

Cambridge University Press

978-0-521-88782-3 - Justice, Punishment, and the Medieval Muslim Imagination

Christian Lange

Excerpt

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## Introduction

This book is a study of the theory and the practice of punishment in the later Islamic Middle Period, in particular under the Saljūq rulers of Iraq and Persia (fifth/eleventh and sixth/twelfth centuries). Punishment is defined here as the premeditated use of legitimate force against members of the Muslim polity.<sup>1</sup> The goal of this endeavor is to throw light on a number of issues: how was the use of violence against Muslims explained and justified under the conditions of a militarized régime such as that of the Saljūqs? How were the interests of individuals to preserve the integrity of their bodies defined vis-à-vis the governing classes' claim to power? Phrased differently, what role did punishment play in delineating the private from the public sphere? Finally, what cognitive strategies did people, both intellectuals and commoners, devise and deploy in order to cope with the suffering caused by punishment? From a religious perspective, for example, how did they conceive of the relationship between punishment in this world and the next? Such questions not only bring to the fore some fundamental principles of social organization; they also address deeply embedded categories of thought, since a society's system of punishment and reward is a prime indicator of how it defines the limits of justice. Thus, this study hopes to contribute to our understanding of the very fabric of medieval Islamic life.

A study of punishment with specific regard to the Saljūqs is promising for several reasons. The Saljūq period was an important formative stage in the development of Islamic civilization. With the irruption of the nomadic Saljūqs into Khurāsān (431/1040) and Iraq (447/1055), for the first time in the history of the Nile-to-Oxus region a Turkish military class rose to autonomous rule. True, Turkish elements had been nurtured over a long period in the military administration of the central Islamic lands. From the time of the

<sup>1</sup> From a sociological perspective, the legitimacy of the Saljūq state was based on a mix of legal, traditional, and charismatic grounds. See Max Weber, *Economy and Society* (1922, Berkeley: University of California Press, 1978), II, 212–45. Here I take legitimate punishment to be tantamount to state punishment, i.e., legitimate violence “against the inside,” rather than violence directed against the outside, as for example in the law of warfare or *jihād*. As such, state violence did not go uncontested within the Saljūq context. See parts II and III of this study.

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caliph Mu‘taṣim (reigned 218/833–227/842), Turkish soldiers had formed the military élite of the caliphate.<sup>2</sup> The Saljūq rise to rule, however, brought about fundamental changes. The early Saljūq rulers, under the brilliant leadership of the vizier Nizām al-Mulk (r. 455/1063–485/1092), attempted to reintroduce, after a period of disorganization, a strong central administration, based on a number of key concepts: the temporal authority of the sultān vis-à-vis the caliph, the control of the military by means of a system of centrally distributed fiefs (*iqṭāʿ*), the close supervision of the educational system, and the establishment of a well-trained, mostly Persian bureaucracy.<sup>3</sup>

Tendencies of decentralization became manifest in the second half of the Saljūq period (511/1118–590/1194). This notwithstanding, the Saljūq period was a time of prosperity and flourishing of Islamic culture in Iraq and Persia. Intense commercial activity in the great urban centers helped to create an atmosphere of cosmopolitan mobility.<sup>4</sup> The creation of institutions of higher learning (*madrasas*) went hand in hand with the institutional reinforcement of a separate class of religious and legal scholars. Luminaries such as Shīrāzī (d. 476/1083), Juwaynī (d. 478/1085), Sarakhsī (d. c. 490/1096), and the celebrated Ghazālī (d. 505/1111) ushered in the late classical age of Islamic theology and law. The first Ṣūfī brotherhoods were founded. Mystical literature reached an early climax in the work of Sanāʾī (d. prob. 525/1131), and Persian poetry peaked in the panegyrics of Muʿizzī (d. c. 520/1126) and Anvarī (d. c. 560/1164). By creating lasting structures of political, social, and cultural order, the Saljūqs greatly contributed to what Marshall Hodgson called the “victory of the new Sunnī internationalism.”<sup>5</sup> In the judgment of one of the leading historians of the period, the Saljūqs “revitalised Islam.”<sup>6</sup>

Regardless of the considerable interest of this period in Islamic history, studies of the Saljūqs, especially of aspects of their social history, are rare.<sup>7</sup>

<sup>2</sup> This fact has led some observers to characterize the Saljūq takeover as a “conquest from the inside.” See Claude Cahen, “The Turkish Invasion: The Selchūkids,” in Kenneth M. Setton (ed.), *A History of the Crusades* (1955, 2nd ed., Madison: University of Wisconsin Press, 1969–89), I, 141.

