The Conspicuous Face of Punishment: Spectatorship and Public Governance in Public Caning in Aceh, Indonesia[1]

Febi Ramadhan

Abstract

This paper investigates the role the spectators of public caning in Aceh regarding the practice of punishment and governance. As the only province that implements Islamic law, Aceh has been prescribing public caning as a form of punishment toward individuals who violate Qanun Jinayat No. 6/2014, a local regulation that legislates Islamic criminal jurisprudence. This paper's central argument concerns the role of the spectators, as part of a particular public, in punishing the violators of Qanun Jinayat by spectating and surveilling them. This paper demonstrates that the practice of discipline, which includes punishment, surveillance, and governance, is not merely conducted by the state as the sole, unitary actor. Rather, it is also conducted by the public. Furthermore, this paper situates the spectators as deliberate moral subjects who are furthering state's mode of discipline toward the violators of Qanun Jinayat and challenges the underlying assumption in regard to the state as the only actor in the punitive practices.

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

Introduction

As a province with Special Autonomy in Indonesia, Aceh has been granted the authority to implement Shari'a law. Aceh is also the only province that legally implements Shari'a law. The Special Autonomy in Aceh was strengthened by Law No. 44/1999 that recognizes the "Special Status of the Province of Aceh Special Region" and Law No. 18/2001 that in principle confers broader powers of self-governance in areas that include religious and provincial legislation. At the local level, regional regulations that legislate Shari'a law are referred to as *qanun.* While *qanun* stresses a broad array of issues, one *qanun* that particularly influences the penal system in Aceh is Qanun Jinayat No. 6/2014 on Criminal Law. This *qanun* codifies acts that are considered violations of Shari'a law and prescribes various modes of punishment for these violations, including public caning.

Since its first implementation in 2005, public caning in Aceh has been portraying a clear enactment of pain, yet it has been successfully attracting spectators to watch it. The central question that I raise in this paper concerns the issue on why does the practice of public caning appealing for the spectators. I argue that public caning is appealing for the spectators because it provides an opportunity for the spectators to exercise their moral surveillance toward individuals who violate the *qanun*. In so doing, the spectators actively involved in the process of punishing the violator of the *qanun* by producing shame toward the violators, in which it plays a pivotal role in the deterrence process.

In approaching the issue of punishment, this paper is primarily influenced by Foucault's *Discipline and Punish* (1995), a canonical text in the social study of punishment. One of Foucault's general rules in this book (1995:23) is not to concentrate on punishment alone or the mechanisms that create repressive effects but rather to situate them in a whole series of possible positive effects.

Therefore, as he argues, punishment should be regarded as a complex social function (Foucault, 1995:23) and worthy of academic discussion. Foucault's approach on punishment is shared by Fassin (2018) who seeks to study punishment in the context of social science without intending to justify or criticize it. Therefore, it is not my intention to criticize the implementation of Shari'a law in Aceh. Neither is it the purpose of this research to evaluate the practice of public caning there. Instead, this paper presents a comprehensive and elaborate study on the role of spectators and spectatorship in relation to public caning in Aceh.

Academic study regarding the performance of punishment is not entirely new. As Fassin (2018:27) points out, the study of punishment began with the inception of philosophy. Philosophers inspired legal scholars and, recently, political scientists, economists, sociologists, psychologists, historians, and anthropologists to study the topic further. In defining punishment, this paper draws on H. L. A. Hart's "elements of punishment," a term he coined in 1959 and that most writings on punishment have referred to for the past fifty years (Fassin, 2018). According to Hart's (1959) standard or central case, five elements are necessary to characterize punishment in criminal matters. Punishment must "involve pain or other consequences normally considered unpleasant; be for an offence against legal rules; be of an actual or supposed offender for his offense; be intentionally administered by human beings other than the offender; and be imposed and administered by an authority constituted by a legal system against which the offense is committed" (Hart, 1959). This paper particularly focuses on Hart's last element, in which he argues that punishment, by definition, must be administered by an authority of a legal system. In Hart's argument, the government plays a role as a sole, unitary actor of punishment. The case of spectatorship in Aceh shows otherwise: it is not merely the government that actively punishes the criminal; rather the public also takes part in the act of punishing.

To date, discussions of the role of the public in the practice of punishment tend to focus on the issue of vigilantism (Brown, 1975; Rosenbaum and Sederberg, 1976; Abrahams, 1987; Johnston, 1996; Ahmad, 2017; Fassin, 2018). As Fassin (2018:44) suggests, vigilantism is built on citizens who deem the official authorities as incapable of solving security issues and who commit themselves to replace the authorities by punishing the suspects themselves. Fassin's argument aligns with Ahmad's *private citizens* who take the law into their own hands (Ahmad, 2017:9) and Johnston's *autonomous citizenship* in which private voluntary agents engage in legal conduct without the state's authority or support (Johnston, 1996:226). The discussion of vigilantism, however, cannot capture the complexity of the role of spectators in the case of Aceh. In the context of public caning in Aceh, the spectators work within the state's mode of punishment, and they have a role in furthering the state's vision of punishment of individuals who violate Qanun Jinayat. While examining vigilantism is beneficial for shifting our understanding from the state as the sole actor in punishment to public participation, no academic discussion has comprehensively captured the dynamics of public caning in Aceh, let alone the role of its spectators.

Fitzgerald (2016:1) argues that spectators and actors are not mutually exclusive. That is, many scholars situate spectators as a mere backdrop in the political arena, whereas he claims spectators function as political actors with their own impacts (Fitzgerald, 2016:1). He draws on Ranciere's argument that spectators observe, select, compare, interpret, and link what they see to a host of other things that they have seen before, and they then refashion what they see (Ranciere, 2014:13). By drawing on Ranciere's argument, Fitzgerald (2016:2) argues that spectatorship provides a useful foil against accounts of what constitutes political participation. Fitzgerald's ideas derive from a broad political context rather than from a more specific discussion of punitive

systems. However, Fitzgerald's invitation to look at spectatorship helps me to move beyond the state as the sole actor in a punitive system.

The discussion of spectatorship in the context of public practices of punishment is not novel. In describing the penal system in 18th century France, Foucault (1995:57) stresses the importance of people as the audience of capital punishment. He writes, "in the ceremonies of the public execution, the main character was the people, whose real and immediate presence was required for the performance" (Foucault, 1995:57). However, the case of 18th century France is clearly different from that of contemporary Aceh. In Foucault's discussion, the French government summoned the people as spectators with the intention of making an example for the spectators (Foucault, 1995:58). In the case of Aceh, the presence of spectators is not mandatory. The issue of mandatory/not-mandatory is important because it clarifies the motives and intentions of the spectators. For Foucault, the spectators are situated as subjects of state sovereignty, whereas in Aceh the spectators' own will drives the spectatorship. I argue that the presence of the spectators cannot be separated from the spectators' moral framework that influences their presence and participation in the performance of public caning.

This paper reverberates the ethical turn in anthropology, as both incorporate moral/ethical issues (Fassin, 2014; Mattingly and Throop, 2018). Fassin (2014:430) identifies the ethical turn as an approach that focuses on moral subjects and their subjectivities. It initially occurred at the beginning of the 2000s as a remarkable convergence stemming from various horizons and traditions of the anthropological world. It would be ahistorical, however, to argue that the study of morality in anthropology has taken place only after the ethical turn, since throughout the history of anthropology, anthropologists have mentioned issues of ethics and morality (Mattingly and

Throop, 2018:476). Further, as Roger Lancaster (2012:520) shows, since Plato seldom have moral philosophers imagined a system of morality without a place for punishment.

