

Lecturer in Legal Theory Law School Utrecht University

w.vanrossum@uu.nl

Abstract

Current research and media attention on religious courts, especially Islamic Councils and courts of arbitration, suggest the need for more accurate description and analysis of the diversity of non-state courts that actually exist in today's multicultural societies. One such forum is the *cem* ceremony of the Turkish Alevis - which acts as a community based dispute resolution forum. The Alevis are a heterodox, Islamic sect, which make up approximately 15 to 20 percent of the population in Turkey and the same percentage of the Turkish population in European countries. The resolution of disputes at the *cem* ceremony constitutes a situation of legal pluralism.

Some examples from actual cases are used as illustrations to make clear that trust in Dutch state institutions leads to a diminished importance of Alevi religious law. On the other hand, distrust of Alevis in the Turkish institutions leads to the continuation of the situation of legal pluralism in Turkey.

This is a **refereed article** published on: 11 December 2008

Citation: Rossum, W. M. van ' Religious Courts Alongside Secular State Courts: The Case of the Turkish Alevis', 2008(2) Law, Social Justice & Global Development Journal (LGD).
http://www.go.warwick.ac.uk/elj/lgd/2008_2/rossum

Keywords

Legal pluralism; Courts; Islamic Law; Shia Sect; Netherlands; Turkey; Alternative Dispute Resolution; Alevis

Author's Note

This article is a revised version of a paper at the session 'Disputing 'Religious Law' in the 21st Century: Islam' at the Law and Society Conference in Berlin 2007, ' Law and Society in the 21st Century'. I thank the reviewer(s) of LGD for their helpful comments.

1. Introduction

Today there is increasing awareness that religious law still plays a role in secular societies and their legal systems. Religion has become a more prominent identity both within states and across state borders - be it Islam worldwide, Catholicism and Protestant Evangelism in South America, or Christianity in the USA. ¹ It is further accepted that religious convictions of political actors have an influence on politics, and that state law grants a certain free realm for the performance of religion (religious gatherings, processions etc). More ambiguous however is the role of religion and religious symbols in secular courts and courtrooms, and the co-existence of religious courts separate from a secular legal system in a specific state. These religious courts seem to question the legitimacy of the nation state. ² Religious courts are only tolerated and accepted if they respect the boundaries set by state law. That is why Sharia Councils and the Jewish Beth Din in secular states present themselves as courts of arbitration, and not courts of law.

³

Post 9/11 there has been particular interest in Islam or 'sharia' and this has led to Islam being one of the most researched and reported religions in Europe in recent years. Recent social science research has investigated the social position and development of the Muslim community in Western countries, the rise of Islam and Islamic fundamentalism in Arab and other countries, and the position of Islamic law in countries with a dominant Muslim population (Mirza, Senthilkumaran and Ja'far 2007; Otto 2006; Otto, Dekker and Van Soest-Zuurdeeg 2006). These publications do not fail to note that Islam and its law are pluralistic, comprising not only the Sunni-Shia division, but also the established schools of Islamic law: Jafari (the dominant school in the Shia branch), Hanafi, Maliki, Shafi'i, and Hanbali. Apart from these official schools of law however, each local Islamic sect has its own interpretation of what is 'the path'. One of these sects is the Alevis from Turkey.

In this article I focus on legal anthropological aspects of the Alevis in the Netherlands and Turkey. I started my research into the Alevi legal culture in 1999. ⁴ Since then I have regularly visited Alevi associations to observe meetings and interview people. I have interviewed key informants of the Alevi community in the Netherlands and I attend several

cem

ceremonies a year (a

cem

is a religious ceremony, more detailed explanation follows below). I have also visited Alevi associations in Germany and in Turkey in both rural and urban areas, and have observed several

cem

ceremonies there. I videotaped most of the

cems

I attended, in order to be able (with help of insiders) to accurately describe what happens and to transcribe the dialogues. The cases I present below are taken from these transcriptions.

The Alevis are an interesting group not only because they are considered one of the *Ghulat* sects within Islam (

Ghulat

meaning they show an excessive love for the twelve Imams; Moosa 1988), but also because they have – in a legal anthropological sense – their own rules of law and legal procedure. In the Netherlands this situation of legal pluralism up until today did not pose any practical problems, because the type of cases dealt with in the Alevi legal system make a potential conflict with Dutch state law unlikely. The situation is different in Turkey, where conflicts between Alevi law and state law are more likely to occur. The tension brought about by the situation of legal pluralism will endure for quite some time in Turkey, because Alevi culture partly constitutes itself as a suppressed minority culture there: one man I interviewed related a typical presumption that ‘State and Sunni religious institutions cannot be trusted, so it’s best to hide particular religious practices from too many public eyes’.

2. Alevis as Outsiders in Islam Illustrated Through the Cem Ritual

Researchers usually say implicitly and in very general terms that Alevi law historically developed because it was functionally necessary (Kehl-Bodrogi 1988). Since the values of the official legal institutions of the Ottoman state were not in keeping with the social values the Alevis themselves uphold, the Alevis distrusted the state, turned away from its Islamic Kadi courts, and formed their own forum for the settlement of disputes. Alevis were regularly prosecuted before the Ottoman courts, for example because they did not attend Friday prayer at the mosque or were suspected of evading Ramadan fasting (Gerber 1994: 35-36; Imber 1979).

With the start of modern Turkey in the 1920s, Alevis put their hope on *laiklik* (laïcité), the strict

separation of state and religion. They generally supported Atatürk's reforms, and still revere him (some even consider him to be an Alevi). Prosecution of Alevis however was not relaxed, and repressive social control by the majority of orthodox Muslims continued in the decennia to come (Jongerden 2003). The Turkish state kept control over the dominant version of Islam through the Directorate for Religious Affairs (Diyanet), and declared Sunni Islam fundamental to the whole of Turkey. Political and social changes from 1968 onwards led to increased tensions. Not only did the Alevis hold their 'illegal religious gatherings' in which a 'superstitious belief' was practiced (Kehl-Bodrogi 2003: 64), but most of those who turned away from religion allied with extreme left political parties and forces (Göner 2005). My interviews with Alevi elders made clear that in those times men took guard at the outskirts of the village to secure the religious gatherings. They sat on rooftops to warn the village in case strangers, police or military approached the village. Today religious ceremonies are sometimes performed out in the open at public festivals. 'Cette liberté est récente', writes Irène Mèlikoff in her book on the roots of Alevism (Mèlikoff 1998: 208).

To get an impression of why Alevism is so problematic in Islamic Turkey and why the religious services were considered 'illegal', we will look at the most important religious gathering. That gathering is called *cem* (pronounced as dzjèm). The *cem* is a religious ritual usually held in the evening. In some rural parts of Turkey and with some associations in larger cities, a

cem

is held every week. A

cem

is always conducted in Turkish (also among Kurdish Alevis).

A *cem* consists of the performance of twelve 'tasks' for which twelve different functionaries are responsible (Yaman 1998). The most important functionary and task is the *dede* who is the only person allowed to lead the

cem

. In general his task consists of singing several poems, observing the rituals performed before him, and performing recitations of a diversity of persons on several fixed moments during the

cem

. The

dede

is also the leading figure when people during the

cem

are expected to resolve their disputes (see paragraphs 4.1 and 4.2 for descriptions). Examples of other functionaries and tasks are 'the doorkeeper' who stands at the doorway of the

cem

house and who takes care of an orderly entrance and exit of participants, and the 'watcher' who supervises the participants during the ceremony and who observes the correct performance of rituals. Important and repeated recitations concern 'the three, the five, the seven, the twelve imams, the fourteen pure and innocent, the seventeen with the girdle, and the forty'.