<sup>3</sup> Cf. Carla Klausner, *The Seljuk Vezirate: A Study of Civil Administration 1055–1194* (Cambridge: Harvard University Press, 1973), 5.

<sup>4</sup> Stefan Heidemann, in a detailed study of the fiscal and economic development of north Syria and north Mesopotamia, has argued that the Saljūq system of *iqṭāʿ*s, introduced under Nizām al-Mulk, favored agriculture and urban trade. See his *Die Renaissance der Städte in Nordsyrien und Nordmesopotamien: städtische Entwicklung und wirtschaftliche Bedingungen in ar-Raqqa und Ḥarrān von der Zeit der beduinischen Vorherrschaft bis zu den Seldschuken* (Leiden: Brill, 2002), 445, 448.

<sup>5</sup> Marshall G. S. Hodgson, *The Venture of Islam* (Chicago: University of Chicago Press, 1974), II, 255.

<sup>6</sup> *EI2*, s.v. Saldjūkids, VIII, 936b (C. E. Bosworth).

<sup>7</sup> It appears that Claude Cahen’s statement still holds true that “[t]he Seljuqs, in spite of several useful partial studies, still await the comprehensive historian whom their role in Muslim history would seem to deserve.” See his “The Historiography of the Seljuq Period,” in Bernard Lewis and P. M. Holt (eds.), *Historians of the Middle East* (London: Oxford University Press, 1962), 59. The closest to such an endeavor seems to be Clifford E. Bosworth, “The Political and Dynastic History of the Iranian World (AD 1000–1217),” *CHI5*, 1–202. See also the same

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This state of things prevails even though researchers can rely on a rich variety of literary sources from the period. The present work surveys a broad range of sources: in addition to the writings of historians, the works of administrative advisors, poets, and theologians as well as jurists are taken into account. In order to facilitate this endeavor, I lay emphasis on a period of more or less exactly one hundred years: from 447/1055, the Saljūqs' entry into Baghdad, to 552/1157, the death of sultān Sanjar, the ruler of Khurāsān and last of the Great Saljūqs. I further restrict the scope of this study by focusing on the lands of Iraq and greater Persia (including Khwārazm, Transoxania, and Afghanistan). Examples from earlier (e.g., Būyid) or later (e.g., Khwārazmian) dynasties, or from the Saljūq appanage kingdoms in Anatolia, the Jazīra, Syria, and Kirmān are cited only occasionally, and only in order to illustrate points made in connection with the Saljūqs of Iraq and Persia. Lastly, another important limit of this study must be mentioned. Since political rule, and therefore the administration of punishment, lay in the hands of Sunnī rulers, I rely primarily on Sunnī sources.<sup>8</sup>

The multigenre approach adopted in this study results in a synchronic, rather than a diachronic, analysis of the practice and theory of punishment under the Saljūqs. The historical genesis of certain punishments, or the gradual development of intellectual traditions about individual practices, receives somewhat less attention. Rather than historical change, this study proposes to investigate social statics.<sup>9</sup> The goal of this project is, first, to elucidate how different segments of society thought about the social fact of

author's many entries in the *Encyclopaedia of Islam* that deal with Saljūq history. One should also mention the works of Turkish scholars such as İbrahim Kafesoğlu, *Sultan Melikşah devrinde büyük Selçuklu İmparatorluğu* (Istanbul: O. Yalçın Matbaası, 1953), Mehmet Altay Köymen, *Büyük Selçuklu İmparatorluğu tarihi* (Ankara: Türk Tarih Kurumu Basımevi, 1954), Osman Turan, *Selçuklar tarihi ve Türk-İslam medeniyeti* (Ankara: Türk Kültürünü Araştırma Enstitüsü, 1965), and Abdülkerim Özeydin, *Sultan Muhammed Tapar devri Selçuklu tarihi: 498–511/1105–1118* (Ankara: Türk Tarih Kurumu Basımevi, 1990), all of whom, however, tend to focus heavily on political history, or *Ereignisgeschichte*. For a recent contribution to the political and social history of the Saljūq period, see Omid Safi, *The Politics of Knowledge in Premodern Islam: Negotiating Ideology and Religious Inquiry* (Chapel Hill: University of North Carolina Press, 2006).

