This paper investigates the role of the spectators of public caning in Aceh in regard to the practice of punishment and governance. As the only province that formally implements Islamic law in Indonesia, Aceh prescribes public caning as a form of punishment toward individuals who violate Qanun Jinayat No. 6/2014, a local regulation that legislates Islamic Criminal Jurisprudence. The central argument of this paper concern the role of the spectators, as part of a particular public, in punishing the violator of Qanun Jinayat by attending to their caning and surveilling them. This paper demonstrates that the practice of punishment and surveillance is not merely conducted by the state as the sole, unitary actor. Rather, the spectators also take part in the punitive and surveillance practice in the context of public caning in Aceh. Furthermore, this paper situates the spectators as deliberate moral subjects who further state’s mode of punishment and governance toward the violators of Qanun Jinayat and challenges the prior literatures’ assumption that the state is the only actor in the punitive practices.

Keywords: punishment, spectatorship, public caning, Islamic law, morality

INTRODUCTION

As a province with Special Autonomy in Indonesia, Aceh has been granted the authority to implement Shari’a law. At the local level, the regional regulation that legislates Islamic law is referred to as qanun. One qanun that particularly influences social and cultural system in Aceh, especially to the local punitive practices, is Qanun Jinayat No. 6/2014 on Criminal Law. Qanun Jinayat codifies ten categories of jarimah or violation and prescribes three types of ‘uqubat or punishment toward the violators. The punishment comprises of fine, imprisonment, and public caning. This research focuses on the practice of public caning because of its conspicuous and explicit manifestation of the role of the state in punitive practices. While Qanun Aceh No. 7/2013 on Jinayat Procedural Law instructs that the caning must be held in a public place, the government of Aceh does not mandate the spectators to come. The spectators, therefore, attend the performance of public caning without any formal obligation by the government.

The role of the spectators in the punitive practice is the one that foreshadow my discussion in this research. Earlier academic literatures have sought to define what punishment is. Among other literatures, there are three authors whom arguments’ I incorporate in this study to exemplify the recent assumption of punishment, which consist of: (1) H. L. A. Hart; (2) Michel Foucault; and (3) Didier Fassin. First, according to Hart’s (1959) standard, five elements are necessary to characterize punishment in criminal matters. His last element is “punishment must ... be imposed and administered by an authority constituted by a legal system against which the offense is committed” (Hart, 1959). In his argument, the authority stipulated by a legal system plays a role as the actor that legally-able to impose and administer punishment. The case of spectatorship in Aceh, however, demonstrates that the spectators also take part in the act of punishing, albeit using a different mechanism. Second, in Foucault’s analysis regarding 18th century French ceremonies of execution, he argues that “the main character was the people, whose real and immediate presence was required for the performance” (Foucault, 1995: 57). However, the case of Aceh and the 18th century French is clearly different. Whereas the spectators in Foucault’s
analysis were summoned by the state, the spectators of public caning in Aceh attend the performance of public caning without the government of Aceh mandated them to come and witness others’ infliction of pain. Third, following Hart’s argument on the actor of punishment, Fassin (2018) argues that punitive practices are not always performed by the state. Rather, vigilant individuals can also participate in certain punitive practices. However, in his discussion on this matter, the vigilent act derives from the actors’ dissatisfaction with the state’s mode of justice. Therefore, they put the law into their own hands. In the case of Aceh, the spectators further the state’s vision of punishment. The intended objective of this research is to fill the gaps of these three studies, particularly regarding the role of the spectators in punitive practices in the context of public caning in Aceh.

RESEARCH FINDINGS

Codification of Moral Misconducts

As the Government of Aceh describes in the Explanation of Qanun Jinayat No. 6/2014, one of the reasons of the codification of this qanun was that the Government of Aceh’s response to the pervasive acts of frontier justice toward several acts that deemed immoral by the people from September – December 1999, which include the activities of khamr (alcohol production, distribution, and/or consumption), maisir (gambling activity), and khalwat (illicit intimate activity between premarital couples). This correspondence that was conducted by the Government of Aceh demonstrates that the issue of morality, as well as decency as self-honor, plays a pivotal role in the codification of Qanun Jinayat No. 6/2014. In the conceptual context, I refer to this phenomenon by using Fassin’s (2015) analysis regarding the state often incorporates moral framework in regard to its administrative works.

It should be noted, however, that within anthropological discussion, morality is not a theoretically homogeneous realm (Fassin, 2012:7). In my research, I am particularly influenced by the Foucauldian approach (Foucault, 1990), partly because I found that morality binds its subject not just by its authoritative nature, but rather both morality and its moral subjects have a co-constitutive relationship that define each other. In the context of the codification of moral misconducts in Aceh’s Islamic law, the government of Aceh utilizes the narrative of “frontier justice” by the “people” to epitomize the importance of Qanun Jinayat; situating the qanun as an end to fulfill the people’s demand, which in turn led to the punitive practices that include public caning.

