belief and conviction. However, the Constitution provides that:

“No one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for the purpose of personal or political influence, or for even partially basing the fundamental, social, economic, political and legal order of the State on religious tenets.”

[43] Nevertheless, following the military coup in 1980, a fundamental re-orientation of the Turkish polity took place. In what is commonly regarded as the “Turkish-Islamic synthesis”, the military authorities (1981-1983) and post-1983 civilian administrations, systematically promoted Sunni Islam and used Sunni Islamic institutions as a bulwark against the left-wing political groups. As Dressler puts it: “Facilitated by a booming media sector – religion went public to an unprecedented extent” – see Dressler (*op cit*) at 286. See also McDowell (*op cit*) at 67; van Bruinessen (*op cit*) at 5).

[44] Whereas the political context of the 1970s saw the Alevi identity constructed along *political* lines, more specifically as a social democratic movement – the increased emphasis placed on Sunni Islam in political discourse as a result of the Turkish-Islamic synthesis saw Alevism increasingly constructed by Alevis as a form of *religious* identity – van Bruinessen (*op cit*) at 6. Dressler (*op cit*) at 286 explains:

“The Alevis had to adjust to the new parameters of Turkey’s post-1980 political discourse. With religion having become the major point of reference for political identity formations, many Alevis, formerly aligned with the now dysfunctional left, began to assert Alevi identity within a universalistic human rights discourse and secularist rhetoric of religious freedom and self determination. Alevis now turned to their half-forgotten traditions, which they increasingly formulated in religious terms, thus to a certain extent appropriating the language of post-1980 Turkish society with their demands for recognition of Alevism as an identity significantly different from mainstream Sunni Islam”

[45] This trend received further impetus following the lifting of the ban on associations in 1989 which resulted in Alevi associations emerging all over Turkey and under their sponsorship a number of *cemevis* were opened and books written about Alevism as a distinct religion – van Bruinessen (*op cit*) at p7. This more forceful self-identification by Alevis as a distinct *religious* community lead to tension with conservative Sunni elements and lead to sporadic organised violence against the Alevi community. In 1993 in Sivas, a Sunni mob set fire to a hotel in which an Alevi conference was taking place in which some 37 people were killed. As late as 1995, some 18 Alevis were killed by police who used lethal force to suppress a riot of Alevis following the shooting by right-wing nationalists of Alevis

in a café in Gazi, a suburb in Istanbul. Van Bruinessen argues that the events in Sivas and Gazi further reinforced and radicalised a revival in Alevism that had taken place during the 1980s.

[46] At the same time, the state began increasingly to see benefits in co-opting the Alevi community *qua Alevi* as a bulwark against rising violent Kurdish nationalism as expressed by the activities of the Kurdistan Workers Party (PKK). The Turkish state saw material advantage in co-opting and promoting Alevism as a religion to offset the impulse towards identification as a Kurd, at least amongst the Kurdish Alevi population. N Oktem (*op cit* 2008) puts it thus (at p4):

“In the 1980s, when the leaders of the military coup introduced the “Turkish-Islamic synthesis” as semi-official state doctrine to contain the revolutionary left, Alevi were further alienated from the state and its institutions. Yet even during this period, discriminatory policies were differentiated: Turkish-speaking Alevi had to fight fewer prejudices than the Kurmancki-speaking Alevi of the Dersim area, who were often treated as outright terrorists, because of the association with Kurdishness. The aversion to the Dersimli was augmented during the 1980s, when young men and women from the Tunceli area joined the Kurdistan Workers’ Party (PKK) in its rebellion against the Turkish state.”

See also in this context McDowell (*op cit*) at pp61-62; van Bruinessen (*op cit*) at p7-8.

[47] Since that time, the Turkish political establishment has shed much of the suspicion of the political right regarding leftist sympathies of the Alevi community. There can be no doubt that there has been a form of Alevi revival throughout the 1980s. There is an increasingly well-organised but fragmented trans-national civil society network. There are numerous radio and television stations, journals and on-line portals representing the Alevi community. See N Oktem (*op cit* 2008) at p5. Nevertheless, anti-Alevi sentiment remains most deeply entrenched in the state security apparatus – see McDowell (*op cit*) at pp7 and 61.

[48] Having embarked on this general review of Alevism in Turkey, it is now possible to come to some conclusion about the position of Alevi in Turkey as at 2009.

The general position of Alevi in Turkey today

[49] The general position can be characterised by the persistence of societal discrimination and some institutionalised forms of discrimination in relation to the status of Alevism as a religion.

The persistence of societal discrimination

[50] While the secularisation of Turkey following the fall of the Ottoman Empire has, in general terms, led to the gradual emancipation of the Alevis in Turkey, the process of secularisation has not led to the dissipation of prejudice against Alevis. As Shankland (*op cit*) at p24 states Alevis still are :

“... a minority that has not acquired equal status that it assumed or hoped would be possible.”