<sup>8</sup> No doubt it would be well worthwhile to look for Shī'ī responses (of which I presume there are many) to the use of punitive authority by the Sunnī rulers. Regrettably, however, such an investigation has proven beyond the scope of the present work. Shī'ī centers in Iraq and Western Iran seem to have flourished in Saljūq times. Shī'ī administrators at times ascended to high government positions, and in the second half of the sixth/twelfth century Shī'ī *madrasas* could be found in Rayy, Qum, Kāshān, Āva, Varāmīn, Sabzavār, and Baghdad. See Alessandro Bausani, "Religion in the Saljuq Period," *CHI5*, 292–5. C. E. Bosworth states that "Transoxania and Khurāsān were strongholds of Sunnī orthodoxy, apart from communities of sayyids in places like Nishāpūr, Tūs and Bayhaq, but Shī'ism had some strong groups in northwestern Persia, with the Zaydis in the Caspian provinces . . . and the Dja'farīs or Twelvers influential in the urban centres of Dījībāl like Rayy, Kāzwin, Kumm, Āva and Kāshān, having their own *madrasas* and *qubbas* . . . or tombs in some of these centres": *EI2*, s.v. Saldjūkīds, VIII, 951b.

<sup>9</sup> For the social statics approach in Emile Durkheim's *Les règles de la méthode sociologique* (1895), see Raymond Aron, *Main Currents in Sociological Thought II: Durkheim, Pareto, Weber* (1967, New York: Anchor Books, 1970), 67–79, esp. 77.

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punishment. I attempt to show, second, how these different discourses inter-related and mutually influenced one another; and, third, how they may have informed practice. While I strongly believe in the benefits that can be derived from this kind of multidisciplinary and topical approach, I admit that the three parts of this book are connected rather loosely; in fact, each could be taken to constitute a separate study of “punishment.” It is up to the reader to judge to what extent I have achieved the ideal conception of an *histoire totale*, that is, to reconstruct as many contemporary perspectives as possible on a single cultural phenomenon.<sup>10</sup>

A further note on methodology: in this study, I embrace methodological pluralism, which I believe is the specific strength of *Religionswissenschaft*, the academic field of inquiry in which this study is primarily located. While part I of this study draws its main inspiration from Michel Foucault’s *Discipline and Punish* (1975), especially his analysis of the spectacle of the scaffold as a “political tactic,”<sup>11</sup> part II develops a fourfold interpretive model of the Muslim hell, using as its main inspirations Rudolph Otto’s famous concept of the *mysterium tremendum*, Claude Lévi-Strauss’s structuralism, the “hermeneutics of suspicion” developed, *inter alios*, by Paul Ricoeur, and Max Weber’s and Clifford Geertz’s contributions to the study of religion, especially their insight that religious ideas can prompt certain forms of social action, while at the same time being determined by their social context.<sup>12</sup> Part III of this study, finally, combines legal analysis with insights from cultural anthropology, especially theories of shame.

**The historical context**

For the purpose of historical summary, the Saljūq period in Iraq and Persia can be divided into three parts: first, there is the period of conquest (c. 426/1035–447/1055); second, the period of consolidation and centralized rule (447/1055–511/1118); and, third, the period of disintegration and localization of political rule (511/1118–590/1194).<sup>13</sup> After 511/1118, Aḥmad Sanjar b. Malikshāh, the Saljūq ruler of Khurāsān, assumed the title of Great Saljūq and succeeded in ruling the eastern part of the empire with firmness until his death in 552/1157; his rule therefore stands out against the general decline of the western Saljūqs.

<sup>10</sup> For the concept of *histoire totale* in the study of religion, see Christoph Auffarth, *Irdische Wege und himmlischer Lohn: Kreuzzug, Jerusalem und Fegefeuer in religionswissenschaftlicher Perspektive* (Göttingen: Vandenhoeck & Ruprecht, 2002), 24.

