

Sarah Islam

M.A. Candidate, Near Eastern Studies

Princeton University

sarahislam@gmail.com / 469.358.2806

5414 Waldenhill Court Ypsilanti, MI 48198

FINAL REPORT

ARTHUR LIMAN PUBLIC INTEREST PROGRAM

Karamah: The Organization

As an Arthur Liman Summer Fellow in Public Interest Law, I had the opportunity to work as an Islamic Law research intern at Karamah, a Washington DC based international organization which offers assistance in the form of education, advocacy, and legal advice to women and other grassroots organizations. Karamah specializes particularly in the areas of family law, comparative American and Islamic law, as well as socioeconomic development as it relates to women's upward mobilization in developing countries. In light of challenges related to women's access to legal institutions and legal representation in the Muslim world, Karamah deals specifically with providing resources to women and organizations in the Middle East, Southeast Asia, and in Muslim minority communities in North America.

Karamah divides its various services into three departments: Law and Leadership; Family Law; and Islamic Jurisprudence. The Law and Leadership division focuses specifically on developing literature and hosting educational seminars which assist lawyers and human rights activists working on issues related to the Muslim world in achieving literacy in Islamic law and region-specific cultural norms. While pushing for human rights reforms is of paramount concern, Karamah considers it just as much a priority that policy initiatives and legal reform proposals keep in mind the *actual* needs of women on the ground in these societies. Thus, the Law and Leadership program not only focuses on educating external activists, but also focuses on developing programs in legal literacy and leadership development for women indigenous to the region so as to expand their ability to contribute to internal reforms in ways that maximize benefits for underprivileged populations, specifically women.

The Family Law division focuses on issues faced primarily within minority Muslim communities in the United States. Funded partially by a grant from the U.S. Department of Justice, this division looks at issues of domestic violence, polygamy, inequitable property division, and the socioeconomic impact of divorce on women from the perspective of both Islamic and American law. Women in Muslim communities often must proceed through both Islamic and American legal procedures in divorce proceedings, for example. As women often hold lower levels of legal literacy, they may often be unaware of how to advocate for their material and personal rights. Karamah focuses on developing literature and resources for lawyers, judges, and litigants in terms of understanding how to navigate through such procedures while keeping in mind what is in the best interest of both parties.

The Islamic Jurisprudence division focuses on developing resources which contribute to educating female lawyers in the Muslim world on how to develop arguments which advocate for gender egalitarian legal interpretations within currently existing Islamic legal frameworks so as to maintain religious and cultural legitimacy while at the same time advocating for legal reforms. This division also maintains a global network of female jurists who contribute articles, research, and ideas that address key concerns facing local populations in their respective regions in an attempt to ensure that resources being developed are sensitive to the needs and priorities of women on the ground.

Karamah: The Internship

As an intern, I had the opportunity to collaborate on three major projects with other researchers and law professors through the Islamic Jurisprudence and Family Law divisions at Karamah. My first project involved contributing Islamic law research to an amicus brief for a Supreme Court case compiled by multiple organizations and law firms this summer. Both defendants were juveniles who had committed non-homicidal offenses but were sentenced to life imprisonment without parole. As both defendants were minors, their legal representation chose to argue that life imprisonment without parole would be considered a form of ‘cruel and unusual punishment’ and thus in violation of the eighth amendment, as well as against the spirit of restorative justice. Amici were asked to demonstrate how other legal traditions approached this legal issue and whether or not possible arguments could be found in agreement with their position. As Karamah’s resident Islamic law researcher, I provided the relevant Islamic law research for the amicus brief, as well as wrote the Islamic law argument, under supervision of an affiliated law professor, for the piece as well.

My second project involved serving as Islamic law researcher for Karamah’s advisory team to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) at the United Nations. As the primary Islamic law researcher, I assisted both Karamah staff and the CEDAW committee chairwoman by providing Islamic legal resources as they related to topics being discussed in session. In addition to attending meetings in New York with Karamah’s advisory team, I assisted in preparing a draft of Karamah’s critique and analysis of a concept note under revision within the CEDAW committee regarding the economic consequences of divorce on women.