5

'The three' for example refer to (and are in some recitations replaced by) 'Allah, Mohammed, Ali', as if they are actually one or of equal importance. In fact as far as Mohammed and Ali are concerned this comes close to the meaning most Alevi writers give to this recitation, and they refer to an apocryphal hadith that says that Mohammed said that 'I am the city of knowledge, and Ali is its gate' (Birge 1937: 141-142; Moosa 1988: 51). Some Alevi will equate Ali with Allah, although they would not say so in public and would protest if anyone else would publicly claim so.

6

Another example that shows the divergence of Alevism in regard to orthodox Islam is the recitation of the seven. The seven are the Ehlibeyt (Mohammed, his daughter Fatima, her husband Ali, and their two sons Hasan and Hüseyin) together with not only Hatice ⁷ (Mohammed's first wife), but also with Selman-i Farisi (Selman the Persian, or Salman Pak: 'the pure and untainted'). This Selman is an interesting figure. He was brought up with the teachings of Zoroaster and Mani, and converted at a young age to Christianity. He was the first Persian to convert to Islam as soon as he heard about Mohammed and had recognized his prophecy. Ali is supposed to have said 'Selman has known the first and the last Ilm (divine knowledge), and read the first and last books' (Moosa 1988: 346). Legend tells Selman was also a contemporary of Jesus (Moosa 1988: 347), which is understandable in light of the Alevi belief in the transmigration of souls.

The forty illustrate a specifically unorthodox view on what is central to Islam. The story of the forty is sung at most *cems*, and is at a certain moment accompanied by the *semah* (a ritual dance which is considered a prayer). The story goes as follows.

8

Ali used to gather with his friends in a building on a mountaintop. Mohammed asked him several times what he was doing there, but he never got a clear answer apart from that they were meeting with 40 people. One day Ali again went to the meeting. Mohammed followed him, but on the way encountered a roaring lion. Allah, speaking from a cloud, said to Mohammed that the lion meant no harm, but would only let him pass when he put a token in the mouth of the lion. Mohammed put his golden ring in its mouth, and was allowed to pass. Arriving at the building where the meeting was, he knocked on the door. The door was opened and Mohammed said he was the prophet, so he was to be let in. But he was not let in, because 'they knew of no prophets'. Mohammed knocked again and repeated what he said before, but the person at the door again refused his entrance. When Mohammed knocked on the door the third time, he said he was just a poor and humble servant of God. Then he was let in. There were 39 men and women in the room, and one of them was behind a veil. Mohammed asked whom he was, and he was led to him. The person behind the veil wore Mohammed's golden ring on his finger that he had put in the mouth of the lion. So he knew that a person very close to Allah was behind the veil. On request the person then lifted the veil. It was Ali, and then Mohammed knew that Ali was the lion of Allah. Sometime later Mohammed asked where the 40th man was,

because he counted only 39, and they said Selman was fetching a grape. When he returned with a grape, he squeezed it in his hand, and all drank of it and became intoxicated. The dance they then started was the dance of the forty, the

semah

Reverence for Ali points to Shia Islam, but as already said Alevis in this regard are grouped with other sects called the *Ghulat* ('the Exaggerators'). Their love for Ali and the other Imams is called exaggerated by orthodox Sunni and Shia believers, is said to go beyond boundaries, and is sometimes said to be not Islamic anymore. Alevis are usually compared with other

Ghulat

sects like the Ahl-e Haqq, the Baha'is, the Ibadis, the Ismailis, the Shabak, the Yezidis, the Nusayris and others (Moosa 1988). The five pillars of Islam are not the central articles of their faith.

Apart from 'exaggerated Shia' the literature speaks about syncretism, by which is meant a mixture of local practices present in Anatolia in the 13th century. Hacı Bektash (13th century), Balim Sultan (15

th

century), and Pir Sultan Abdal (16

th

century) are considered legendary figures that have given Alevism its present shape by combining diverse elements from Islam, mysticism, shamanism, and Christianity. For example 'light' has an important role to play at the

cem

ceremony. At a certain moment one, three or sometimes twelve candles are lit, which is said to refer to Allah (if one candle), Allah, Muhammad and Ali (if three), or the twelve imams (if twelve). There could be a link with Zoroastrianism and 'the particle of light' in Manichaeism, since some Alevis believe that with the lighted candle Ali is present at the

cem

. People attending the

cem

are therefore not 'just a community', but one that is sacred, a cemaat.

[9](#)

Further, the *semah*, the 'prayer dance' [10](#) that is based on the story of the forty mentioned above and that is always performed on a *cem*, carries

different interpretations. It could refer to the movement of the planets in the solar system, but it could also refer to the movements of the Crane, a holy, migratory bird. By performing specific hand and body gestures the 'dancers' reside 'at one moment in the visible world and in the next

in the invisible' (Stokes 1992: 214-220, citation at 220). When it comes to planets etc, it seems that some Kurdish Alevi tribes revere the sun and the moon, for which they refer to a saying attributed to Hüseyin just before the battle at Kerbela:

Ali was the gold,
Fatima was the silver,
I am the son of the gold and the silver.
My father was the sun,
my mother was the moon,
I am the son of the sun and the moon (cited in De Jong 1989)

In interviews Alevis say the following about their relationship to orthodox Islam. A summary of several interviews with ordinary Alevis: 'We Alevis do not consider the Kuran a holy book, because many passages that refer to Ali were deleted; we do not go to the mosque to pray, because one can pray anywhere, and besides: Ali was killed in a mosque; Instead of fasting in the month of Ramadan, we fast ten days in the month of Muharrem; we do not go on hajj (the Islamic pilgrimage), because the truth and belief you need are inside you.'

This central idea of finding truth and Allah inside you is attributed to the 'saints' mentioned earlier. Hacı Bektash is said to have written:

Intelligence is in your head, not in a crown
Whatever you seek, seek it with yourself
Not in Jerusalem, in Mecca or on a pilgrimage (Gülçiçek 1996: 14; transl. author)

And Pir Sultan Abdal supposedly said:

Don't look for God in far away places
God is in you, when you keep your heart pure (Gülçiçek 1996: 15; transl. author)

At the *cem*, men, women and children attend. A characteristic social and religious value of Alevis is equal treatment of women and men. There is full access of women to places where

men are, to education, to public life, and to religious festivities. ¹¹ Often in Alevi *cemh* houses one can find the expression 'Educate women'. The attendance of both women and men at the

cem

led to a suspicion and actual treatment of Alevi as people who organise 'sexual parties' where they commit adultery and 'probably even incest' (Shindeldecker 1998: 47-50).

Last but not least, the *cem* has an important function in the oral Alevi culture. Alevi 'tell' and 'sing' their religion and their history of persecution and injustice done to them at every

cem

. There is always the story of 'how the beloved imam Ali was murdered in a mosque', and always the story of the battle near the city of Kerbela in 680, where Ali's son Hüseyin died of thirst. For most of the Alevi who attend the

cem

, the fact that this happened 1400 years ago does not matter. It is as real as if it had just happened. The story is so strong that old but also young people cry. We also hear 'modern' stories of injustice at the

cem

: an orthodox pogrom in the city of Maras in 1978 with 105 people dead, 37 dead intellectuals – most of them Alevi - in a hotel set on fire in the city of Sivas in 1993,

¹²

a 'drive-by-shooting' killing two Alevi

dede's

and subsequent riots with 17 dead in 1995 in Istanbul.

¹³

In these stories told at the

cem

, we always hear the voice of the oppressed that fight for justice (cfm Göner 2005: 127).

'...Alevi are recreating a seamless divide between past and present that embraces religious symbols but uses them to create a cultural unity that deals with the issues they face today, both in Turkey and in migration.' (Geaves 2003: 69) Opponents are orthodox Muslims, but also Turkish state authorities that silently align with the Sunni majority.

When the above practices and beliefs of Alevi are viewed from an orthodox Islamic perspective, it comes as no surprise that Alevi are usually branded as atheists, heretics, and unbelievers who are outside of Islam (Bilici 1998: 60).