<sup>11</sup> Michel Foucault, *Discipline and Punish* (1975, New York: Vintage Books, 1995), 23.

<sup>12</sup> See Clifford Geertz, “Thick Description: Toward an Interpretive Theory of Culture,” in Geertz, *The Interpretation of Culture* (1973, New York: Basic Books, 2000), 5.

<sup>13</sup> To let the third and last period in Saljūq history begin with the death of the sultān Muḥammad b. Malikshāh rather than that of Malikshāh is in accordance with what Marshall Hodgson proposes in his *Venture*, II, 12, 21, 53.

The Saljūqs were a tribe of the Ghuzz or Oghuz Turks converted to Islam when settling in the lower Jaxartes valley (present-day Uzbekistan) in the late fourth/tenth century.<sup>14</sup> Hired as mercenaries by the Samānids (r. 204/819–395/1005) and the Ghaznavids (r. 367/977–583/1187), from 426/1035 they gradually moved southwards into Khurāsān, conquering Nishāpūr in 429/1038 and crushing the army of the Ghaznavid sultān Mas‘ūd b. Muḥammad in 431/1040 at Dandānqān. Once northeast Persia was in their hands, the Saljūqs spread further westwards. While Chaghri Beg, one of the Saljūq chiefs, stayed in the east, his brother Ṭughril Beg moved on to conquer Rayy (433/1041–2), Iṣfahān (443/1051), and, finally, Baghdad (447/1055). Supported by the considerable talent of their Persian vizier Nizām al-Mulk, Ṭughril’s successors Alp Arslān (r. 455/1063–465/1072) and Malikshāh (r. 465/1072–485/1092) governed Iraq and Persia from their capital at Iṣfahān, while subgroups of the Saljūq tribal confederation moved into Syria and Anatolia (battle of Malāzgird in 463/1071). During the reign of Malikshāh, the Saljūqs’ tribal notion of the rule of a *primus inter pares* was increasingly replaced with the Iranian conception of (semi)divine kingship. This Iranian tradition, represented by the empire’s Persian administrative élite, bestowed absolute power on the king and made his office hereditary. This view of kingship soon provoked discontent among the senior members of the Saljūq clan. In 466/1074, Malikshāh had to quell a revolt of his uncle Qāwurd, the ruler of Kirmān. Qāwurd regarded his position as senior member of the Saljūq family as a superior claim to the title of Great Saljūq. Likewise in 477/1084, Malikshāh’s own brother Tikish revolted in Khurāsān. Tikish, however, was defeated and jailed for life.

After the death of Malikshāh and that of his vizier Nizām al-Mulk in the same year, the first signs of disintegration of Saljūq rule became manifest. Malikshāh’s three sons Barkyārūq (r. 488/1095–498/1105), Muḥammad (r. 498/1105–511/1118), and Sanjar (r. 511/1118–552/1157) disputed succession over Iraq, and the empire gradually “assumed the guise of a federation of autonomous princes.”<sup>15</sup> Muḥammad b. Malikshāh was the last Saljūq ruler to exercise undisputed power in Iraq and West Persia; after his death, most Saljūq princes lost their effective authority to local military governors.

With Muḥammad’s demise, his brother Sanjar, who had been governor of Khurāsān since 490/1197, took on the title of Great Saljūq, defended his nominal supremacy in battle against Muḥammad’s son Maḥmūd (513/1119) and went on to rule over Khurāsān with relative stability, subjecting as his vassals the Ghaznavid kings of Afghanistan, the Qarakhānids of Transoxania, and the Khwārazmshāhs of the lower Oxus region. Sanjar increasingly turned

<sup>14</sup> Clifford E. Bosworth, *The Ghaznavids: Their Empire in Afghanistan and Eastern Iran 994–1040* (Edinburgh: Edinburgh University Press, 1963), 220. See *ibid.*, 205–66, for an overview of the Saljūqs’ early history.

<sup>15</sup> *EI2*, s.v. Berkārūq, I, 1052a (C. Cahen).