Aside from literature on morality, this paper also builds from the discussion of affect or emotion. I argue that the spectators of caning in Aceh mobilize emotions and do so through two pathways. First, the spectators often jeer and taunt the individuals who violate Qanun Jinayat. These forms of excitement, as Ahmed (2014) argues, should be understood as a social and cultural process, rather than a merely psychological one. Second, the spectatorship of public caning in Aceh produces shame in the violators. The enactment of shame enables the spectators to perform affective governance of the violators. I draw on Jupp, Pykett, and Smith's (2014) discussion on affective governance that refers to the ways in which the work of state agencies, civil servants, and public services involves emotional negation, excess, dilemma, rhetorical fantasy, as well as emotional celebration and commitment. However, their approach to affective governance tends to situate the state as the main actor, while my discussion focuses on how spectators further the state's modes of punishment and governance by involving an emotional aspect. Nevertheless, I do not intend to diminish the role of the state in punitive practices. Its role remains integral, particularly since it is the government of Aceh that enables the public caning in the first place. This paper invites the reader to see punishment elaborately as a practice that is not limited to the state, but is also conducted by non-state actors.

To gather the data for this research, I use video footage that documented the practice of public caning in Aceh for capturing the nuanced aspect of public caning in Aceh. Aside from video footage, I analyze news articles concerning public caning in Aceh. Moreover, I utilize several ethnographic and other academic materials that focus on Aceh in order to draw a comprehensive account of the historical context of public caning in Aceh and its relationship with the Islamic

identity formation throughout history. Given that this paper was written without any actual fieldwork, it should be noted that this paper intended to be a preliminary study and, therefore, the arguments in this paper is not yet final.

This paper has five sections. The first section briefly describes the penal history of Aceh, in which it also delves on the discussion regarding the historical contexts that made the contemporary public caning in Aceh came into being. The second section stresses the categorization of crimes that reflected upon the legal codification of acts that considered immoral, wherein it provides an understanding of a particular moral framework that influences the spectators' act during the practice of public caning. The third section discusses how the spectators mobilize emotion by producing shame toward the violator of Qanun Jinayat. The fourth section addresses the theoretical field that I would like to contribute, in which I discuss the role of spectatorship in the larger context of punishment and governance toward the violator of Qanun Jinayat. I situate the case of spectatorship of public caning in Aceh as an empirical case that brings the discussion of punishment and governance beyond the government as a sole, unitary actor. The last section presents conclusions and plans for future research on the topic.

In the Making of Public Caning: A Brief Penal History of Aceh

One of the earliest accounts on Islamic penal system in precolonial Aceh can be found in the time of Iskandar Muda, the twelfth Sultan of Aceh Darussalam who came into power in 1607. During his first three years in power, Iskandar Muda amplified the legal system which was based on Shafi'ite law and centered upon the ruler as the head of an Islamic state (Riddell, 2006:42). His amplification of the Shafi'ite law can be found in the existence of four separate courts in operation during his reign: a civil court, a criminal court, a religious court, and a court at the customs house which settled disputes among merchants, both foreign and local (Riddell, 2006:42). However, even

though Shafi'ite law is the basis of the legal system, the available evidence of legal cases and punishment show variation between the punishment performed by the Acehnese religious authorities and the prescriptions for punishment by Shafi'ite law. According to Riddell (2006:43), the standard punishment for convicted adulterers was strangulation, which is different from Shafi'ite law that prescribes stoning.

In addition to the legal system that was based in Islamic law, there was also a set of judicial practices under the direction of the rulers, which drew on traditional local practice and was known as *Hukum Adat*. A more comprehensive discussion of this form of law, then, can be found in Hurgronje's account on Acehnese society. According to Hurgronje (1906:72), there was a proverb in Aceh that explain the interwoven relationship between Islamic law and customary law, "*Hukom ngon adat lagee matai tam ngom mata puteh; hukom hukumolah adat adatolah*" which can be translated to "*Hukom* [law] and *adat* [customary law] are like the pupil and the white of the eye; the *hukom* is Allah's *hukom,* and the *adat* is Allah's *adat.*" This proverb provides an understanding that Islamic law implementation in Aceh is not a merely recent phenomenon. Rather, it has already rooted in pre-colonial Aceh.

Both Riddell's (2006) and Hurgronje's (1906) accounts show that, in the context of Aceh, Islamic law has its root since the pre-colonial times. Riddell (2006) shows that Sultan Iskandar Muda already implemented Islamic law, particularly the one that derived from Shafi'ite law, since the 17th century. Hurgronje (1906), moreover, writes about an Aceh's proverb that shows the interwoven relationship between Islamic law and customary law. By looking at the historical context regarding the relationship between Aceh, as a territory, and Islam, I infer that the territorialization of Aceh as an Islamic territory already occurred since the pre-colonial times.

In the context of contemporary Aceh, one of the most conspicuous forms of Islamic law can be seen in *qanun,* a local regulation that legislates Islamic law. *Qanun* is based on the Law No. 18/2001 that was ratified on August 9, 2001, and has been implemented since January 1, 2002. This law defines *qanun* as the regional regulation of Nanggroe Aceh Darussalam, as the law is implemented in the context of special autonomy. According to the official website of Aceh's government, the first legislated *qanun* is Qanun No 7/2002 on Financial Management and Accountability of the Nanggroe Aceh Darussalam Province. *Qanun* in Aceh legislates a broad array of issues, including finance and economy, natural resources, education, governmental system, healthcare, election, children's protection, women's protection and empowerment, employment, and criminal law.

Aside from *qanun*, the implementation of Islamic law in Aceh can also be traced to several formal institutions. According to Feener (2006:11), Aceh's Shari'a bureaucracy comprises some distinct but interrelated bodies coordinated by the State Shari'a Agency: the Shari'a Courts (*Mahkamah Syariah*), the Ulama Consultative Council (*Majelis Permussyawaratan Ulama*), and the Shari'a Police (*Wilayatul Hisbah*). As Feener (2006:11) points out, the system of Islamic courts is the oldest institution of state *shari'a* in Aceh, established in Sumatra by the Japanese during the wartime (1942-1945). Aceh's Ulama Consultative Council is the oldest state-affiliated body of its kind in Indonesia, dating to 1965. Aceh's Shari'a Police, however, is the most recent institution, established through the enactment of Regional Regulation No. 5/2002 and further defined in sections of Qanun No. 11/2002 (Feener, 2006:12).

It should be noted, however, that the Islamic law implementation in Aceh is not a given condition, nor is it a consequent effect of a continuously stable process since the time of the sultanates. Instead, the political background of post-colonial Aceh plays a prominent role in

shaping the contemporary implementation of Islamic law in Aceh. As Salim (2004) points out, however, discussion of the political context in Aceh and its relation to Islamic law should not be reduced to the elite-focused analysis. According to Salim (2004:80), it has been argued that Muslim rulers have employed *shari'a* as a symbol to acquire political legitimacy from their Muslim citizens and political influence with other Muslim countries. Additionally, it also has been argued that the codification of *shari'a* by Muslim regimes is intended in the interests of legal unification in order to produce political stability (ibid.). However, Salim (2004:81) argues otherwise, in which he demonstrates that the calls for *shari'a* by Muslim groups are not driven simply by politicization itself, but rather a result of a reassertion of self-identity which has inevitably led to a resurgence of the demand for self-determination.[2]