McDowell (*op cit*) at 57 also notes while the majority of Turkish (that is, non-Kurdish) Alevis initially welcomed the establishment of the secular Turkish Republic in which Sunni Islam was to be sidelined into a matter of private faith and that, broadly speaking, Alevi Turks have not been persecuted, Sunni prejudice against Alevis has undoubtedly persisted. McDowell, at p59, observes that one by-product of the urban migration of Alevis is that many ordinary Sunni Turkish citizens have come to know Alevis at a personal level and their prejudices have dissipated. Similarly, the 2008 CIRB report states that, while it is no longer socially acceptable for traditionalist Sunnis to disparage Alevis in public, criticism is widespread in the private sphere – see p1.

Discriminatory state practises

As to religious education

[51] One legacy of the military coup of 1980 was the introduction of a new Constitution in 1982. The essential point to observe in this context is that this new Constitution obliges state schools to provide religious education in primary and secondary schools – see article 24 of the Turkish Constitution. In practice, this has meant that only Sunni Islam has been taught despite the existence of national guidelines which require religious education classes to include information on other religions such as Judaism, Christianity, Buddhism and Hinduism. There is only limited mention of Alevism – see generally Minority Rights Group International *Forgotten or Assimilated? Minorities in Education System of Turkey* (2009) at pp20-21.

[52] Recently, an Alevi parent successfully challenged this policy before the European Court of Human Rights – see *Hassan and Aylem Zengin v Turkey* (Application No 1448/04, 9 October 2007). The Court found a violation of Article 2 of the First Protocol to the European Convention on Human Rights on the basis

that compulsory religious culture and ethics classes did not meet the criteria of objectivity and pluralism and did not respect the religious and philosophical convictions of Mr Zengin. The Court further held, at [22], that such exemptions as did exist did not provide adequate protection to parents who could legitimately consider the subject taught would give rise to a conflict of allegiance in the children between their school and other values. While it appears that there have been minor amendments to some of the text books used in schools, the government is yet to fully implement the Court's decision – see the 2009 MRGI report. The report notes that the issue is, nevertheless, a contentious one within the Alevi community, with some in favour of the complete removal of religious instruction and others happy for it to be provided in the schools if it covers all religions and faiths including the Alevi religion.

As to the funding of religious institutions

[53] Religious affairs in Turkey are overseen by the Turkish Directorate for Religious Affairs (*Diyanet*). The *Diyanet* does not provide funds to non-Sunni Muslim religious institutions which classify *cemevis* as cultural centres. As a result Alevi places of worship do not receive state funding and rely heavily on private contributions. Furthermore, because *cemevis* cannot be listed as places of worship according to Turkish planning laws, municipalities can refuse to grant building licences and sometimes do. As a result, it is estimated there are only 100 *cemevis* across the country as of 2007. This can be contrasted to estimates of more than 85,000 Sunni mosques – see the 2008 CIRB report at p 3

Political representation and relations

[54] Given the size of the Alevi community in Turkey, Alevis are under-represented in the Turkish political structure. Before the 22 July 2007 elections, no Alevi was included among the 354 members of the ruling AKP party but, following protests, four Alevis were included. There are no Alevi or non-Muslims amongst Turkey's 81 provincial governors – see MRGI World Directory at p2.

[55] The 2008 CIRB report notes, at p4, that in March 2008 an Alevi member of the ruling AKP party, announced that the government would fund *cemevis* and Alevi cultural centres, publish three reference books for Alevis and supported the pronouncement of a *fatwa* about Alevis in Turkey's mosques. Nevertheless, these concessions are limited as the same report observes that the *Diyanet* continues to

oppose funding for *cemevis* or to do anything which presents *cemevis* as an alternative to mosques on the basis that it will turn Alevism into an independent religion. In other words, it appears these steps do not promote Alevism as an independent religious belief but rather as a subset of Islam.

[56] According to Oktem (*op cit* 2008) at pp3-5, these recent initiatives by Alevi Members of Parliament have met with some ambivalence amongst the Alevi population. He notes the ground-breaking attendance by the current Turkish Prime Minister at a fast-breaking ceremony was boycotted by prominent Alevi civil society organisations, who were concerned that this was simply part of a process of forced assimilation of their faith within the broader Sunni Islamic tradition. According to Oktem:

“As leaders of the Alevi community suggest, the AKP’s Alevi opening has ignored both long-standing requests and grievances from the community as well as its organized civil society. The AKP’s new Alevi policy is not based on an affirmative recognition of difference and a readiness to acknowledge past mistakes, but appears to follow the clientelist model of incorporation and assimilation that the party has so far successfully employed for the incorporation of Kurdish voters.”