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his attention to the east, moving his capital to Marv in order to counteract the threat of nomadic groups filtering into Transoxania and Khurāsān. However, in 536/1141 he had to give up claims to Transoxania when his army was defeated on the Qatwān steppe by the Central Asian tribal confederation of the Qara Khitay.<sup>16</sup> Things finally fell apart in 548/1153, when Ghuzz tribesmen of the upper Oxus regions, a group among Sanjar's nomad subjects, rose in rebellion against the harsh taxes imposed on them. After giving battle to Sanjar's army, they managed to capture the Great Saljūq. Sanjar lived through three years of humiliating captivity. The chroniclers speak of his starvation in a cage. Shortly after his successful escape and return to his devastated capital Marv, he died in 552/1157. With him, the authority of the Saljūqs in northeast Persia ceased.

In the west, structures of government had begun to disintegrate even earlier. After sultān Muḥammad's death in 511/1118, no fewer than five of his sons vied for rule. All held some degree of power in various parts of the land, but were more often than not dominated by their Turkish military "god-fathers," the *atabegs* (Turk. *ata*: "father," *beğ*: "lord"). Maḥmūd b. Muḥammad was able to claim the title of sultān until his death in 525/1131. He was followed, after yet another interval of interfraternal warfare, by his son Mas'ūd (r. 529/1134–547/1152), but the latter's effective power was confined to central Iraq and the Jibāl region including Iṣfahān and Hamadhān. Fiefs had become personalized and hereditary,<sup>17</sup> and the governors of the cities of the empire, such as the powerful military prefect (*shihna*) of Rayy, the *amīr* 'Abbās (d. 541/1146), increasingly challenged the overlordship of the Saljūq sultān, who ended up as just one among a score of ambitious local potentates.

Among these local rulers was the 'Abbāsīd caliph in Baghdad. By the time of Mustarshid (r. 512/1118–529/1135) the caliphate had already regained a measure of self-confidence and military strength.<sup>18</sup> Mustarshid even ventured into battle with the Saljūq sultān Mas'ūd in Persia. Defeated near Hamadhān in 529/1135, he was murdered, allegedly by a Bāṭinī assassin, or perhaps on the order of the Saljūq sultān. Nevertheless, Mustarshid had set a precedent. The caliph was once again a player in the complex pattern of rule in Iraq. After the death of sultān Mas'ūd in 547/1152, Mustarshid's successor Muqtafi (r. 530/1136–555/1160) expelled the Saljūq military governor (*shihna*) from Baghdad. A small caliphal state was founded, and some years

<sup>16</sup> Bosworth, "The Political and Dynastic History of the Iranian World," 149.

<sup>17</sup> Claude Cahen, "L'évolution de l'iqṭā' du IXe au XIIIe siècle: contribution à une histoire comparée des sociétés médiévales," *Annales: Economies, Sociétés, Civilisations* 8 (1953), 42–4. Cf. the slightly different account in David Morgan, *Medieval Persia 1040–1797* (London: Longman, 1988), 38.

<sup>18</sup> For the struggle between sultān and caliph in the Saljūq period, see George Makdisi, "Les rapports entre calife et sultān à l'époque saljūqide," *IJMES* 6 (1975), 228–36.

later there was a short-lived renaissance of the ‘Abbāsid caliphate under the eccentric al-Nāṣir li-Dīn Allāh (r. 575/1180–622/1225).

With the death of Mas‘ūd in 547/1152, according to the chronicler Ibn al-Athīr, the fortunes of the Saljūq family went into steep decline.<sup>19</sup> The last Saljūq sultān Ṭughril (III) b. Arslan, for a time master of Jibāl, was killed in battle by the Khwārazmshāh Tikish in 590/1194. In the course of the sixth/twelfth century, the great Turkish commanders set up their own dynasties, sometimes as *atabegs* and nominal vassals of the Saljūq sultān, sometimes as independent rulers. Zankī’s (d. 541/1146) emirate at Mosul is perhaps the most famous of these kingdoms; others came into being in Azerbaijan, Khuzistan, and Fars. The early Saljūqs’ attempt to create a centrally governed empire had finally collapsed. Nevertheless, they had set up structures of social organization that survived well into the period of localized military rule and, in fact, for a long time thereafter.