3. Active and Inactive Alevi in the EU and in Turkey

Alevi come from Turkey that today has about 70 million inhabitants. This does not mean that all Alevi consider themselves 'Turks'. Quite a large group are of Kurdish ethnicity. In this sense

one would have to say that there are Turkish Alevi from Turkey and Kurdish Alevi from Turkey, while the Kurdish Alevi speak either Turkish, Zaza, or Kurmanci, and while among them there are different tribes like Dersimis, Hormek, Lolan, and Koçgiri (Van Bruinessen 1997: 2). Turkish Alevi also distinguish themselves in several lineages, like Avsjar, Barak, Çepni, Nalci, Sıraç, and Tahtacı (Andrews 1989: 9). These distinctions among several subgroups of Alevi are sometimes relevant, but not in this article.

Most Muslims from Turkey belong to the Sunni branch of Islam. Estimating the number of present day Alevi in Turkey and elsewhere is difficult. This is due to the fact that no statistics of for example 'Alevi religious orientation' are kept, and Alevi in the Turkish context are not considered a minority (Kehl-Bodrogi 1988: 93-94). McCarthy in his demographic study says no historical records exist on the diversity among Muslim believers in Ottoman times. 'Many Muslims in Anatolia were actually members of heterodox religious communities, but were counted under the rubric 'Muslim' and are impossible to segregate statistically from the Sunni majority. These groups were generally of Shia orientation. Because of Ottoman reluctance to record differences within Islam, and the reluctance of members of these groups to be identified, no figures of these groups were kept.' (McCarthy 1983: 107)

In 'immigrant countries' like the Netherlands and Germany we face a similar problem. In the Netherlands only the nationality of persons is registered, that is to say, a person who was born in a foreign country or of whose father or mother was born in a foreign country, is registered as allochthon. Statistics from the Dutch Central Bureau of Statistics (Centraal Bureau van de Statistiek) counts about 368.000 allochthon Turks in the year 2007 (of about 3,2 million allochthons on a total population of 16,3 million). Religion or religious orientation is a category, but 'Islam' is only registered under the heading 'other religion' (meaning other than Christian). Germany in 2007, according to statistics of the Statistischen Bundesamt Deutschland, counted 1,7 million Turks (of about 7,2 million 'foreigners' on a total population of about 82 million). Their religious orientation (for example 'Islamic') is not registered. [14](#)

According to the literature, a substantial but unknown number of people from Turkey are considered to be Alevi. In 1988 Kehl-Bodrogi estimates them between 6 and 14 million in Turkey (Kehl-Bodrogi 1988: 94), while in the overall study of Ethnic Groups in the Republic of Turkey in which she devotes an article to Alevism, her estimation comes to 20 percent, which would mean 13 million (Kehl-Bodrogi 1989: 503). Karin Vorhoff in her identity study 'Zwischen Glaube, Nation und neuer Gemeinschaft: Alevitische Identität in der Türkei der Gegenwart' estimates the number of Alevi at between 20 and 25 percent of the population, while various other sources estimate 10 to 40 percent and Alevi themselves estimate their number in Turkey at over 35 percent (20-22 million) in 1990. Vorhoffs valuation would roughly mean between 13 and 16 million Alevi in Turkey in the year 2000. Özalay estimates them at 15-20 million in 2006 (Özalay 2006: 12), Göner at 14-21 million (20-30 percent) in 2005 (Göner 2005: 109). If we

translate the above percentages to estimate the number of Alevi in the Netherlands we would get at least 36.000 (10%) and at most 147.000 (40%). For Germany we would have to estimate the number of Alevi between 170.000 and 680.000.

Most of these people however, are not 'active Alevi'. By 'active' I mean that they have joined an Alevi Association and show up at meetings every once in a while. As mentioned earlier I regularly visit the larger Alevi associations in the largest cities. According to documents and to several informants (though nobody seems to know for sure) there are about 20 formal Alevi Associations in the Netherlands (Gülçiçek 1996 lists 25 associations). [15](#)

From the start of my fieldwork it was clear that only a minority of the Alevi minority is 'active' in Alevi associations. I estimate this minority of active Alevi in the Netherlands at about 3000 to 7000 people. [16](#) The organization of activities like *cems*, discussions, and lectures, depend very much on the personal activity of administrators and 'informal leaders' of the associations. When administrators are inactive, lack the time, or quarrel about the function and policy of the association, nothing really happens and members stay at home. Consequently, some associations have become so small that they do not even attract local political attention. In order to back up my argument on active Alevi and to present some 'couleur locale' in the mean time, below I will describe Alevi associations in several large cities in the Netherlands.

The first Alevi association, with about 150 paying members, makes use of a hired locality in one of the suburbs of the city. The locality is a 'multicultural restaurant' with an adjacent gym. Sunday is the only day the association can make use of the locality (for the *cem* separate evenings are agreed with the owner). Usually some 30 to 40 persons (men, women, and children) pay a visit. On those Sundays no special activities have been organised. Some people stay the afternoon to talk with friends, drink tea and eat home cooked food that someone has brought. Others stay for one or two hours or pay a visit to attend a Dutch language course. Children play soccer outside while teenagers sometimes play basketball in the gym. A regular day like this lasts from noon till about five o'clock.

About once a month they organize an activity. I have observed for example the visit of someone from the bureaucracy who was invited to give a lecture on the diverse taxes (for garbage etc.), a commemoration in honour of a recent deceased with a reading from the Kuran and special dishes, and several lectures from *dedes* on Alevi history and faith. On those occasions more people visit the locality, sometimes up to 60 or 70 people. Besides these, there are some days on which a religious festivity takes place. Like other Muslims, Alevi usually celebrate the 'Feast of sacrifice' (*kurban bayramı*) to remember Ibrahim's (Abraham) willingness to sacrifice one of his sons. The two most important festivities specifically related to Alevi faith are Ashura, which is

the commemoration of the death of Hüseyin at the battle of Kerbela, and the *cem*

. At the day of Ashura, usually a baglama-player is invited to sing Alevi songs, and a special soup is offered for which a financial contribution is asked. At Ashura, between 100 and 150 people attend. When a

cem

takes place, which is once or twice a year, about 200-250 people attend. Over the last few years the association in this city has been in decline. Some older Alevis had no energy to be on the board anymore, and younger people claimed to be 'too busy with school and work'.

Moreover, an ideological split about 'what Alevism is' – is it the 'real Islam' or is it in essence more like Humanism – came to the fore in recent years, which lead to a split of the association in two factions.

The association in another large city has close contacts with the associations in two other cities. They publish an Alevi magazine in Turkish in joint effort every couple of months and they have jointly set up a website. Together the three associations have about 600 paying members. The oldest of these three associations was erected in 1987. It has its own building, in use during the whole week. The building in fact is a large three-story house just outside of the centre of town, with a large room at the back of the house. During the week (mostly) men pay a visit to chat and play cards. In the evenings activities like baglama-lessons (a sort of guitar) and a Dutch language course are organised. On Sundays, the association is open for families. The large room behind the building is used for the baglama course, discussions, lectures, and for the *cem*, which is held two or three times a year. About 200 people usually attend the

cem

. The three associations have organised a 'youth group', which organises lessons in folk dance, *semah*

, and lectures and discussions on

Alevilik

(Alevism). One of the associations partakes in the city's television network and makes a one-hour television program (canlar tv) every week. The building has a small studio on the first floor with technical equipment.

4. Legal Pluralism: Alevi Religious Law versus State Law

Legal pluralism today is a truism, because there are hardly any people (indigenous or minority) left who think that their customary, religious or state law is the only law that is relevant (Griffiths 1986; Merry 1988; Tamanaha 2007). Even state officials realize that state law is only one among several competing normative systems that regulate social behaviour.