Expressed Excitement of the Spectators

Throughout the process of the caning, the spectators often excitedly jeer and taunt, as well as make derogatory remarks. Such repertoires can be found in the caning toward two men who engaged in liwath or the sexual activity between two consenting men that occurred on May 23, 2017. During the process of the caning, the spectators often shouted “homo!” in its most derogatorily way. Drawing on the expressed excitement by the spectators, I argue that the spectators actively demonstrating their moral stance by producing shame and embarrassment toward the violator of Qanun Jinayat. I situate the production of shame, in this context, as a form of affective governance that is conducted by the spectators. Affective governance itself refers to the ways in which the state agencies, civil servants, and public services uses emotional negation, excess, dilemma, rhetorical fantasy, as well as emotional celebration and commitment (Jupp, Pykett, and Smith, 2014). However, instead of situating the state agencies or the civil servants as
the main actors behind the affective governance process, I argue that the spectators play a role in affectively governing the violator of Qanun Jinayat by producing shame and embarrassment in them and producing the notion of deterrence.

**Pervasive Surveillance Practices**

During the process of the caning, the spectators often recorded the process of the caning, which later followed by the dissemination of the video footage. This pervasive act of recording and disseminating the video footage demonstrate that the spectators engage in a surveillance practice, in which I refer as the gathering of information of subject populations in organizations (Dandeker, 1990). The information of subject populations, in this context, refers to the personal information of the violator being caned that often announced by the government official, which include their names, addresses, parents’ names, religions, jobs, educational background, as well as their violations and the number of strokes for them. These are information that announced by the government of Aceh and later being made public by the individuals who spectate and surveil the process of the caning. Align with the previous studies on surveillance, I argue that surveillance practices are strongly related to governance and/or discipline (Monahan, 2010). Monahan (2010:97) argues for two types of surveillance that directly challenge ideals of democratic governance, which consist of differential control and automated control. The differential control can be understood with the social sorting functions of the surveillance system as it explained by David Lyon (2003, 2007). In this regard, surveillance operates as a mechanism for differentiating society by discerning or actively constructing differences among the populations and regulating the populations in accordance to their assigned status (Gandy, 2006; Haggerty and Ericson, 2006). However, the discussion of surveillance as governance tends to focus on the surveillance practice by governments or private corporates, whereas the case is different from that of the spectators in Aceh. Nevertheless, despite the differential locus between these cases and the case of Aceh, I find the analytical framework useful to explain the function of surveillance toward homosexuality by the spectators in Aceh.

Both punishment and surveillance, then, fall under the same categorical umbrella that Foucault (1995) discusses: discipline. He argues that discipline is a technique of control that connected to the logic of maintaining power relation (Foucault, 1995:215-216) argues, discipline is not confined to institutional body per se, but rather a type of power that comprises of a whole set of instruments, procedures, and levels of application.

**CONCLUSION**

The involvement of spectators in the governance practices toward the violators in the context of public caning in Aceh shows that the act of punishing crime is not only conducted by the state. This argument is beneficial to challenge the underlying assumption on crime and punishment. Hart’s (1959) classification shows that the state lies at the heart of the punitive system, yet as Fassin (2018:43-44) argues, whereas the state typically exercises the monopoly of the use of legitimate violence, it actually faces the presence of other actors who also claim a right to mete out justice or more exactly to take the law into their own hands. The case of spectatorship in Aceh, however, demonstrates otherwise: while the spectators are actively jeering and surveilling the violators being caned on the stage, they are not completely separated from the state’s mode of punishment. Rather, the spectators further the state’s vision of the subject of violation of Qanun Jinayat and exercise their moral ground through their everyday performed repertoire.
BIBLIOGRAPHY


FROM EFFECTIVE TO AFFECTIVE BROKERS: RETHINKING DEVELOPMENT BROKERS IN THE IMPLEMENTATION OF COMMUNITY DEVELOPMENT IN INDONESIA

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The end of Indonesia’s authoritarian New Order regime in 1998 marked a new era of democratisation and decentralised governance. This process was parallel with development interventions from international donor agencies such as the World Bank that introduced new development approach as community-driven development (CDD). This shift in development and mode of governance allowed for the proliferation of new social actors who situated themselves at the interface between village communities, state, and donor agencies. These new social actors have been recognised by scholars within the discipline of anthropology and development studies as development brokers. In such accounts, the brokers’ role is described as either distorting the system or enabling the system to work but somehow overlook actor’s subjectivity regarding their involvement in development. Using the case study from the implementation of community development in Manggarai village, this paper will discuss the role of development brokers such as project facilitators, interface bureaucrats, and village development cadres within current development scheme. In doing so, I will pay attention to actors’ subjectivity as an important locus to understand complexities of social practices in development, power relations, and potential for social transformation.

Keywords: community-driven development; development brokers; subjectivity