### General conditions of punishment under the Saljūqs

How did the political developments described in this rough historical sketch influence the administration of justice and of punishment? As indicated, the second half of the Saljūq period was marked by the emergence of “a fluid set of purely military governments,”<sup>20</sup> the caliph having metamorphosed from the leader of Islamdom at large into just one among the local rulers. Government consisted primarily in the collection of taxes and military defense against outside forces. As for the administration of justice, the local rulers, caught perpetually in petty warfare, appear to have functioned only as a last resort. Except when considerations of state interest prompted the rulers to make a show of force, the civil leaders (*a’yān*) and religious scholars (*ulamāʾ*) of the cities were left to lead their affairs with a certain degree of liberty. This liberty, however, came at the price of a militarized ruling class.<sup>21</sup> In terms of the prosecution of crime and the administration of punishment, it can be argued that a militarized government always creates an environment of legal insecurity. As the sources suggest (see part I of this study), public punitive rituals, often unpredictable and excessive in their violence, were a constant spectre in the lives of ordinary men and women. Perhaps punishment by the state did not threaten the physical survival of the urban community as a whole – for most people who did not partake in the machinations of the ruling strata, the threat of state punishment was probably more often imaginary than real. However, as this study suggests, because of its eminently

<sup>19</sup> ‘Izz al-Dīn Abū l-Hasan ‘Alī b. Abī l-Karam Ibn al-Athīr, *al-Kāmil fī l-tārīkh* (Beirut: Dār al-Kitāb al-‘Arabī, 1417/1997), IX, 186.

<sup>20</sup> Hodgson, *Venture*, II, 53.

<sup>21</sup> Marshall Hodgson has characterized this divorce of powers as the “*a’yān-amīr* system” of the Islamic Middle Period. See his *Venture*, II, 65, 68.

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public character, punishment may well have contributed to a general feeling of the impermanence and precariousness of life.

This feeling was reinforced by a number of additional factors of insecurity. First, once the Saljūq expansion had come to a halt, the groups of Ghuzz tribesmen roaming the countryside became an increasing hazard to public security. The problem was exacerbated by the continuing influx of Turkish tribesmen from Central Asia. These unruly elements threatened the safety of the roads and smaller urban settlements, as the repeated injunctions addressed to local governors to “protect the safety of the roads” in some late Saljūq diplomas of investiture suggest.<sup>22</sup> Second, the nature of political rule, marked by shifting alliances between local rulers and complex patterns of territorial distribution, made efficient prosecution of crime difficult. Organized crime in the cities, especially in the latter half of the Saljūq period, seems to have increased. The gangs of urban militias, the so-called *‘ayyārūn*, posed a strong challenge to government.<sup>23</sup> Third, the Saljūq period was a time of religious strife and persecution. This is most prominently illustrated by the Nizārī Ismā‘īlīs, the Assassins of Western lore. After seizing the fortress of Alamūt, in the Daylamī mountains north of Qazwīn in 483/1090, the Ismā‘īlīs of Persia and Iraq mounted a revolt against the Sunnī Saljūq rulers. Their method of operation was to target powerful individuals from among the ranks of the *amīrs* and government officials, including the sultān himself. However, fear of Ismā‘īlīs, or Bāṭinīs as they were commonly called, appears to have resonated not only with the Saljūq ruling class, but with large parts of the subject population as well. Thus it would appear, at least from the reports about a mass hysteria culminating in the public auto-da-fé of Ismā‘īlīs in Iṣfahān around the turn of the century, or about ignominious public executions of Ismā‘īlī leaders, which people reportedly attended by the thousands.<sup>24</sup>

By meting out punishment against criminals, Bāṭinīs, and all sorts of offenders, the Saljūq régime both reinforced and reacted to the general feeling of insecurity. It is true that exemplary punishment may have reassured the populace that no crime would escape retribution. But the real purpose of punishment was, first and foremost, to demonstrate the absolute power of the

<sup>22</sup> Mu‘ayyad al-Dawla Muntajib al-Dīn Badī al-Juwaynī, *‘Atabat al-kataba* (Tehran: Shirkat-i Sahāmī-yi Chāp, 1329 sh.[1950]), 19, 25, 28, 42, 79; Muḥammad b. ‘Abd al-Khāliq al-Mihānī, *Dastūr-i dabīrī* (Ankara: Türk Tarih Kurumu Basımevi, 1962), 113–14. All translations are mine unless otherwise noted.