Legal pluralism in this study into Alevi law and its courts is studied from the empirical perspective of interpretive anthropology and sociology. It focuses on circumstances in which

members of a group are of the opinion that arguments and rules from more than one form of law claim to be valid for a specific problem or situation. The definition of law I use here is law exists whenever people's behaviour, arguments and discussions suggest that they see rules and principles *aslaw*. The definition is grounded in the interpretive anthropology of Clifford Geertz and is influenced by the linguistic turn in legal theory (Geertz 1983; Tamanaha 2000). For example, in the small Staphorst village and orthodox protestant community in the Netherlands, some members argue that the Bible as 'God's law' sometimes precedes Dutch state law.

[17](#)

Empirical legal pluralism simply focuses attention on situations wherein people as a group have a different meaning about the applicability of different forms of law, and analyses the power- and other kinds of relationships that in those situations are tantamount for the application of one rule over the other. As the definition and the Staphorst example makes clear, law is seen as a social construction, and legal pluralism is defined as a situation in which there is debate over the relevance of (what people construct as) different forms of law. Jurists generally dislike wide and especially 'normatively empty' concepts of law, because questions like 'what is the typically legal quality of law, what about its principles?' cannot be answered directly, because they are treated as empirical questions. The answer however – and this is the contribution of empirical studies – should make transparent which complex of rules, interests, and power comes into focus when analysing a social field.

Turkey and the Netherlands are both modern countries in which legal professionals and lay people generally hold a state centred view on what law is, and room for private law making is a sort of 'left over'. (State) law is viewed as setting the boundaries that private rule making/applying is not to cross. Especially the formulation and application of criminal rules and sanctions are not to be left to private parties. The autonomy of law and its foundational role for modern states are generally taken for granted (Fitzpatrick 1992). Religious (and other) minorities however, frequently talk and behave in ways that make clear that religious or customary law is as strong as state law. The case of the Alevis therefore is a good illustration of how a minority lives by 'two laws' and how choices between different forms of law are influenced, both in the Netherlands where they are immigrants, as in Turkey where they are officially non-existent as a religious minority.

4.1 Alevi Religious Law in the Netherlands

Alevi law comes to life at the *cem*. The *cem* is an evening long ceremony with songs and prayers, and a communal meal at the end. In the beginning of the

cem

, the

dede

(the religious leader who is allowed to lead a

cem

) asks the congregation whether there are disputes in the community that need to be settled.

Usually the

dede

recites a formula to this end, like this one I heard in the winter of 2002 in the Netherlands:

The 'God of everybody' has given your body a mind. He has given your heart faith. He has given you eyes to see. He has given you a face so that you can shame yourself. He has given you hands so that you can pick up things. He has given you feet so that you can walk. He has given you intelligence so that you can think. He has given you a language so that you can speak.

If you have made something empty, you need to fill it. If you have made someone cry, make him laugh again. If you have let somebody down, give him a hand – help him in getting up again!

This *meydan* (the ritual space where the *cem* is held) is the territory of Hak/Allah-Mohammed-Ali. It is a territory of proud people. If something in this place is brought forward, it is ours. The things you will hide, are yours, but then accept responsibility – the things you hide will affect your inner self.

Those of you, who will not come to the fore with their troubles and conflicts, won't find a solution. Raise your head and speak up, raise your voice! Do not look down like the guilty one. Those of you, who have a right, are required to speak up, in order to let these rights be known. Who needs to get what from whom and who owes something to someone else?

If there are people among you who are angry at each other, who owe something, who are entitled to something ... This *meydan* cannot bear lies! People are required to stand up for their rights!

Serenity comes when you talk openly, make things known, and acknowledge them. So, there is nobody among us who is angry, who owes something, who is entitled to something?

Usually one or two people walk forward to settle a debt or a quarrel, or some other 'petty' conflict. Sometimes a third party walks up to the *dede* to tell him about a quarrel he knows of, and then the *dede* asks these people to come forward. In front of the *dede*

and before all the people attending, parties then have to 'make up' and 'reconcile'. This reconciliation takes the form of shaking hands and exchanging three kisses on the cheek. The whole procedure usually does not last longer than a few minutes. When parties are not prepared to reconcile, they need to leave the *cem*

. This happens very seldom, because it brings shame, distrust by the community ('he's not an honourable person'), and religious disgrace (because one strays from the Path). This is a typical example of an ordinary case, taken from a video. I have called it 'The Travel Cost Case':

Dede: Respected people, a complaint came into the *cem*-house. Someone has probably issued a complaint. Therefore, as witnesses we have to wait before we can go on. Please...

Then a man comes forward. He is escorted by the *gözcü*, the ‘watcher’, who is carrying a large stick as his attribute. The *gözcü* is one of the twelve men assigned with a particular task on the evening: he is the one to keep order, and in this particular scene he might be called the court officer because he shows the people who want to address the court, where to stand and when to start telling their story. After the ‘please...’ from the *dede*

the man starts out with his right hand placed on his heart:

Man A: Respected holy sirs, pure and all knowing, Allah, Mohammed, the beloved path. My mind is not peaceful. Here I have seen someone, sitting opposite of me. His name is (Man B). About four months ago I went with him to Germany. I had to pay for the trip, but I had no money, so I had to borrow it from him. I became indebted. Until now, I forgot to pay it back. Suddenly when I saw his eyes, I remembered. My heart had no rest. If something evil might have come to his mind, if he maybe thought something, here and now I want to bow for him, because I owe him.

Dede: Those who are on the path of Allah, this soul, can he now step forward? Please...

Man B then comes forward, guided in place by the *gözcü*. He bows with his hand on his chest, and says:

Man B: I do not think any evil concerning this problem. Up until now, he could probably have forgotten. However, I must admit I was not satisfied with this. Because of this, I have had no rest.

Man A: I really did forget. Because I have seen him here today, I realised.

Without further interference from the *dede*, these words seem to be enough for reconciliation. After the rite of reconciliation, the *dede* holds a small speech while the two men look at him:

Dede: Right then. If this has now come into your minds, it is good. What we all have witnessed is the best way. Holy sirs, are you both satisfied?

Without waiting for a reaction, the *dede* then formulates a rule: 'If someone has a right, he should be met. What we owe, we should fulfil.' The two men then take their place in the room, and the *cem* continues with other rituals.

No one checks if the money will really be paid back; everybody assumes the vow in front of the *dede* and the community will be kept. To make a promise and subsequently break it will lower your status in the community and may lead to social sanctions, as many Alevis assured me in interviews. Moreover, the vow will be kept because the Alevis regard it as a sacred vow. Most Alevis say that breaking a vow will bring forth supernatural sanctions. When we look at the 'invitation' of the *dede*, it is inevitable to consider the court a religious or religiously inspired court. Allah, the *dede* says, has endowed people with all the attributes of 'humanness', and one has to use them. The *meydan* as a sacred place or territory cannot give room to people who are dishonest. The rite of reconciliation is not only done before the community, but also before God. However, the term 'religious' with the Alevis needs to be used with caution.

First of all, there are no holy books like the Kuran, or even the 'Buyruk' that is said to be written by the sixth imam Cafer, used in the *cem*. There is no documentation of previous cases or a registry. Secondly, we must know there is no official Alevi doctrine, and no central authority guarding the consistent interpretation or right use of words of the songs sung at the *cem*. Alevis seem to be a 'self regulating religion' in the sense that each group, association, village, region etcetera decides for themselves what is right in religious, social, and legal matters. Some Alevi groups or communities broadly orient themselves on Islamic notions of what is right, others may formulate notions of right and wrong in terms of common principles of humankind, while most groups mix both. There is however one maxim, formulated in almost every building and book, and recited by every Alevi you ask: 'be master of your hands, tongue and loins' ('eline, diline, beline sahip ol', attributed to the mystic Haci Bektash). The interpretation of that rule is simple: don't steal, don't lie and speak evil, and do not have sex outside marriage'. Central for the moment of dispute resolution during the *cem* is an idea or sense among participants that they are wronged or have done wrong. The rules on which that sense is based, are left largely implicit, as we have seen in 'The Travel Cost Case'. When asked to specify why people might feel wronged, Alevis usually come up with examples that they subsequently match with the above maxim.