Following the independence of Indonesia in 1945, there was a growing political interaction between the *ulama* under the leadership of Teungku Muhammad Daud Beureueh, who was the chairman at PUSA, and the Central Government of Indonesia about the negotiation of Acehnese Islamic identity (Salim, 2004:87). Salim (2004:87) notes that there are five important events that worth considering in these events: (1) the meeting between the *ulama* and Soekarno, the first president of Indonesia, in 1948. In this meeting, the *ulama* demanded a wide autonomy to apply *shari'a* law; (2) the meeting between the *ulama* and Syafruddin Prawiranegara, the leader of Pemerintah Darurat Republik Indonesia, in 1949, in which the *ulama* insisted on the establishment

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[2] In his discussion of the *shari'a* from below in Aceh 1930s-1960s, Salim (2004:83) argues that the rise of a new generation of *ulama* in the 1930s brought with it a particular struggle to restore Islamic identity into the social life of the Acehnese. This restoration, in his argument, is based on the notion that Islamic identity played a pivotal role in the Aceh War in 1873-1904. Aceh War deepened a sense of intertwined regional and religious identity of the Acehnese (ibid.). What Salim referred to as a new generation of *ulama* is the reformist *ulama* who organized themselves under the umbrella of PUSA or Persatuan Ulama Seluruh Aceh in 1939. One of the attempts conducted by PUSA was reinvigorating religious education by replacing the traditional schools (*dayah*) to new schools called *madrasah*, which merged traditional religious education with modern methods and an extended curriculum (ibid.:84). Aside from that, PUSA often held rallies throughout Aceh in which they called the people of Aceh to be united under the banner of Islam and to be alert to their religious duties, particularly regarding obedience to Islamic rules (ibid.).

of the province of Aceh; (3) Daud Beureueh-led rebellion that broke out throughout Aceh in 1953

following the integration of the region of Aceh into the province of North Sumatra; (4) the visit of

Hardi, the Deputy Prime Minister, in 1959, in which he granted the special provincial status to

Aceh on behalf of the Central Government; and (5) the negotiations between Daud Beureueh and

Colonel Muhammad Jasin, the Commander of the Komando Daerah Militer Aceh that successfully

ended the rebellion. All of these events, therefore, show that *shari'a* in Aceh is part of a contentious

project between the *ulama* and the Central Government of Indonesia.

The formal surrender of Daud Beureueh in 1962 marked the end of the rebellion led by

him. However, the political contention regarding sovereignty in Aceh was still ongoing. In 1976,

Gerakan Aceh Merdeka or Free Aceh Movement (GAM) was founded. Since December 1976,

GAM had been continuing the uprising struggle against the Central Government of Indonesia and

fight for the independence of Aceh (Baikoeni and Oishi, 2016:21). However, despite the fact that

GAM and Daud Beureueh's movement share a similar discontent toward the national government

of Indonesia, it should be noted that both of them pursued different goals (McGibbon, 2004:6).

Daud Beureueh's movement sought to establish *shari'a* in the provincial government and was part

of a larger movement to establish an Islamic state, whereas GAM was mainly driven by ethnic-

nationalist that sought independence from Indonesia (Aspinal and Crouch, 2003:5). Nevertheless,

I think that GAM is worth noting since it also played an important role in shaping the contemporary

Aceh at present, particularly regarding the implementation of *qanun* in contemporary Aceh.[3]

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[3] According to Baikoeni and Oishi (2016), there are six historical periods regarding the contention between GAM and the central government of Indonesia. These six historical periods are important to understand because it provides the political background to understand the contentious history between Aceh and Indonesia which later gave birth to the implementation of *qanun.* The first period occurred in December 1976 – Mid-1979, in which the initial emergence of GAM and its strong ties in the Acehnese nationalism movement. The oppression perpetrated by the Indonesian government against GAM during this period did not draw much attention from the regional and international community. The second period occurred in mid-1979 – mid-1989, in which Hassan di Tiro—the leader of GAM— fled overseas in 1979 and made GAM became dormant. However, Internationalization of Aceh conflict was slowly unfolding in this period by the efforts of the Acehnese leaders in exile, who sought support for their independence

On December 26, 2004, Aceh was hit by a massive tsunami. A day after the tsunami, GAM declared a unilateral ceasefire, which was unconditional and to last indefinitely. The ceasefire, then, followed by a series of meetings between GAM and Indonesian government from January to July 2005 that was initiated by a former Finnish President Martti Ahtisaari. Finally, GAM and the Indonesian government reached an agreement in Helsinki on August 15, 2005, by self-government rather than the old alternatives of independence or autonomy (Reid, 2006:17). According to the point 1.1.6 of the Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement (2005), Kanun Aceh will be re-established for Aceh respecting the historical traditions and customs of the people of Aceh and reflecting contemporary legal requirements of Aceh. This point, then, affirms the implementation of *qanun* in Aceh. Therefore, the implementation of *qanun* in Aceh, as part of Aceh as a Shari'a state project, should be understood not as a given legal fact, but rather embedded in the contentious history between Aceh and Indonesia since the 1930s.

Qanun Jinayat: The Codification of Moral Misconducts

Following the Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement in 2005, Aceh's *qanun* has been reestablished and respected as a regional regulation in Aceh. In this section, I discuss the relationship between Islam,

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struggle from the international community. The third period occurred in mid-1989 – late 1991, in which the conflict escalated after the return of the trained guerrillas of GAM in mid-1989 from Libya to Aceh. During this period, which started in January 1990, the Kopassus was sent to Aceh. The fourth period occurred in late 1991 – May 1998, in which GAM's military activities significantly decreased due to the massive military operation from the Central Government. However, its soft power increased due to more attention of the international community drawn to the struggle and plight of the Acehnese people. The fifth period occurred in May 1998 – October 2004, in which the post-Suharto process of democratization released social forces that had been simmering under the authoritarian political repression and these forces in turn impacted on the Aceh conflict and its management. Lastly, the last period occurred in October 2004 – August 2005, in which the stalemate of the Aceh conflict began to loosen up in 2004 when Susilo Bambang Yudhoyono and Jusuf Kalla elected as the President and Vice-President of Indonesia.

crime codification, and morality that embodied in Qanun Jinayat No. 6/2014. While the case of

Aceh in codifying morality is not peculiar, this discussion is important for this paper because it

provides an understanding on how the codification of crime in Qanun Jinayat corresponds to both

Islamic law and a particular moral framework. This correspondence, moreover, is essential because

it demonstrates how both the government of Aceh's and the spectators' act of punishing

individuals who violate Qanun Jinayat.

Despite its distinctiveness within the national legal framework, the legislation of Qanun

Jinayat is legitimized by Law No. 44/1999 and Law No. 18/2001. At the initial stage of the

legislation of Qanun Jinayat, after the implementation of Law No. 18/2001, the Provincial

Government of Aceh formulated a committee for gathering legal materials and postulating the

Draft of Aceh's Qanun as the positive law in Aceh. The committee then categorized three areas of

the Draft: (1) *al-qadha'* (Islamic *shari'a* court system); (2) material and formal *jinayat* (criminal

law system); and (3) material and formal *muamalat* (civil law system). The committee prescribed

issues only for *jinayat* law: (1) *Qanun* and Governor Regulation related to protection of morality,

decency, and self-honor; (2) law codification for issues related to protection of human lives; (3)

law codification related to protection of property and wealth; and (4) law codification that related

to procedural law. The issue of morality and decency, which is referred to as *akhlak* and *kesusilaan*,

particularly affected the legislation of *jinayat* in Aceh.