<sup>23</sup> See Abū l-Faraj ‘Abd al-Rahmān b. ‘Alī Ibn al-Jawzī, *al-Muntaẓam fī tārikh al-umam wa-l-mulūk* (Beirut: Dār al-Kutub al-‘Ilmiyya, 1412/1992), XVII, 31, 310, 324, 327; Ibn al-Athīr, *Kāmil*, IX, 96, 128.

<sup>24</sup> Ibn al-Athīr, *Kāmil*, VIII, 544, 597; Muḥammad b. ‘Alī b. Sulaymān al-Rāwandī, *Rāḥat al-sudūr wa-āyāt al-surūr* (London: Luzac, 1921), 160; Ghiyāth al-Dīn b. Humām al-Dīn Khwāndamīr, *Ḥabīb al-siyar fī akhbār afrād bashar* ([Tehran]: Kitābfurūshī-yi Khayyām, 1362/[1983]), I, 377. See also Hodgson, *The Order of the Assassins: The Struggle of the Early Nizārī Ismā‘īlīs Against the Islamic World* (The Hague: Mouton, 1955), 95–6.

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ruler. Public punishment was a political ritual. According to Iranian kingship theory, the protection of the kingdom rested squarely on the shoulders of the prince. Therefore, any crime could be seen as a *lèse-majesté*, a personal attack on the prince's sovereignty. Public punishment, then, offered the opportunity to take revenge for this attack, "to make everyone aware, through the body of the criminal, of the unrestrained power the sovereign,"<sup>25</sup> and thus to reveal to the public the truth of the ruler's claim to legitimacy. After the demise of caliphal power, as has been noted by Roy Mottahedeh, the temporal rulers in Islam came under increasing pressure to demonstrate to their subjects and to themselves that they merited their authority.<sup>26</sup> Public spectacles of punishment served them well in satisfying this need. As Foucault concluded his analysis of the penal administration of the French *ancien régime*, "[t]he public execution did not re-establish justice; it reactivated power."<sup>27</sup>

There was a certain ambiguity (also noted by Foucault), however, in the role played by the spectators of such public (re)enactments of power. On the one hand, the spectators were passive witnesses who were "struck with terror [*hishmatī sakht-i buzurg biyuftād*]" at the spectacle of executions and other punishments.<sup>28</sup> On the other hand, the spectators did not simply pay "scaffold service" to the ruler by showing up in great numbers to the penal ceremonies. At times they became active participants. During ignominious parades of criminals through a city, people insulted, spat at, or even attacked the condemned.<sup>29</sup> In the wake of public executions, corpses were sometimes maimed by an enraged mob.<sup>30</sup> However, this active role of the audience carried in itself the seed of resistance, since the refusal to assist, or even to attend, public spectacles of punishment could signify a measure of discontent with government.<sup>31</sup> The chronicles record popular protests against excessive punishment

<sup>25</sup> Foucault, *Discipline and Punish*, 49. Cf. *ibid.*, 44.

<sup>26</sup> Roy Mottahedeh, "Some Attitudes Towards Monarchy and Absolutism in the Eastern Islamic World of the Eleventh and Twelfth Centuries AD," in Joel L. Kraemer and Ilai Alon (eds.), *Religion and Government in the World of Islam* (Tel Aviv: Tel Aviv University Publishing, 1983), 90.

<sup>27</sup> Foucault, *Discipline and Punish*, 49.

<sup>28</sup> Abū l-Faḍl Muḥammad b. Ḥusayn al-Bayhaqī (d. 470/1077), the author of the *Tārīkh-i Bayhaqī* (Tehran: Dānishgāh-i Tihān, 1332/[1953]), thus describes the effect on people of a mass execution under the Ghaznavids. See *LN*, s.v. *hishmat*. Cf. Abū Bakr Muḥammad b. Ja'far al-Narshakhī, *Tārīkh-i Bukhārā* (Tehran: Tūs, 1363 [1984]), 76: "He ordered the two to be put on the gibbet and the people of the city became afraid again."