So we may say the Alevi court is a religious dispute resolution council, but only when we realise there is no connotation of orthodoxy, or of an unchangeable and ancient book of law, or a God-given specific set of rules. ¹⁸ Faruk Bilici of the Institut National de Langues et Civilisations Orientales in Paris says: ‘in this theology, contrary to sharia, all human problems are related to the actual world, and relevant judgments arise from life itself.’ (Bilici 1998: 54)

Another reason to apply the term ‘religious law’ with some caution is related to who or what Alevi consider ‘Allah’. Allah in Alevi eyes is not simply seen as a force that is ‘outside’ of this world. Alevi usually say that they look for Allah in human beings, and not in a mosque, in heaven, or in the Kaaba. There are many, and many different, sayings about Allah: ‘Ali is God’, ‘perfect people are God’, ‘you and me are God’, and ‘God exists in all things in the universe’. In mystical or gnostic terms we could say that Alevi mean to say that everybody has a ‘divine spark’. ¹⁹ Central to Alevism is the opinion that the regulation of social life and decisions about right and wrong, is not up to God, but up to human beings (Dierl 1985: 29).

‘The Travel Cost Case’ would be treated by the Dutch state as one among many petty or trivial cases. Most of the cases decided by the *cemin* in the Netherlands are about quarrels within the board of the Alevi association, disagreements among family members on the best wedding candidate, arguments among former friends etc. These cases are seen – from the Dutch perspective – as belonging before a mediator, not before a law court, and indeed, the Alevi in the Netherlands would never take these cases to the official state court. Even if someone did not agree with the *cem* procedure or wanted to enforce a promise that was not kept, s/he would most probably not initiate Dutch state legal proceedings for something state law will most probably not be able to bring to a final resolution. ²⁰

Alevi in the Netherlands however do not see their quarrels and disagreements as petty cases *during the cem*, because at that moment all cases are alike. All wrongs, whether criminal or civil in nature, must be settled. Alevi in the Netherlands may use state sponsored mediation procedures for serious disagreements or initiate state court proceedings for cases in which large sums of money are at stake. Still however, if a *cem* takes place pending mediation or court proceedings, parties will have to reconcile if they (subjectively) feel ‘anger’, they ‘owe something’, or are ‘entitled to something’. A *cem* may take place while state sponsored mediation is ongoing and there is no conflict here as the parties in the mediation already show a willingness to settle. Parties probably would not even come forward following the invitation of the *dede*

, because of their inclination to find a middle ground for their dispute in the mediation. But where

cem

proceedings take place alongside court proceedings, reconciliation will be problematic (assuming that the parties could not reach an amicable agreement and therefore went to court). I understand from interviews both situations (

cem

proceedings in parallel to mediation or to state court proceedings) are very hypothetical in Turkey where the

cem

take precedence in dispute resolution, but not so in the Netherlands. The lack of 'trust in state institutions' in Turkey accounts for the difference, even though in both countries there is still general preference for solutions 'the Alevi way'. This may be explained as follows.

On the one hand Alevis in the Netherlands and Turkey state that taking your case to mediation or to a state court is not favoured among Alevis, because it means making your problem public. In particular turning to state courts implies that you cannot deal with it 'the Alevi way', i.e. by seeking an amicable and peaceful settlement. Looking for a solution with the help of outsiders of the community brings shame. Gossip and other social control mechanisms reinforce that shame. [21](#)

On the other hand Alevis in both the Netherlands and Turkey say that in Turkey 'one can never completely trust state institutions'. In Turkey Alevis hold on to the 'anti state ideology' mentioned above (discussed further below in paragraph 4.2). A striking example of this ideology can be heard in the words of a *dede* from Turkey during a *cem* (in the Netherlands):

Up until today, the Alevi community has never taken its cases to court! In Turkey I have reconciled a man who had shot someone, and we never saw a court!

However in the Netherlands today, this 'covering up' of a crime and keeping the conflict inside the community, would not only be practically impossible, but also ideologically outdated. The above argument of the *dede* makes no sense in the Netherlands, because the Alevis I have spoken to all said they would find it much better if the Dutch legal system dealt with criminal cases. This is because all my informants told me there is a general confidence in Dutch state and legal institutions – 'so different from Turkey!' This confidence has slowly grown over the years, through contact with municipal and state agencies. When Alevis came to Holland as guest workers in the 1960s, they were used to keeping their religion secret. It took a very long time, up to the end of the 1980s, before Alevis in Europe started to organize and make

themselves known as different Muslims. In the Netherlands applications to acquire or hire buildings for Alevi associations for example, are only met with administrative requirements, not with statements that Alevism has no place in Islam or in the country.

[22](#)

A remnant of the anti state ideology in relations with Dutch state institutions can however sometimes still be found among the older Alevis. Deeply ingrained distrust apparently takes time to wear off.

We may assume that an increasing level of confidence in the (legal) institutions of the Dutch state means it will become more acceptable among Alevis in the Netherlands to resort to the Dutch legal system. This will diminish the importance of the procedure for reconciliation at the *cem*

, because it is no longer the only available institution of dispute resolution. The possibility that two parties in an official lawsuit will meet in a

cem

is small, but when it happens they have to reconcile in order to show that they do not feel wronged, or otherwise evade each other. The only disputes to be resolved during

*cem*s

in the future will probably be petty cases.

4.2 Alevi Religious Law in Turkey

As far as I know, petty cases make up for most of the *cem*'s 'case load' in Turkey also, but its dispute resolution mechanism is still regarded as primary. Distrust of Turkey's state institutions is still deeply ingrained in Alevi culture, which means we find a different situation in Turkey as compared to the Netherlands. In the past, if a

cem

were to be discovered, both official and unofficial sanctions would follow. Sectarian organisations like those of the Alevis were legally banned in 1925, their lodges were closed, places of pilgrimage were sealed off for visitors, and religious ceremonies forbidden (Furat 2007: 13).

Today the legal situation of the Alevis is still tense. The ban on religious associations and on public speaking and writing in positive terms about 'sects' was relaxed in 2004. Still however, Alevis are merely registered as 'islamic', and there is fierce opposition to calls to recognise Alevism as a different approach within Islam. [23](#) The only gesture towards recognising Alevism has taken the form of inclusion of the sect in textbooks under the heading 'mystical sects in Islam'. Compulsory religious education in schools is still based on Sunni orthodoxy, despite the fact that Turkey is in breach of the European Convention.

[24](#)

The Directorate of Religious Affairs still has no Alevi representative. Getting permits to build

cem

houses is difficult, because they are not considered places of worship, but cultural centres. Therefore

cem

houses do not receive state funding (like mosques do) (UNHCR 2005; UNHCR 2008).

The Alevi ideology partly 'living on distrust' in the institutions of the Turkish state reinforces the tendency to deal with legal problems by internal mechanisms. This ideology is persistent in Turkey because the state at least in the past seemed to live up to the images Alevi have established. Besides this 'anti state' ideology, there is also social pressure from within the community to conform to internal norms. A case I witnessed at a *cem* in Turkey, in a remote village, shows especially this force to conform to informal Alevi norms. The case is about the inheritance of pieces of land after the death of a father. Years after his death, his children and grandchildren still quarrel about the division of pieces of land, because the oldest son has allegedly taken the best pieces. I call this case the 'Inheritance Case', with Deniz (grandchild of the deceased), his mother Canan and his uncle Hakan as main participants (all names are fictional). The focus however is not so much on the development of the case, but on the presentation of 'the Alevi way' of solving disputes versus Turkish state law. There is intense disagreement in the

cem.

Deniz blames Hakan of following instructions of his father not to let daughters inherit land. This may have been a rule in the old days, but not in today's modern society. Deniz says his mother Canan and her sisters were turned away when the land was divided by Hakan.