Etymologically, *akhlak* derives from the Arabic word *akhlaq* (أخلاق), a plural form of

khuluq, which denotes an innate peculiarity, natural disposition, character, or nature. At the

analytical and practical levels, *akhlaq* is often perceived as an Islamic conception of morality

(Masud, 1996; Lewis, Haviland-Jones, Barrett 2016). *Kesusilaan* is often used in various contexts

in the Indonesian language, from social norms to legal codes. While it is used pervasively,

kesusilaan refers mainly to an ideal archetype of decency. Nevertheless, *kesusilaan* also means morality or ethics. An outdated Indonesian term for sex workers, for instance, is *wanita tuna susila*, which denotes women lacking morals.

The role of the *qanun* of Aceh is to govern both *akhlak* and *kesusilaan* as seen in the ratification of Qanun No. 12/2003 on *khamar* (producing, distributing, and consuming alcohol)*,* Qanun No. 13/2003 on *maisir* (gambling), and Qanun No. 14/2003 on *khalwat* (intimate activities on the part of a non-married couple). According to the Explanation of Qanun Jinayat No. 6/2014, the ratification of these three *qanun* originated in two considerations on the part of Government of Aceh. First, *khamar, maisir,* and *khalwat* tend to disturb Aceh society and are forbidden by *shari'a*, although the first two are not legally prohibited in Indonesian national law.[4] Second, the Government of Aceh acknowledges that there have been numerous acts of frontier justice regarding activities that involve *khamar, maisir,* or *khalwat* following the implementation of Law No. 44/1999. Between September and December 1999, for instance, dozens of cases of gambling, alcohol consumption, and intimate activities between premarital couple faced frontier justice in various places in Aceh.

My discussion about *akhlak* and *kesusilaan* shows that the Government of Aceh governs morality through its *qanun.* Despite the semantic differences between *akhlak* and *kesusilaan*, it is clear that both are strongly related to morality. However, in the context of the anthropological discussion, it is not an easy task to define morality. As Fassin (2012:7) points out, the field of morality is not a theoretically homogeneous realm. He divides the literature on morality (with the risk of simplifying it) into two main bodies of research: Durkheimian and Foucauldian. In this paper, I am particularly influenced by the Foucauldian approach, partly because I argue that

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[4] The Explanation of Qanun JInayat No. 6/2014 does not mention *khalwat* on this point.

morality binds its subject not just by its authoritative nature; rather morality and its moral subjects have a constitutive relationship. In Foucauldian approach, morality consists of: (1) a set of values and rules of action that are recommended to individuals through the intermediary of prescriptive agencies such as family, educational institutions, and churches; (2) the real behaviors of individuals in relation to the rules and values that are recommended to them; and (3) the manner in which one ought to form oneself as an ethical subject acting in reference to the prescriptive elements that make up the code.[5]

Empirically, the governance of morality through legal codification by the Government of Aceh can be found in Qanun Jinayat. Eleven years after the implementation of Qanun No. 12/2003, Qanun No. 13/2003, and Qanun No. 14/2003, Qanun Jinayat No. 6/2014 was ratified. This *qanun* governs *jarimah* (any activity restricted by Islamic Law that can be sanctioned, later referred to as "violation"), *pelaku jarimah* (the actor who engaged in the violation, later referred to as "violator"), and *'uqubat* (the penal sanction for the violator).[6] Qanun Jinayat also describes two forms of *'uqubat*: *'uqubat hudud* and *'uqubat ta'zir*. *'Uqubat hudud* refers to a form of *'uqubat* that its form and measurement already determined. Qanun Jinayat No. 6/2014 Article 4 Section 2 prescribes that the form of *'uqubat hudud* is caning. As for *'uqubat ta'zir*, it refers to a form of *'uqubat* that optional and its measurement has a range for its limit. Qanun Jinayat No. 6/2014 Article 4 Section 3 divides *'uqubat ta'zir* into: (1) *'uqubat ta'zir utama* (primary *'uqubat ta'zir*)

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[5] The Foucauldian approach on morality can be found in the second volume of *History of Sexuality* (1990), in which Foucault also discusses three dimensions of morality. The Durkheimian approach, on the contrary, is based on the three principles he defines in his lecture "The Determination of Moral Facts." Morality is a system of rules of conduct that are invested with a special authority by virtue of which they are obeyed simply because they command. An act of morality must interest our sensibility to a certain extent and appear to us as, in some way, desirable (Durkheim, 1974:35-36). Each of these approaches has its own characteristics that can be traced to two philosophical genealogies: the Durkheimian lineage has a Kantian genealogy, and the Foucauldian lineage has an Aristotelian genealogy (Fassin, 2012:7).

[6] Unlike *jarimah* and *violator*, I decide not to translate *'uqubat* into English. While the closest translation for *'uqubat* is punishment, the use of "punishment" might blur when I discuss about punishment in general or in the theoretical context.

which consists of caning, fine, imprisonment, and restitution; and (2) *'uqubat ta'zir tambahan* (complementary *'uqubat ta'zir*) which consists of a program of control by the state, restitution by the violator's parents, the government return the violator to their parents, dissolution of marriage, deprivation of property, and annulment of rights and license.

Qanun Jinayat No. 6/2014, moreover, delineates ten categories of violations, which I describe in the Table 1 below. Among these ten categories, three of them (gambling, alcohol production/distribution/consumption, and intimate activities between premarital couple can be found in the 2003 *qanun.*

Table 1. Category of Violation in Qanun Jinayat No. 6/2014

Category of Violation	Definition
Khamar	Production, distribution, and/or consumption of alcoholic drink or anything with an alcohol content of 2% or more.
Maisir	An act of gambling between two or more people that includes the winner's getting money or another form of prize from the loser.
Khalwat	An act of a man being in a private place with a woman when they are not *mahram* (certain legally-defined relationships) that could lead to *zina*.
Ikhtilath	An intimate act between a man and a woman outside the marital relationship
Zina	A consensual act of sexual intercourse of one or more men and one or more women outside of the marital relationship.
Pelecehan seksual	Sexual harassment conducted toward a male or female victim.
Pemerkosaan	An act of sexual violence toward the victim's vagina or rectum with the perpetrator's penis or something else, or toward the victim's vagina or penis with the perpetrator's mouth.
Qadzaf	An act of accusation that someone has engaged in *zina*, without the ability to present four witnesses.
Liwath	An act of sexual activity between two consenting men.
Musahaqah	An act of two or more consenting women involving genital or non-genital caressing for sexual pleasure.

The categorization of violations shows that the Government of Aceh codified moral misconduct, in which it demonstrates there exists a strong relationship between the notion of crime, religion, and morality. In order to understand the relationship of this triad, I shall elaborate on each of the relationships in the following argument. First, in the context of Islamic law implementation in Aceh, the relationship between religion and morality can be traced to the function of Islamic law itself. According to al-'Awwa (1979:133), the preservation of moral principles by the Islamic penal system is not simply a doctrinal deduction, but rather it forms an integral part of Islamic lawmaking. In other words, there is no dichotomy in the Islamic legal system between criminal law and moral principles, since Islamic criminal law is always used to confirm, protect, and enforce respect for Islamic moral principles. This intermingling relationship between Islamic law and morality, then, is different from that of Lambek's analysis regarding the relationship between religion and morality. Lambek (2012:345) argues that from an anthropological perspective, religion and morality are not fully isomorphic and cannot be fully identified with one another. However, by situating Islamic law as the analytical unit, I think that Islam, as a religion, and morality are commensurable since both of them occupy the same realm and intertwine with each other.