My third project involved working with Karamah’s Family Law division in collaborating with the office of Eric Treene, Special Counsel for Religious Discrimination, the U.S. Department of Justice. In the states of Oregon, Michigan, Maryland, and Georgia, the issue of wearing religious garb—the head cover, Sikh turban, and face veil in particular—in state court houses and in public schools has incited controversy. Wearing such garb has been considered to often be inhibitory to the proper identification of witnesses and litigants. On the other hand, prohibiting individuals from entering public facilities due to a particular form of dress has also deterred such individuals from accessing resources necessary to protect their own rights, and thus in some cases demonstrates an obstruction to justice. A number of advocacy organizations, Karamah being one of them, representing a variety of national constituencies have developed an advisory counsel in cooperation with the Department of Justice in order to discuss the best means of handling such concerns at the federal level. As an intern, I provided legal research and attended meetings at the Department of Justice in an effort to facilitate the process of gathering information regarding the issue.

What I Learned from the Experience

More often than not, legislators and jurists intend, through the law, to establish societal norms and regulatory mechanisms which maintain justice. In general, the rule of law is deemed to be a vehicle through which law makers, jurists, and judges can ensure the protection of equal rights and equal protection for all citizens. At the same time however, it is generalized legal norms which are often the very *source* of discrimination and injustice towards the underprivileged, and towards those who lack the education and legal literacy required to articulate and advocate for their needs. Women, as an underprivileged group, are often the first to be impacted by such conflicts in the law.

I witnessed this dynamic conflict in action at CEDAW sessions for example. While the intent of CEDAW's concept note—to recognize the negative socio economic impact of divorce on women worldwide as a problem that needs to be taken into account in legal reforms—is indeed noble, what is clear is that the *means* of alleviating the challenges that face women in such contexts is largely disputed not only by policy recommenders, but by women on the ground from regions all over the world. Women do indeed suffer greater levels of poverty after divorce. In addition, there are many non material contributions which women often contribute within the marital regime that go unaccounted for in divorce proceedings due to the current nature of the law and the higher rates of the lack of legal literacy among women. But the prescription offered by many CEDAW committee members—that the best means of solving this problem is to advocate for uniform civil codes which follow one model of understanding women's rights under the law worldwide, and which would uniformly over ride currently existing religious, customary and state based legal norms—is a path which many women would argue is largely ineffective compared to other means of improving the situation of women on the ground.

Undoubtedly, inequality in the family damages the lives of many women worldwide. Indeed a variety of discriminatory practices espoused in ideologies and cultures contribute to systemic inequality in the family. However, what must be kept in mind, some would argue, is that it is often poverty and the lack of economic prosperity which has 'the most damaging effect' upon women, as compared to other factors. Certainly, religious, customary, and state laws often are a source of discrimination towards women, however this is certainly not the case in all situations. Nor is such discrimination necessarily uniform based on a specific region or culture. Many would argue that an approach to reform which takes into account a holistic understanding of the socioeconomic realities in a given region would offer policy recommenders a much better understanding of how to approach legal reforms which are more realistic and effective. It is important, for example that policy recommenders support efforts in educating women about the rights that they already have in order to make use of current opportunities available to them from the state so as to mitigate any potential abuses or inequalities they may face from other parties or state institutions. It is also important to advocate for the underprivileged to maximize on any rights and advantages they may have within religious and customary laws which would support their own socioeconomic upward mobilization. In addition, it is imperative to invest in women's access to education, legal literacy, and economic opportunities so as to alleviate the problem of poverty which is one of the main sources of inequality in society. Thus, legal reform is not the only piece of the puzzle in alleviating inequalities as they impact women—rather it is one piece amongst many others which are required in order to alleviate injustice and lack of opportunity.

Having witnessed this through my internship opportunity, the importance of studying not only the law, but also the *sociological context of the law* has become more imperative than ever to me. Whereas my graduate plans and career goals prior to my internship had involved primarily studies in the law, both American and Islamic, I now have developed a strong desire to pursue graduate studies in sociology, specifically law and society.

It is very easy to ignore the voices of women on the ground if they are represented anecdotally. Studying the sociology of law allows me to translate the voices of women on the ground into empirical data which can be used alongside other sociological data to obtain a more accurate understanding of factual realities. Ultimately, developing a sound understanding of society helps us move forward in developing the best prescriptions for legal reform, and in actualizing that which jurists, lawyers, and legislators usually intend in promoting the rule of law—the establishment of justice, equal rights, and equal protections for all populations. The Liman Fellowship, through the internship I have pursued and through interacting with faculty at Princeton and Yale associated with the program, has proven to be an important catalyst in helping me come to this realization. I have every intention, through my graduate education and through my future career, in actualizing what I have learned through this experience by capturing the voices of those who often go unheard, in an effort to better inform how we understand the law and those who live under it.