Application to the appellant’s case

[57] The country information makes it clear that Alevis do continue to face discrimination in Turkey. However, this appears to be diminishing to some extent as more and more Sunni Muslim Turks come into everyday contact with Alevis as a result of the general urbanisation of at least the Bektashi Alevi community. Nevertheless, discrimination against Alevis in Turkey is not only rooted in religious prejudice, but is also a function of historical and political prejudices. This means that societal discrimination against Alevis is unlikely to be something that is easily dissipated and there can be little doubt that the appellant will continue to encounter societal prejudice in Turkey in the future.

[58] The Authority has no doubt whatsoever that the appellant genuinely does, as he has claimed, feel to the very core of his being a fundamental disconnection with the Turkish polity. In his view, state policy directed towards imposing on him and members of all other minority groups in Turkey an artificial ethno-nationality of ‘Turkishness’ causes, “even educated Turkish people to behave like they are illiterate”. The appellant is a man of demonstrable intellect and abundant capability and, for him, the Authority has no doubt that this is both galling and fundamentally demeaning.

[59] Yet, despite sympathising with the appellant's predicament, the Authority is simply unable to find that it is such that he has a well-founded fear of being persecuted. He may well face discrimination in the future in Turkey but the state of "being persecuted" means something more. As explained in *Refugee Appeal No 2039* (12 February 1996) at para [42]:

"While anti-discrimination notions underlie the Convention, it is important to bear in mind that discrimination *per se* is not enough to establish a case for refugee status. A distinction must be drawn between a breach of human rights and persecution, a distinction we have drawn previously in other contexts. See, for example, *Refugee Appeal No. 37/91 Re MAU* (3 May 1992); *Refugee Appeal No. 72/92 Re MB* (12 August 1992) and *Refugee Appeal No. 1613/93 Re BR* (25 May 1995). Not every breach of a claimant's human rights constitutes persecution: UNHCR *Handbook on Procedures and Criteria for Determining Refugee Status* para 54:

"Differences in the treatment of various groups do indeed exist to a greater or lesser extent in many societies. Persons who receive less favourable treatment as a result of such differences are not necessarily victims of persecution. It is only in certain circumstances that discrimination will amount to persecution. This would be so if measures of discrimination lead to consequences of a substantially prejudicial nature for the person concerned, e.g., serious restrictions on his right to earn his livelihood, his right to practise his religion, or his access to normally available educational facilities." "

[60] In this regard, it is instructive to note that he has been and will be able to practise his religion. While, plainly, there is officially sanctioned disparity between the treatment of Sunni Muslim and Alevi faiths in terms of the funding of religious institutions, it cannot be said that the appellant is unable to practise his faith at all or without facing a real chance of suffering serious harm if he does. Indeed, it seems that there has been a trend towards greater opportunity in this regard in that the appellant told the Authority that, by the time he left Turkey, there were more than five *cemevis* in X.

[61] He has been able to find employment commensurate with his qualifications. He has found housing. He has not complained of discrimination in the provision of health services to him. While he has encountered bigots and prejudiced attitudes amongst his co-workers on one ship in particular, he has not encountered any form of serious harm and this cannot sensibly be described as persecution. The Authority has no doubt that this will be his socio-economic situation in the future.

[62] He has been able to take part in political life in Turkey without harm. He states that he has had some sort of epiphany and is now resolved to become fully active on behalf of Alevis. This may well be the case but there is no country information of which the Authority is aware to establish even to the low level required in this jurisdiction that politically active Alevis face a real chance of being persecuted for that reason alone. The appellant could not explain why, if this was

in fact the case, activists in the flourishing Alevi civil society are seemingly able to operate without being subjected to serious harm. The Authority concludes that any risk to him, should he take up some degree of Alevi activism in Turkey, is entirely conjectural and does not give rise to a real chance of his being persecuted.

[63] Finally, the Authority notes that, before the refugee status officer, the appellant stated that he had a fear of being persecuted for having deserted his ship and for having made a claim for refugee status. These issues were not raised by him before the Authority. However, the Authority records that it does not know of any information to suggest that his deserting his ship would expose him to a risk of being persecuted let alone in the context of one of the Convention reasons. Further, the confidentiality which attaches to the refugee status determination procedures in New Zealand – see Immigration Act 1987, s129T – means that there is no real chance that the Turkish authorities will even become aware that he has lodged such a claim. Nor is there any evidence that the Turkish authorities would view a refugee claim in another country with antipathy.

[64] In summary, the Authority finds that the appellant faces a real chance of encountering no more than low-level discrimination in Turkey. The first principal issue is answered in the negative. The need to consider the second does not, therefore, arise.

CONCLUSION

[65] For these reasons, the authority finds that the appellant is not a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is declined. The appeal is dismissed.

“B L Burson”

B L Burson
Member