[25](#)

Hakan denies he has turned them away, and says his sister Canan is the only one who makes trouble about the land, because Deniz has set her up. The other sisters, he says, are satisfied with what they got. Deniz then accuses Hakan of having chosen the most fertile pieces of land for his own, which he denies also. About half way through the quarrel, which takes about 20 minutes to develop, the following discussion unfolds that is important for the issue of legal pluralism.

Dede: You will have to find a solution that satisfies your heart. Why don't you accept what each of you more or less can agree on?! If you want a solution on millimetres, you will have to go somewhere else, to the land registration office. So you can do either of two things: Find a solution that satisfies your heart, within the community, or you find a solution the juridical way. But without a fight or quarrel! If you do not accept the rule of this community, what are you doing here?

People intervene, shout 'make up', and ask them to find 'peace of heart'. Important people alongside the *dede* intervene also. Deniz is not ready to give in to accept the piece of land allotted to his (mothers) family. He does not want to question what his mother said about the

deceased's instruction that daughters should not inherit land (Canan is not at the *cem*).

Dede: Do you accept your piece of land?

Deniz: No, I do not.

Dede: In that case, to get your due, take the juridical road. For now you must embrace and kiss each other. You do not seem to accept anything, so I don't see an opportunity to clear the sky. Either you find a solution here, or you go to the land registration office. They will come and measure, and there will be law and order. If you quarrel afterwards, you will both be banned from the community, so take care! Now kiss each other!

People tell them to find 'peace of heart', and 'comfort of mind', in order to cool down the disagreement. Eventually Deniz and Hakan reconcile and promise to try to settle the problem.

Dede: Ali *dede*, Emre *baba*, Hüseyin *baba* and others, the five of them will bring you together as soon as Canan is back in town. If you can reach an acceptable solution it is okay, otherwise take the other road [the land registration office] to handle your problem.

In this scene the *dede* refers to two legal orders. Alevis in this rural village seem to be allowed a choice between 'two laws': the law of the community, and the law of the state. These laws come with different connotations and goals. The Alevi law is the law of the heart, of satisfaction, and of peace of mind. The whole community will observe the reconciliation, God included (and if not kept, social exclusion will follow). State law on the other hand is referred to as the law of millimetres, of precision, and of 'law and order'.

The question is not whether this contrast between a 'warm' Alevi law and the 'cold' law of the state is 'true'. For example, we can easily imagine the strong social pressure put on parties to reconcile (probably accompanied with social sanctions in daily life). What is important however is that the contrast is presented as such, and that Alevi people are asked to choose between two laws. Community law – that is, law inspired and acknowledge by Alevi religion – is clearly to be preferred.

We may assume that the tendency to regard Alevi law and legal solutions as primary, is

dominant among the Alevis in Turkey, even in cases of crimes where the state is the first to want to intervene (hence the argument 'we never go to court' of the Turkish *dede* who led a *cem* in the Netherlands, see paragraph 4.1). It is likely, and also in rural areas easily possible, that Alevis keep their own crimes and other legal cases to themselves. The following poem of an Alevi

dede

is therefore illustrative for the situation in Turkey today:

'We congregate together
we perform the ritual dances
and we play the ritual music.
We sing songs, hymns, incantations
we drink wine
we mourn for the twelve imams
(...)
We recognise no Kadi
do not ask us our sect
we recognise no sects
we say 'we have our path'.' (quoted in Bilici 1998: 53)

The sentence 'we recognise no Kadi' is telling, because it means a rejection of state law.

5. A Comparison and a Look Ahead

When we compare the above sketch of the situation in Turkey with the situation in the Netherlands, some differences come to the fore. In the Netherlands, the Alevis and their law pose no problem. In the eyes of Dutch law, the law of the Alevis in the *cem* seems to confine itself to petty civil cases that would otherwise be mediated through out of court state forums. Matters of 'real' interest are brought before state law courts (especially criminal matters). A conflict between Alevi laws as practiced in the

cem

in Netherlands and Dutch state law is therefore very hypothetical. There is a general confidence in the Dutch legal institutions and the legal system. Would this not be so, the procedure for reconciliation at the

cem

would retain (or regain) the importance it still has in Turkey.

In Turkey the situation is different because Alevism as a religion, and the right to establish *cemh* ouses, are not recognized. There are regular instances of violence against Alevis, sometimes

condoned by the police or other institutions. Inherent in Alevi religion and ideology is a general distrust in state institutions, including the courts. The tendency in Turkey is to keep conflicts among Alevis within the community, and social control in remote villages and in city associations back up that tendency. Preference is to deal with problems by internal mechanisms like the

cem

, while state law is only called in as a last resort or when functionally necessary (like with divorce etc.).

Officials of the Dutch state are unaware about the Alevis having their own legal rules and procedure. Alevis until recently weren't very outspoken about their religion and identity, probably because of the unpleasant experiences in Turkey. Over the last few years this is changing, with Alevis trying to get a foot in the door of the Dutch visual media. They are also lobbying for state funding for a masters degree for their religious leaders at the Humanistic University in Utrecht. [2](#)

Even when their law and legal procedure becomes known, no problems are to be expected. The Dutch legal system is accustomed to local groups and communities dealing with their internal problems through mediation (lawyers and doctors in disciplinary courts, arbitration, private mediation), and as long as these 'courts' stay within the boundaries set by state law no conflicts may be expected. The Alevis in the future will less and less feel the need to maintain the ideology of suppression by the state, and consequently the

cem

and its community law will probably end up as 'folk lore'.

Officials of the Turkish state are also largely unaware about the Alevis having their own legal rules and procedure. Alevi public figures until recently weren't very outspoken about their religion and identity, because of many unpleasant experiences in the past. Since a few years the situation seems to be slowly changing, partly because of EU influences in relation to Turkey's possible future membership. However, Turkey has a historical difficulty in dealing with 'diversity issues'. Turkey is considered 'one nation' with 'one Islam', and Alevis as mystical sect just do not fit in. Alevis know that. Legal pluralism is therefore likely to persist for longer in Turkey. Suppression by state law in a country where state institutions are not to be trusted, feeds the Alevi ideology of staying out of state law courts. Religious courts alongside secular state courts prevail in such a situation.

Endnotes:

[1](#) See for example Peterson (1996) on South America and <http://www.adherents.com/> in general (accessed on 14 October 2008).

2 Most nation states by exclusion of other institutions dominate criminal law, and the same goes for family law which is regarded as having a public function. In Islamic countries but also in Israel however family law is usually left to separate religious courts (for Muslims, Jews and Christians).

3 In Texas and in New York USA for example <<http://mynetjawa.mu.nu/archives/191148.php>> and <<http://www.bethdin.org/>>, in London UK <<http://www.timesonline.co.uk/tol/news/uk/crime/article4749183.ece>> and <http://www.theus.org.uk/the_united_synagogue/the_london_beth_din/about_us/>, and in Canada <<http://www.nosharia.com/>>. All sites accessed on 14 October 2008. From the perspective of the modern state the Beth Din is a court of arbitration. I would argue that the Beth Din for orthodox Jews is a court of law. They accept a classification as court of arbitration because they know most modern states do not allow for a second legal system on an equal footing on their territory.

4 The research was initially funded by the University of Amsterdam, Faculty of Law, where I then worked. Today I conduct the research as part of my general research on multicultural society and the law. See < <http://www.wibovanrossum.nl/> >.

5 Usually a recitation consists of saying just this, with some additional words.

6 Personal experience at an Alevi conference Krisztina Kehl-Bodrogi told me about.

7 Or instead of Hatice the archangel Gabriel (Turkish Cebrail).

8 There are several stories about the forties, probably each sect has its own version. Moosa describes versions of the Shabak, the Bektashis, the Ahl-i Haqq (or Ali Ilahis) (Moosa 1988: 115-119), the Ibrahimiyya (166). The night of the forty is also mentioned by Gülçiçek (1996: 97) and interpreted as a symbol of the unity of a group (see also Öztürkmen 2005: 252). Furat (2007: 27-28) states that Alevis consider the story the root and foundation of Alevism. In some accounts the stage for the forty is set right after Muhammads night journey to heaven, the Miraj (Birge 1937: 137-138) See Ramadan (2007) for an orthodox account of the Miraj.