Second, in order to understand the interwoven relationship between religion and crime, particularly in the context of Aceh's *qanun*, it is important to draw upon the ontology of Islamic criminal jurisprudence. While Qanun Jinayat No. 6/2014 frequently mentions *hudud* and *ta'zir* both in its articles and its complementary explanation, the fundamental explanation of *hudud* and *ta'zir* itself remains vague. According to al-'Awwa (1979:127), there are two categories of crime and punishment in Islamic legislation: determined and discretionary. Determined crimes and penalties are those that already explained in the Quran or Hadith and consisted of two kinds: crimes

of *hudud* and *qishas* (Ibid.). As for the crimes of *hudud*, there are several types that fall under its category, in which the categories are different from that of Qanun Jinayat's categories of violation.

Table 2. Category of *Hudud* (al-'Awwa, 1979)

Category of *hudud*	Definition
Ridda	Rejection to Islam by word, deed, or omission
Baaghi	Unlawful rebellion toward the state that based on the Islamic system
Sariqa	Theft
Haraba	Highway robbery
Zina	Fornication between unmarried individuals
Qadzaf	False accusation that someone engages in *zina*
Shorh al-khamr	Alcohol consumption

The penology of Islamic criminal jurisprudence shows that the legislation, codification, and implementation of Islamic law in Aceh's *qanun* is different from that of the "official" Islamic criminal jurisprudence. In Qanun Jinayat No. 6/2014, for instance, there are no categories for *ridda, baaghi, sariqa,* and *haraba*. Therefore, it is worth noting that Islamic law implementation in Aceh is not completely a replica from that of Islamic criminal jurisprudence system, but rather already localized in the context of Aceh.

Ultimately, in accordance to the Islamic law implementation in Aceh, I argue that what is considered as crimes in Aceh, particularly in respect to Qanun Jinayat No. 6/2014, is not only referred to the act that violated the law but also perceived as a deviation to a particular moral framework. This argument exemplifies by the discussion in the Explanation of Qanun Jinayat No. 6/2014 examined earlier, in which the Government of Aceh acknowledges that there has been frontier justice toward activities that involve alcohol consumption, gambling, and intimate activities between premarital couple following the implementation of Law No. 44/1999. This acknowledgment by the Government of Aceh shows that Qanun Jinayat, as a legal product, corresponds to the frontier justice that often targeted activities related to gambling, alcohol

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consumption, and intimate activities between premarital couple. Therefore, there are two arguments that can be drawn based on this acknowledgment.

First, the Government of Aceh's codification of moral misconduct shows that their work can be affected by the moral framework. Therefore, Aceh—as a state—should be understood as a moral-based entity. As Fassin (2015:6) points out, state as an institution has actions framed by legislation, the allocation of resources, and the organizations of the means. These factors determine the state's modalities. The state's agents work in reference to a certain professional ethos, the principles of justice or order, and attention to social and psychological realities that are the products of the agents' professional habitus. Thus, in terms of the legislation and codification of Islamic law, the Government of Aceh's action can be constituted by their own moral framework.

Second, the discussion of morality occupies an important place in this discussion because morality serves as the nexus between the state and society, in which it epitomizes by the Government of Aceh's correspondence to the vigilant frontier justice. However, it should be noted that at the empirical level, morality is not a monolith. Instead of situating morality as one dominant, unitary framework, it is a system of perception in which right and wrong are culturally defined. Therefore, the different cultural groups might project their own framework of morality. On that note, what I mean by the nexus between the state and society is not the singular and monolith framework of morality, but rather a particular moral framework that posits the individuals who engage in activities that related to *khamar, maisir,* and *khalwat* as criminals. Understanding that morality is not a singular, unitary, and monolithic entity is important because it does not omit the possibility of other moral frameworks that exist in society.

The Conspicuous Face of Punishment: Spectatorship and Its Emotive Aspects

On May 17, 2017, the Shari'a Court of Banda Aceh sentenced two men who engaged in *liwath* activity as guilty. Initially, these two men were found by vigilantes who entered their rented room on March 28, 2017. Both of them spent two months in prison before getting caned on May 23, 2017. Since they already spent two months in prison, the number of caning decreased from 85 to 83 strikes. As Qanun Aceh No. 7/2013 on Jinayat Procedural Law Article 262 Section 1 instructs, the caning must be held in a public space where the people can watch it. Therefore, the first caning toward the violator of *liwath* took place in front of Syuhada Mosque, which located in Lamgugob, Banda Aceh.

In front of the mosque, a stage already erected and a crowd gathered around it. Some of the spectators even climbed a tree and sat on top of it. Many cameras and smartphones were being held by the spectators, ready to capture the moment of the caning; from journalists, government officials, to the general public of Aceh. Not too far from the stage, there are several chairs used by religious leaders and government officials from various levels. During that day, the violators of *liwath* were not the only ones that were being punished. Rather, there were several others who were being caned publicly. On that day, a total of ten individuals was publicly caned, eight of them were engaged in *ikhtilath* and two of them, which I discuss in this part, were violated the law of *liwath*. Prior to the caning, a woman recited a verse from Al-Quran, specifically the second verse of Surah An-Nur: "*The [unmarried] woman or [unmarried] man found guilty of sexual intercourse, lash each one of them with a hundred lashes, and do not be taken by pity for them in the religion of Allah, if you should believe in Allah and the Last Day. And, let a group of the believers witness their punishment.*" Following the recital, an opening speech and a prayer were being delivered.

It is not an exaggeration, then, for Conquergood (2013:267) to argue that public performance of execution is a ritual in which the state dramatizes its absolute power and monopoly of violence. Indeed, Conquergood (2013) focuses on the practice of capital punishment by the state as a lethal theatre. However, the very nature of the performative act in public caning in Aceh could not be overseen, since its theatricality is well-prepared, from the detailed instruction in the procedural law to the everyday mundane repertoire on and around the stage. However, the practice of caning is not only performative since it ritualized, but also because it is conducted in a public manner. Therefore, the presence of the spectator plays a pivotal role in the public caning in Aceh as a performative act.

In the context of public caning toward the men who engaged in the violation of *liwath* on May 23, 2017, the numerous amount of people, as I mentioned earlier, already gathered around the stage even before the caning started. As the violators walked toward the stage, the crowd that already gathered around the stage indistinctly jeer over him. The violators, who wore white robe provided by the government, accompanied by two Shari'a polices on his sides. While the violators brought to the stage, some of the spectators shouted "homo!" The jeering, moreover, did not only occurred when they walked toward the stage, but also expressed when a government official announced his religion, education, and the number of the cane, which are Islam, MAN (Madrasah Aliyah Negeri or Islamic senior high school), and 85 canes.[7]

The excited jeering plays an important role in the spectatorship of public caning. The expressed excitement shows that the spectators differentiate themselves from the violator of Qanun Jinayat. As Ahmed (2004:14) argues, emotions involve different orientations towards the objects

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[7] Before the caning took place, a government official announced the profile of the violator, which consists of his name, date of birth, sex, nationality, address, religion, job, and education.After that, the government official read the sentence from the Shari'a Court and the number of cane for him.

they construct, which means naming emotions have effects that we can describe as referential.[8]

Following Ahmed's argument on emotions and its referential object, the excitement that is expressed by the spectators of public caning derived from their act of differentiating themselves from the violators that are being punished on the stage.

As I argued in the previous section, the codification of Qanun Jinayat No. 6/2014 cannot be separated from how the government of Aceh corresponds to the frontier justice that occurred throughout September – December 1999. The frontier justice act could be seen as a manifestation of a particular moral framework that also embodied by the government of Aceh in codifying Qanun Jinayat No. 6/2014. In other words, both the people who involved in the frontier justice in 1999 and the government of Aceh who codify the crimes ground their actions in a particular moral framework that defines what is right and what is wrong for the Acehnese society. Moreover, I argue that the spectators who excitedly watch the public caning in Aceh also share this particular moral framework.