<sup>29</sup> See the executions of Ibn al-'Aṭṭāsh (Ibn al-Athīr, *Kāmil*, VIII, 544), Ibn al-Muslima (Ibn al-Jawzī, *Muntaẓam*, XVI, 37–8), and Sayf al-Dīn Sūrī (Minhāj-i Sirāj al-Juzjānī, *Ṭabaqāt-i Nāshirī*, tr. H. G. Raverty [1881, repr. Osnabrück; Biblio Verlag, 1991], 441–5), and other cases discussed in this study; cf. esp. pp. 80–1, 86, 173–4.

<sup>30</sup> Ibn al-Jawzī, *Muntaẓam*, XVII, 307 (the tax-collector Ibn al-Harūnī in 530/1135); *ibid.*, XVII, 328 (the *shihna* of Baghdad, for killing a young boy).

<sup>31</sup> This is also noted by Foucault, *Discipline and Punish*, 61–3. The mob's acts of revenge against executed bodies of state officials could also express anger against the government, through the surrogate of a high official. See the case of the vizier Dargūzīnī discussed in this book, pp. 65–6.

Cambridge University Press

978-0-521-88782-3 - Justice, Punishment, and the Medieval Muslim Imagination

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only occasionally;<sup>32</sup> this, however, could indicate the historians' bias in favor of the political authorities, rather than showing that people always acquiesced to excessive rituals of public punishment. If they acquiesced, they are likely to have done so out of fear of retribution. In sixth-/twelfth-century Baghdad, the authorities responded to sporadic revolts of the populace with merciless scorching of their residential quarters.<sup>33</sup>

There were other venues in which the subjects of Saljūq rule could express discontent with the repressive nature of the political régime. For instance, descriptions of punishment in the next world offered a way of reflecting about, and in fact of criticizing, punishment in this world. Representations of eschatological punishment in many ways mirrored penal justice as dispensed by temporal rulers, thus carrying a message about the use of coercive force in this world. Another venue was that offered by the discourse of jurists. As this study argues, jurists tried to carve out a space of individual freedom from arbitrary punishment. This they did not so much by calling into question the *de facto* power of the temporal rulers, a battle they had, by the time of the Saljūqs, more or less forfeited. Rather, they stressed the concept of inviolability (*ḥurma*) of the private sphere, and of the human body in general.

These, then, are the three perspectives on punishment that this study proposes to investigate in more detail: first, the political use of punishment as a means of manifesting the power of the ruler and his delegates (part I); second, the eschatology of punishment in the hereafter as a reflection of punishment in this world (part II); third, the legal discourse on punishment (part III). My basic argument is that both eschatologists and jurists skillfully managed to mobilize Islamic cultural resources to create a space of individual liberty under a highly militarized and unstable political régime. In this space of freedom of thought, alternative visions of justice and just rule could flourish. To conclude this introduction, I shall briefly discuss the sources used in each part of this study. In broad strokes, I will also outline the central issues raised, and some of the conclusions reached, in each of the chapters.

<sup>32</sup> A famous case is that of the vizier Ḥasanak under the Ghaznavids. See Bayhaqī, *Tārīkh-i Bayhaqī*, 166. For a case of refusal of the spectators to participate in stoning an adulterer, see Nāṣir al-Dīn b. Muḥammad Ibn Bībī, *Saljūqnāma* (tr. Herbert W. Duda, Copenhagen: Munksgaard, [1959]), 204–5. In general, however, very little is known of the reaction of the audience to public executions in the Saljūq period. As Robert Brunschvig writes, in nineteenth-century Tunis, “the masses attended the public executions eagerly, responding with *es-smāḥ* (you are forgiven) to the request of the condemned for pardon; great silence precedes and follows the fatal instant; people often throw stones at the executioners and try to seize pieces of the garment of the tortured as tokens of goodluck.” See Brunschvig, “Justice religieuse et justice laïque dans la Tunisie des Deys et des Beys jusqu’au milieu du XIXe siècle,” *SI* 23 (1965), 64. Studies of the populace’s response to public punishment in late medieval and early modern Europe can rely on a plethora of court documents and chronicles. See, for example, Pieter Spierenburg, *The Spectacle of Suffering. Executions and the Evolution of Repression: From a Preindustrial Metropolis to the European Experience* (Cambridge: Cambridge University Press, 1984), 81–109.

<sup>33</sup> Ibn al-Athīr, *Kāmil*, VIII, 633; Ibn al-Jawzī, *Muntaẓam*, XVII, 296.