9 A term difficult to translate, but comparable to the 'community' attending a Mass in church. The church is first of all a distinct territory (only to be entered modestly dressed, and for some only after performing rituals like performing a cross or a slight bow), while during the service even more rules of respect need to be observed.

10 Alevi object to the semah being called a dance. Even if it looks like a dance to outsiders, for Alevi it is a prayer. See for a performance < <http://www.youtube.com/watch?v=vEGce1fp19l&fmt=18> > (last accessed on 15 October 2008).

11 With the exception of becoming a *dede*, the Alevi 'priest'. Some Alevi said in interviews that when a *dede* is not available and nobody else knows how to lead a *cem*, a well educated 'ana' (grandmother) is allowed to act as priest. See also note 25.

12 Rumours are that the imam of a local mosque infuriated the crowd on Friday afternoon prayers in July 1993 by saying that Aziz Nesin, who translated Salman Rushdie's *The Satanic Verses*, was also in the hotel.

13 See on this last event especially Marcus (1996) who wrote an eyewitness account of the riots in Gazi, and in general on violence against Alevi Jongerden (2003).

14 Germany has no records of the nationality of parents. Many young Turks in Germany have nationalised (over 150.000 in the last four years; in 1999 for example, over 2 million people were registered as Turks). They now count as Germans in the official statistics.

15 Most of these associations came into being after the Sivas incident in 1993 mentioned earlier. 'Sivas' was a turning point for identity development: in stead of hiding yourself and keeping your religion secret, Alevi felt a need to 'come out of the closet' to make themselves known as 'different Muslims' in Europe. Especially the youth felt that way.

16 This estimation is based on my regular visits and on my interviews with administrators of

the Alevi associations.

17 See for example the Dutch film/documentary of Emile and Maarten van Rouveroy van Nieuwaal 'Staphorst in tegenlicht' ('Staphorst in back-light', 2007), and the legal historical research 'Staphorst en zijn gerichten' ('Staphorst and its courts') of Van den Bergh et al (1980).

18 Jewish law, Islamic sharia, Canon law and the Hindu concept of 'dharma' are mostly regarded as religious law. Only Dharma comes close to the Alevi concept of law. 'Dharma', according to S. Desai, traditionally means 'what is followed by those learned in the Vedas and what is approved by the conscience of the virtuous who are exempt from hatred and inordinate affection.' (Desai 1986: 1) See also the work of Robert Hayden for a comparison between dharma and western types of law (Hayden 1984) and for dharma in the traditional nomadic 'panchayat' in India (Hayden 1999).

19 See the Gnosis Archive for example on < <http://www.gnosis.org/gnintro.htm> > (last accessed on 14 October 2008) and Schreiner for what this means for modern western religions (1990: 90-91).

20 In cases of family disputes, marriage, gender equality etcetera there is almost no room in Dutch law for the recognition of other law. Also in mediation parties cannot digress from the rules of family law and have their mediation agreement enforced in court, because these rules are considered to pertain to public policy. Dutch judges for example, will not accept a promise in reconciliation 'not to marry a Sunni man'. Of course, on a voluntary basis and when kept completely hidden from state law, much is possible. See Berger (2006) as far as the application of sharia in the Netherlands is concerned.

21 Apart from this, we may expect other factors like costs of lawyers, emotional distance to state law, time and effort involved in a law suit etc to play a role. These factors were not mentioned in interviews however.

22 Dutch officials are mostly still unaware of Alevism.

[23](#) The reluctance to accept Alevis as religion and as minority has consequences when it comes to the decision to accept Turkey as EU member (WRR 2004). Alevis themselves however are divided about the desirability of being a 'legally accepted minority' in Turkey, since some regard Alevism as (not a minor but) a major contribution to the Turkish nation (Özalay 2006).

[24](#) More specifically the second sentence of Article 2 of Protocol No. 1, which provides: 'In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.' See ECtHR case of Hasan and Eylem Zengin v. Turkey (Application no. 1448/04) Judgment 9 October 2007. In 2007 some 4000 court cases in Turkey were pending on this issue (UNHCR 2008).

[25](#) The case makes clear that there is a difference between the religious ideology of gender equality and social life. At least the ideology of gender equality makes a discussion possible over the alleged instruction of the deceased.

[26](#) Within the Dutch associations this led to a discussion whether women should be allowed to do the master to become *ana* (female *dede*). The outcome was that Alevism and modern society do not accept gender discrimination, so that even the traditional function of *dede*

– some of whom say their lineage must be traceable to the family of the prophet – should be open to women. Some elders do not accept this outcome. Finance of the master is still unsure, so consequences of the discussion can be postponed.

References:

Andrews, P. A. (ed.) (1989) *Ethnic Groups in the Republic of Turkey* (Wiesbaden: Dr. Ludwig Reichert Verlag).

Berger, M. (2006) 'Sharia Law in Canada – Also Possible in the Netherlands?' in Grinten, P. van der & Heukels, T. (eds) *Crossing Borders. Essays in European and Private International Law, Nationality Law and Islamic Law in Honour of Frans van der Velden* (Deventer: Kluwer).

Bergh, G. C. J. J. (1980) *Staphorst en zijn gerichten* (Amsterdam/Meppel: Boom).

Bilici, F. (1998) 'The Function of Alevi-Bektashi Theology in Modern Turkey' in Olsson, T., Özdalga, E. & Raudverre, C. (eds) *Alevi Identity. Cultural, Religious and Social Perspectives* (Istanbul: Swedish Research Institute).

Birge, J. K. (1937) *The Bektashi Order of Dervishes* (Hartford: Hartford Deminary Press).

Bruinessen, M. van (1991) 'Haji Bektash, Sultan Sahak, Shah Mina Sahib and various Avatars of a Running Wall' *Turcica* xxi-xxiii, pp. 55-73.

Bruinessen, M. van (1997) "Aslini inkar eden haramzadedir!" The Debate on the Ethnic Identity of the Kurdish Alevis' in Kehl-Bodrogi, K., Kellner-Heinkele, B. & Otter-Beaujean, A. (ed.) *Syncretistic Communities in the Near East. Collected papers of the International Symposium 'Alevitism in Turkey and Comparable Syncretistic Religious Communities in the Near East in the Past and Present'* (Leiden: Brill).

Bruinessen, M. van (1998) 'A Kizilbash Community in Iraqi Kurdistan: The Shabak' 5 *Islam des Kurdes, Les Annales de L'Autre Islam*, pp. 185-196.

Desai, S. (1986) *Principles of Hindu Law* (Bombay: N.M. Tripathi Private).

Dierl, A. (1985) *Geschichte und Lehre des anatolischen Alevismus-Bektasismus* (Frankfurt: Dagyeli).

Fitzpatrick, P. (1992) *The Mythology of Modern Law* (London, New York: Routledge).

Furat, K. (2007) *De alevitische identiteit in de twintigste eeuw* (masterthesis Arabische, Nieuwperzische en Turkse Talen en Culturen, Universiteit Utrecht - Faculteit Geesteswetenschappen, subfaculteit Letteren).

Geaves, R. (2003) 'Religion and Ethnicity: Community Formation in the British Alevi Community' *Numen* vol. 50, pp. 52-70.

Geertz, C. (1983) 'Local Knowledge: Fact and Law in Comparative Perspective' in *Local Knowledge. Further Essays in Interpretive Anthropology* (New York: Basic Books).

Gerber, H. (1994) *State, Society, and Law in Islam. Ottoman Law in Comparative Perspective* (Albany: State University of New York Press).

Göner, Ö. (2005) 'The Transformation of the Alevi Collective Identity' 17/2 *Cultural dynamics*, pp. 107-134.