Aside from the excited jeer and taunt, there is another aspect in the case of spectatorship of public caning in Aceh that is worth noting: the pervasive acts of recording and disseminating the video footage of the individuals being caned on the stage. These pervasive acts of capturing the violator can be seen as an act of public surveillance. I draw on Dandeker's definition of surveillance, in which he defines surveillance as the gathering of information and the supervision of subject populations in organizations (Dandeker, 1990: vii). Dandeker's approach of surveillance

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[8] One of her examples can be found in her analysis regarding the affective politics of fear, in which she follows Heidegger's distinction between fear and anxiety. In her discussion, the difference between fear and anxiety is most often represented in terms the object (Ahmed, 2004:64). Another example of the referential object of naming emotion can be found in Ahmed's discussion of the performativity of disgust. Ahmed (2004:85) delineates that disgust is dependent upon contact, in the sense that it involves a relationship of touch and proximity between the surfaces of bodies and objects. In other words, Ahmed argues that emotion requires referential object that is located outside the subject. In the case of excitement in spectatorship of public caning in Aceh, the referential object is the violators who are being caned, whereas the subject is the spectators who watch the process of the caning.

is beneficial since it provides a broad and general understanding of surveillance that captures the theoretical development in surveillance studies.[9] My argument regarding public surveillance is quite similar to that of Marwick's discussion on social surveillance, in which she notes that discussion about surveillance to date has yet to answer the reason on why people of relatively equal power are watching each other and acting on the information they find (Marwick, 2018:326). Marwick (2018:327) argues for a form of horizontal surveillance (as opposed to the practice of government surveilling its citizens or vice versa) that made salient by the social digitization normalized by social media.

I argue that the process of capturing and disseminating the video footage of the violators by the spectators as a form of surveillance because it involves the gathering of personal information of individuals being caned. In many video footage that can be found in YouTube and Facebook, the personal data of the violator often displayed in a clear and detailed manner, including their faces and information that are being announced by the government official (their names, addresses, parents' names, and so forth). Indeed, one might perceive the pervasive acts of capturing the video footage as a mere form of documentation or memorialization. However, I argue that these practices can be perceived as a form of surveillance by drawing on Dandeker's (1990) and Marwick's (2018) arguments. Given that the spectators do not merely keep the video footage for themselves, but rather uploaded it in various social media, the spectators have a role as surveillance agents who deliberately gather the information of the violators, as subject population, and disseminate it.

The role of the spectators in capturing the process of the caning (and the personal information of the violator that announced in it) is important because it provides an empirical

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[9] As Galič, Timan, and Koops (2017) demonstrate, the field of surveillance studies—just like any other academic field—is always growing. Initial discussion of surveillance can be traced to Bentham's panopticon, in which it later incorporated in Foucault's (1995) discussion of panopticism.

framework for understanding how surveillance of an act considered a crime is conducted the general public. Davies (2014) uses a similar argument regarding the surveillance of sexuality in Indonesia. She incorporates Eric Stein's concept of village biopower to discuss how the practice of surveilling sexuality is not limited to the state. Village biopower constructs alternative modernity in which bodies may be ordered and managed, without necessarily creating the kind of Western, individualized subjectivity described by Foucault (Stein, 2007:57). As Davies (2014:32) points out, Stein's conceptualization is not confined to the village context, but instead refers to non-state power. Davies' work, however, is not free of criticism. While she mentions the role of family and peers in surveilling sexuality (Davies, 2014:45-46), she actually focuses on the role of police and other state apparatuses in surveilling sexuality (Davies, 2014:39). Thus, the role of the non-state power in surveilling sexuality remains understudied.

By looking at the surveillance practices of the violators being caned in Aceh, I propose that the act of capturing and disseminating video footage demonstrates that the vigilantes and spectators serve a role as surveillance agents. While the intention behind their acts of surveilling remains unclear, it should be noted that the individuals who surveil homosexuality in Aceh neither part of the state nor summoned by the government of Aceh. In this way, the case of Aceh is different from, for instance, the 18th-century French penal system (Foucault, 1995:48). The presence of the vigilantes and spectators shows their position as deliberate moral subjects. This position and the practices of surveillance embedded in it challenges the early notion in surveillance studies that are derived mainly from Foucault's incorporation of Bentham's panopticon (Hier, 2003; Galič, Timan, and Koops, 2017). Instead of locating the state as the locus of surveillance, the case of Aceh brings me to a more recent understanding of surveillance, shown in Mathiesen's (1997) discussion of the viewer society.

As Mathiesen (1997:219) points out, viewer society is built on the total system of modern mass media, particularly television. Mathiesen's use of television is beneficial to shift the analysis from total surveillance by the state to more everyday practices of surveillance. In other words, he postulates a framework that may be used to represent situations in which large numbers of people are able to focus on something in common (Hier, 2003:404). Only the mass media industry can produce televised content that plays a prominent role in the synoptic system. The case of Aceh, on the contrary, situates the spectators as the surveillance agents that benefit from the rise of technology. The spectators need only smartphones, internet connection, and social media to produce their own contents. These technologies place the spectators as the primary surveillance agent and decentralize surveillance practices.

It should be noted, however, that the spectators are not the representative of the whole Aceh society. As a province that inhabited by more than 5.1 million people, the act of spectating public caning by a few numbers of people seem peculiar. Yet, its peculiarity does not invalidate the fact that there is a specific public that did it. Hence, the discussion about the public itself is essential to investigate. Michael Warner (2002) provides an excellent theoretical framework to analyze this issue. In his discussion of publics and counterpublics, He distinguishes the public, as a kind of social totality (Warner, 2002:65), to a public, as a specific audience.[10] In the context of Aceh, the society of Aceh as a total totality can be perceived as the public, whereas its particular group of people who spectate the public caning can be perceived as a public.

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[10] Warner (2002:67-118) also characterizes a public by seven traits, which comprise: (1) a public is self-organized; (2) a public is a relation among strangers; (3) the address of public speech is both personal and impersonal; (4) a public is constituted through mere attention; (5) a public is the social space created by the reflexive circulation of discourse; (6) publics act historically according to the temporality of their circulation; and (7) a public is poetic world-making.
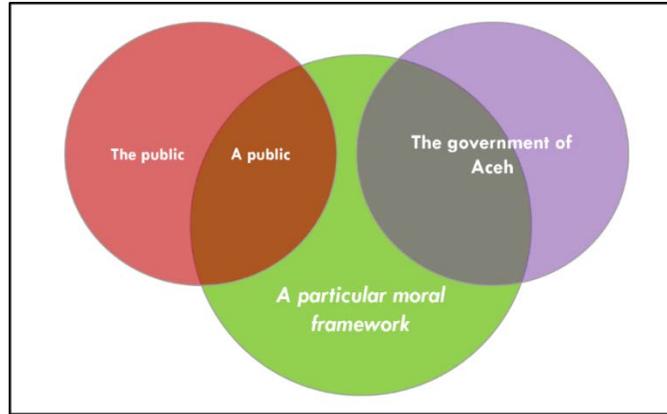
Figure 1 A particular moral framework as a nexus between the government of Aceh and a public who serves its role as the spectators

The distinction between *the* public and *a* public, in the context of spectators of public caning in Aceh, is not only limited to their different acts, but also to the cultural ground of their actions, which I argue grounded in a particular moral framework. My figure above shows that this particular moral framework embodied by a public that actively surveilling homosexuality and the government of Aceh that punishes it. However, as Morgan and Orloff (2017:18) argue, the state is not a uniform, cohesive entity. Rather, the state comprises of complexity and multiplicity of actors and institutions within the state (Morgan and Orloff, 2017:18). Drawing on Morgan and Orloff's explanation, I take a nod to Fassin (2015:6) who argues that the state—or to be precise, actors within the government of Aceh as a state—works in reference to modalities that grounded in a particular moral framework.