Griffiths, J. (1986) 'What is Legal Pluralism?' 24 *Journal of Legal Pluralism*, pp. 1-57.

Gülçiçek, A. D. (1996) *Der Weg der Aleviten (Bektaschiten); Menschenliebe, Toleranz, Frieden und Freundschaft* (Köln: Ethnographia Anatolica).

Hayden, R. (1984) 'A Note on Caste Panchayats and Government Courts in India: Different Kinds of Stages for Different Kinds of Performances' *Journal of Legal Pluralism and Unofficial Law*, pp. 43-52

Hayden, R. (1999) *Disputes and Arguments amongst Nomads. A Caste Council in India* (Oxford: Oxford University Press).

Imber, C. H. (1979) 'The persecution of the Ottoman Shi'ites according to the mühimme defterleri, 1565-1585' Band 56, heft 2, *Der Islam. Zeitschrift für Geschichte und Kultur des Islamitischen Orients*, pp. 245-273.

Jong, F. de (1989) 'The iconography of Bektashiism. A survey of themes and symbolism in clerical costume, liturgical objects and pictorial art' 4 *Manuscripts of the Middle East*, pp 7-29.

Jongerden, J. (2003) 'Violation of Human Rights and the Alevis in Turkey' in Paul J White & Joost Jongerden (eds.) *Turkey's Alevi Enigma. A Comprehensive Overview* (Leiden, Boston: Brill).

Kehl-Bodrogi, K (1988) *Die Kizilbas/Aleviten. Untersuchungen über eine esoterische Glaubensgemeinschaft in Anatolien* (Berlin: Klaus Schwartz Verlag).

Kehl-Bodrogi, K. (1989) 'Das Alevitum in der Türkei: Zur Genese und gegenwärtigen Lage einer Glaubensgemeinschaft' in P.A. Andrews (ed.) *Ethnic groups in the republic of Turkey* (Wiesbaden: Dr. Ludwig Reichert Verlag).

Kehl-Bodrogi, K. (2003) 'Atatürk and the Alevis: A Holy Alliance?' in Paul J White & Joost Jongerden (eds.) *Turkey's Alevi Enigma. A Comprehensive Overview* (Leiden, Boston: Brill).

Kehl-Bodrogi, K., Kellner-Heinkele, B. and Otter-Beaujean, A. (eds.) (1997) *Syncretistic Communities in the Near East. Collected papers of the International Symposium 'Alevitism in Turkey and Comparable Syncretistic Religious Communities in the Near East in the Past and Present'* (Leiden: Brill).

Marcus, Aliza (1996) "Should I shoot you?' An Eyewitness Account of an Alevi Uprising in Gazi' *Middle East Report*, April-June, pp 24-26.

McCarthy, J (1983) *Muslims and Minorities. The Population of Ottoman Anatolia and the End of the Empire* (New York and London: New York University Press).

Mélikoff, I (1998) *Hadji Bektach. Un Mythe et ses Avatars. Genèse et évolution du soufisme populaire en Turquie* (Leiden: Brill).

Merry, S (1988) 'Legal Pluralism' *Law and Society Review*, pp 869-896.

Metin, Ismail (1992) *Alevilerde Halk Mahkemeleri. Cilt 1* (Istanbul: Alev Yayinevi).

Metin, Ismail (1995) *Alevilerde Halk Mahkemeleri. Cilt 2* (Istanbul: Alev Yayinevi).

Mirza, M, Senthilkumaran, A and Ja'far, Z (2007) *Living apart together. British Muslims and the paradox of multiculturalism* (London: Policy Exchange).

Moosa, M (1988) *Extremist Shiites. The Ghulat Sects* (Syracuse: Syracuse University Press).

Otto, J M (2006) *Sharia en nationaal recht. Rechtssystemen in moslimlanden tussen traditie, politiek en rechtsstaat* (Amsterdam: Amsterdam University Press).

Otto, J. M. and Dekker, A. J. and Soest-Zuurdeeg, L. J. van (eds.) (2006) *Sharia en nationaal recht in twaalf moslimlanden* (Amsterdam: Amsterdam University Press).

Özalay, E. (2006) 'Minorities in Turkey. The identity of the Alevis in Accordance with the EU Legislation' Paper in Master of Arts in Euroculture Intensive Program in San Sebastian, Spain.

Öztürkmen, A. (2005) 'Staging a Ritual Dance Out of its Context. The Role of an Individual Artist in Transforming the Alevi Semah' *Asian Folklore Studies*, Volume 64, pp 247–260.

Peterson, A. (1996) 'Religion and Society in Latin America: Ambivalence and Advances' *Latin American Research Review*, 31/2, pp 236-251

Popovic, A. and Veinstein, G. (eds.) (1995) *Bektachiyya. Études sur l'ordre mystique des Bektachis et les groupes relevant de Hadji Bektach* (Istanbul: Éditions Isis).

Ramadan, T. (2007) *In the Footsteps of the Prophet: Lessons from the Life of Muhammad* (Oxford: Oxford University Press).

Rossum, W. van (1996) 'Showing Respect. The Appearance of a Turkish Defendant in a Dutch Courtroom' *International Journal for the Semiotics of Law/ Revue Internationale de Sémiotique Juridique* 9/27, pp. 287-303.

Rossum, W. van (2002) 'Schoon schip maken als rechtspraak op de alevitische cem' *Recht der Werkelijkheid* 17/2, pp. 5-19.

Rossum, W. van (2003) 'Cemrechtspraak als formeel-informele manier van conflictoplossing onder alevitische Turken' in Rutten, S. W. E. (ed.) *Inpassing van islamitisch recht in Europese rechtssystemen; formele en informele vormen van geschillenbeslechting bij moslims* (Maastricht: RIMO).

Rouveroy van Nieuwaal, E. van and Rouveroy van Nieuwaal, M. van (2007) *Staphorst in tegenlicht* ('Staphorst in back-light') (Film/Documentary, see < <http://www.staphorstintegenlicht.nl/index.html> > - in Dutch only).

Schreiner, A. (1990) *Roem van het recht* (Amsterdam: Duizend & Een).

Shankland, D. (2003) *The Alevis in Turkey. The Emergence of a Secular Islamic Tradition* (London: RoutledgeCurzon).

Shindeldecker, J. (1998) *Turkish Alevis Today* (Istanbul: Zafer Matbaası).

Stokes, M. (1992) *The Arabesk Debate. Music and Musicians in Modern Turkey* (Oxford: Clarendon Press).

Tamanaha, Brian (2000) 'A Non-Essentialist Version of Legal Pluralism' *27/2 Journal of Law and Society*, pp 296-321.

Tamanaha, B. (2007) 'Understanding Legal Pluralism: Past to Present, Local to Global' *The Social Science Research Network Electronic Paper Collection*

at <

<http://ssrn.com/abstract=1010105>

> last accessed on 15 October 2008.

UNHCR report (2005) *Turkey: The situation of Alevis (January 2002 - April 2005)* download from <

www.unhcr.org/refworld/topic,463af2212,469f2f3e2,42df61b311,0.html

> last accessed on 15 October 2008.

UNHCR report (2008) *Turkey: Situation of Alevis (2005 – May 2008)* download from < <http://www.unhcr.org/refworld/country,,QUERYRESPONSE,TUR,,4885a91a2e,0.html>

> last accessed on 15 October 2008.

Vorhoff, K. (1995) *Zwischen Glaube, Nation und neuer Gemeinschaft: Alevitische Identität in*

derTürkei der Gegenwart

(Berlin: Klaus Schwarz Verlag).

WRR (2004) *The European Union, Turkey and Islam* (Amsterdam: Amsterdam University

Press). (Download via <

<http://www.wrr.nl/>

> last accessed on 15 October 2008.)

Yaman, M. (1998) *Alevilikte Cem* (Istanbul: Sahkulu).