Spectators as Actors: From Public Punishment to Public Governance

In tracing the role of spectators in the political arena, Fitzgerald (2016:1) argues that spectators should be perceived as actors, rather than functions as a mere backdrop. He draws on theater theory to epitomize his argument, in which he argues for an analysis of the political realm as the theatrical

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arena (Fitzgerald, 2016:83). In so doing, Fitzgerald (2016:4) refers to Grotowski (2008:369), who argues that theater recognizes spectators as a constitutive element because spectators are what makes theater what it is. While Fitzgerald needs to struggle to discuss the importance of spectators by making a linkage between politics and theater, a similar argument inferred by Foucault (1995:57) who argues that the people were the main character in the ceremonies of public execution. Drawing on both Foucault's (1995) and Fitzgerald's (2016) arguments, this section focuses on the role of spectators in public caning in Aceh regarding the issue of punishment, surveillance, and governance.

In order to locate the spectators in the analysis of punishment in the context of public caning in Aceh, the aim of public caning itself is need to be discussed. Given that the caning is conducted in public, it is apparent that its purpose is to give a lesson to the violator and Aceh society at large so they would not violate Qanun Jinayat in the future. This purpose of giving a lesson is described in one of the interviews conducted about the implementation of caning in Aceh. Following the case of public caning on September 28, 2017, that had few spectators, Drs. Rianto Waris, an Assistant Regent III Aceh Tamiang, stated:

> "*There is a declining trend [in the number of spectators], indeed. However, we hope that it would not happen again in 2018. Thus, what should be done? The government can do socialization [programs], including that of qanun law. As for [Aceh] society, it can be a lesson, especially for the individual who got the caning. Also for the society, it can be a lesson so there will be no more violation for qanun in the future.*" Drs. Rianto Waris, Assistant Regent III Aceh Tamiang, September 28, 2017 (published by SerambiTV on October 2, 2017)

This statement shows that the purpose of caning is to govern people's actions—to correct their wrongdoings and situate them on a path of rightful living that does not violate Aceh's *qanun*. Therefore, the purpose of caning is not merely to inflict pain upon the violator, but rather to enact a sense of guilt and shame that keeps people—both the violator and spectators—from violating the

Islamic law legislated in *qanun*. In so doing, it is clear that public caning framed as deterrence punishment, rather than restorative or retributivist.

In penology, deterrence theory of punishment refers to the idea that the institution of criminal punishment is morally justified because it serves to deter crime (Lee, 2017:2). The theory of deterrence was first developed in the 1760s by Cesare Beccaria and later incorporated by Jeremy Bentham in 1789 (Sverdlik, 2017:1). It should be noted that both Beccaria's and Bentham's discussion of deterrence was conducted in the context of justifying punishment, in which it mainly influenced by their utilitarian paradigm. My discussion, on the contrary, follows Fassin's (2018:32) agreement to Hart who insisted on the importance of conceptually clarifying what punishment is before asking what justifies it. In other words, Fassin (2018) seeks to discuss punishment in the theoretical, conceptual, and empirical realms without attempting to provide its moral and/or legal justification. Thus, I do not intend to situate deterrence as a moral and/or legal justification, but rather as an empirical purpose of punishment as it argued by Drs. Rianto Waris above.

While it is clear that the government of Aceh intended the implementation of public caning as a mode of deterrence, it is necessary to look at the impact of such an act of deterrence. As Kavka (1978:291) points out, the intention of the punisher may not meet with the impact for the criminal. Therefore, the response of the violator of Qanun Jinayat should be taken into consideration. One of the responses can be found in the statement below, in which a violator of Qanun Jinayat argued that public caning invokes deterrent effect.

> "T*he clear thing is the impact of being caned is the embarrassment, especially for those who already have families. So, their children can see the caning. Of course, it's the most valuable lesson [for me]. If [the punishment is happening] in prison, it's less effective because the number of people who can watch [the punishment] is limited. But, if [it happens] in a public place, it is can also be a lesson for others. If you do something, this is the risk; being caned in public. If the caning is more painful, it doesn't matter [for me]*

because it's a risk, but it's the shame that I can't stand. So, caning in public invokes deterrent effect. In the future, if you want to repeat the same [violation], you'll think twice."
J, a violator of Qanun Jinayat No.6/2014, interviewed by Modusaceh on April 30, 2018

By looking at J's statement above, there are two points that can be taken. First, he remarked that the effectiveness of deterrence process in the public caning in Aceh is constituted by the number of people who can watch the punishment. This statement epitomizes the importance of the spectators in the process of public caning. Second, he argued that it was not the pain of the caning that was being his concern. Rather, it was the shame that he could not stand. I shall elaborate these two points to emphasize how spectatorship plays a pivotal role in the deterrence process, as well as punitive and governance practices.

First, J contrasted public caning that occurred on the stage with punishment that takes place in prison. This comparison is worth noting because it provides an empirical framework in regard to punitive space and its relationship to the deterrence process. What I mean by the punitive space is the space where the punishment took place. In this regard, I incorporate an analysis of the spatialization of punishment in the context of public caning in Aceh.

Following Setha Low's analysis on the spatialization of culture, I refer to spatialization as a mean to locate, both physically and conceptually, social relations and social practice in social space (Low, 1996:861). As for space itself, Lefebvre (1991) defines space as a physical and social landscape which is imbued with meaning in everyday place-bound social practices and emerges through processes that operate over varying spatial and temporal scales. In the context of public caning in Aceh, the practice of punishing the *violator* took place in various places: the lawmakers' office of People Representative Council of Aceh, the office of Wilayatul Hisbah, the Shari'a Court, to the stage of execution. Nevertheless, the actual, physical punishment toward the violators only took place on a particular location: the stage.

The stage itself, as a physical place, is erected by the government of Aceh who serves the role as the executioner of Qanun Jinayat. However, I think that the punitive space is not limited to the physical place, but rather has its social aspect. Thus, approaching public caning as a performative act is necessary for this analysis since it enables the analysis to move beyond the physical space of punishment by addressing the spectators as part of the punitive space. Indeed, the projection of space might be varied from one subject to another. The spectators might focus on the stage and ignore the crowd that stands with them. The executioner who holds the cane might only focus on the person in front of him, and his space is limited on certain parts on the stage. The violator, condemned as they are, perhaps aware of the massive amounts of the people around the stage. Yet other possibilities exist. The violator on the stage might only focus on the cane from the executioner and abject the crowd. The violator might only aware of particular individuals who watched them. Nevertheless, it is not my intention to discuss the variety of spaces that are being projected by each subject, since the analysis requires data from actual fieldwork, which this paper, as I convey in the introduction, is lack of. Therefore, I approach the punitive space from the point of view of the observer and try to posit it in the analytical level.

In my argument, the spectatorship of caning clearly has an effect on the process of punishing itself. Since the crowd around the stage often cheering over the body of the *violator* during the caning, the spectators are actively involved in the symbolic act of punishing. The punitive gaze toward the violator leaves no room for the violator for not feeling condemned. My argument on this subject derived from my analysis regarding the spectators' moral framework, in which the spectators exercise their moral subjectivities. Therefore, the spectators of public caning in Aceh can be perceived as furthering state's mode of punishment by reproducing a notion that the violator needs to be governed since they violated Qanun Jinayat.

Second, J repeatedly mentioned the role of shame in public caning as a deterrent aspect. In his statement, however, the shame is not merely fueled because the spectators can watch him. Rather, the fact that the violators already married and have their own families could strengthen the shame. The role of the family in producing shame in this case is similar to that of Davies' analysis on the role of sexual surveillance in Indonesia. As Davies (2014:29) points out, the possibility of evoking shame is so powerful that no further threats need to be made to ensure people curtail undesirable behavior. Moreover, if one person causes shame, it is not only this exact person that shamed but rather the entire family, in which Davies (2014:30) calls it as kinships of shame.

By looking at shame as deterrence and the role of spectators in evoking it, I propose that spectatorship of public caning in Aceh constitutes a form of affective governance. I draw on Jupp, Pykett, and Smith's (2014) discussion on affective governance that refers to the ways in which the work of state agencies, civil servants, and public services involves emotional negation, excess, dilemma, rhetorical fantasy, as well as emotional celebration and commitment. However, their approach on affective governance tends to situate the state as the main actor, while my discussion on spectatorship of public caning focuses on how spectators further the state's modes of punishment and governance by involving an emotional aspect. It should be noted, however, that the enactment of shame toward the violators of Qanun Jinayat does not stop the moment they were being caned. While, indeed, the festivities of the crowd jeer and taunt the violator occurred during the moment of the caning, the carnivalesque aspect of spectating the violators' pain reproduced even after the violator left the stage. In order to understand this point, I draw on the discussion of surveillance as I discussed before in the previous section.

By following the surveillance practice toward violators of Qanun Jinayat, I argue that it functions as a mode of affective governance. My argument regarding the relationship between

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surveillance practices and governance is not novel, indeed. 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, 1995:23). However, as 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.

> ""Discipline" may be identified neither with an institution nor with an apparatus; it is a type of power, a modality for its exercise, comprising a whole set of instruments, techniques, procedures, levels of application, targets; it is a "physics" or an "anatomy" of power, a technology. And it may be taken over either by "specialized" institutions (the penitentiaries or "house of correction" of the nineteenth century), or by institutions that use it as an essential instrument for a particular end (schools, hospitals), or by pre-existing authorities that find in it a means of reinforcing or reorganizing their internal mechanisms of power (one day we should show how intra-familial relations, essentially in the parents-children cell, have become "disciplined," absorbing since the classical age external schemata, first educational and military, then medical, psychiatric, psychological, which have made the family the privileged locus of emergence for the disciplinary question of the normal and the abnormal); or by apparatuses that have made discipline their principle of

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internal functioning (the disciplinarization of the administrative apparatus from the Napoleonic period), or finally by state apparatuses whose major, if not exclusive, function is to assure that discipline reigns over society as a whole (the police)." (Foucault, 1995: 215-216)

By looking at Foucault's approach on discipline, I argue that discipline, as a conceptual framework, should be decentralized. While Foucault argues that discipline may not be identified as particular institutions or apparatuses, his discussion on the variety of disciplinary levels tends to focus on institutionalized bodies such as military, medical institution, to family. In this sense, Foucault only discusses the modality of discipline in certain organized bodies. The case of spectatorship in Aceh, on the contrary, is different from that of Foucault's analysis. The spectators are self-selected, and they are not organized by nor subjugated to the state's sovereignty.

Lastly, the involvement of spectators in the governance practices toward the violators 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, as Fassin (2018) already done so. Fassin (2018:32) draws upon Hart's five elements of punishment to later elaborate his analysis. According to Hart (1959), punishment should involve pain or other consequences normally considered unpleasant; be for an offence against legal rules; be of an actual or supposed offender for his offence; be intentionally administered by human beings other than the offender; and be imposed and administered by an authority constituted by a legal system against which the offense is committed. 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. Fassin (2018:44) substantiates his claim by demonstrating disparate kinds of mobilizations of vigilantism, from the Ku Klux Klan in the United States to the Minutemen at the Mexican border. In the case of Aceh,

the spectators cannot be understood as doing vigilante acts because their spectatorship does not derive from their dissatisfaction of the state's mode of discipline. Rather, the spectators, through their spectatorship practices, further state's mode of governance toward individuals who violate Qanun Jinayat. This role of spectators in actively furthering state's mode of governance demonstrates that the spectators, in respect to Fitzgerald's (2016) notion, are not merely a backdrop for a certain punitive practice. Rather, they serve their roles as the actors within the punitive system by spectating, surveilling, and governing the individuals who violate Qanun Jinayat.

Concluding Remark and Further Research

Throughout this paper, this paper has sought to demonstrate that there exists an intermingling relationship between a particular moral framework and Islamic law that manifested in the codification of Qanun Jinayat. This relationship is pivotal in understanding the issue of spectatorship of public caning in Aceh, in which both the excited jeering and the pervasive act of surveilling the violator of Qanun Jinayat are driven by this particular moral framework. The discussion, furthermore, refutes the underlying understanding of punishment, as well as surveillance, that in earlier literatures only focus on the state as the sole, unitary actor. The case of spectatorship of public caning in Aceh demonstrates that the spectators take their active role in affectively governing the violator of Qanun Jinayat.

As I state in the introduction, this paper reverberates the ethical turn in anthropology, in which the study of morality took place in the anthropological discussion. Given that morality plays as a nexus between the state (the one that codifies Qanun Jinayat and prescribes caning as a form of punishment) and the spectators (the one who are deliberately watching the process of the caning), this paper demonstrates that the spectatorship is driven by the spectators' own will. Therefore, unlike Foucault's analysis on the spectacle of the scaffold, the spectators cannot be

perceived as merely subjugated themselves to the state's sovereignty. Rather, they actively extend the state's mode of punishment and governance toward individuals who violate Qanun Jinayat. The presence of the spectators during the process of the public caning, moreover, enables them to exercise their moral surveillance toward the violator of Qanun Jinayat. In so doing, the spectators actively involved in governing acts that deemed immoral by them.

Ultimately, as I infer in the introduction, the claim that I presented in this paper derived from my interpretation of the case of public caning in Aceh without any actual fieldwork. Therefore, arguments in this paper should be taken as preliminary arguments regarding the spectatorship of public caning in Aceh. In order to produce a comprehensive anthropological understanding about the spectatorship of caning in Aceh, however, there is a necessity to conduct further researches. Among other things that need to be done, it is necessary to dwell into the intention of the spectators, the mobilization of the spectators, the indifference of the non-spectators, and the everyday practices that revolve around the process of implementing the caning. Further research on the intention of the spectators, particularly, is important to conduct in order to postulate an elaborate analysis of the expressed emotions of the spectators. A detailed analysis of affective governance, for instance, requires an extensive understanding of intention, which clearly cannot be pursued without conduct fieldwork. Tracing the contemporary context of piety, contestation, and resistance toward the implementation of the law, and development of the legal system are worthy of future examination and analysis.

The importance of the role of spectators, as a particular public, is aligned with my broader interests that I would like to pursue, in which I intend to study how non-state actors involved in the acts of discipline toward a certain identity group. In both my broader interests and this paper, a similarity exists: whereas the state as an institution has the right to monopolize violence, a form

of violent governance is conducted by non-state actors that are not entirely different to state's modes of governance. In the case of Aceh, the group that is subjected to the affective governance is the violator of Qanun Jinayat, and the actors are the spectators. In my intended research area, the group that is subjected to the disciplining act is that the group of individuals with non-normative gender and sexual identity, in which the actors of the disciplining act are varied, yet they might be connected through a certain moral framework. This is the area of study I would like to pursue in order to understand the pervasiveness of the act of policing others, which include punishment, surveillance, violence, and governance.

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