

## Introduction

---

He wanted to know the history of the country. He had a college textbook, a big thick one. Years later, showing it to me, he prodded it with his finger, and said, “I durn near memorized every durn word in it. I could name you every name. I could name you every date.” Then he prodded it again, this time contemptuously, and said, “And the fellow that wrote it didn’t know a God-damned thing. About how things were. He didn’t know a thing. I bet things were just like they are now. A lot of folks wrassling round.”

– Robert Penn Warren, *All the King’s Men*<sup>1</sup>

This book argues that during a millennium of European history, from roughly 750 to 1800 CE, a lot of folks were *wrassling round*. If this phrase seems to lack scholarly precision, that is exactly why I find it useful. I employ it here as a synonym for a set of practices that historians have more commonly labeled with such terms as *feudalism*, *lordship*, *government*, *officeholding*, *bureaucracy* and *state-building*. In more traditional academic phrasing, my argument is this: For centuries, members of ruling elites – from emperors and kings to petty aristocrats and urban oligarchs – competed to profit from other people’s property and its inhabitants by providing protection and exercising justice; whether we call them violent feudal lords or accountable state officials, they employed a set of coercive strategies that proved to be remarkably consistent across 1,000 years of European history. This is, however, rather dense verbiage. The words that Robert Penn Warren puts into the mouth of his corrupt Governor Willie Stark summarize this book succinctly. In his frank assessment of the history of the United States of America as *a lot of folks wrassling round*, Willie lays bare a reality we do not typically like to acknowledge: No matter how many myths we weave around our leaders and institutions, great and small, governance has always been a contact sport.

I start in this unconventional fashion in order to avoid a terminological and conceptual trap. Most historians of the so-called European “middle ages” now prefer to avoid the word *feudalism* because it assumes too rigid and oversimplified a model of socioeconomic relationships in the past.

<sup>1</sup> Warren, *All the King’s Men*, 67.

## 2 Introduction

But the terms lordship, government, officeholding, bureaucracy and state-building are all used routinely in the early twenty-first century to convey (intentionally or not) a teleology about European power structures and processes between 750 and 1800. To be sure, these terms have been defined and employed in so many different ways, in so many different contexts – not only by historians but also by scholars in other fields in the humanistic social sciences – that consensus on their precise meanings has become increasingly difficult to find.<sup>2</sup> However, regardless of which definitions one chooses to use, they all assume a historical narrative that I will argue here has become increasingly untenable: namely, that feudalism and lordship belonged to the bad old days of a “medieval” Europe, which developing governments, bureaucracies and states defeated in order to give birth to a more “modern” Europe.<sup>3</sup>

Why do we need to rethink this narrative? For much of the second half of the twentieth century, studies of politics and government in the social sciences had a tendency to be state-centric, with a narrow focus on strong institutions as the primary drivers of society, politics and economics in the modern world.<sup>4</sup> Since then, however, American and European efforts to create Western-style governments and institutions in developing countries have floundered, in part because of false assumptions about the inevitability of the centralized nation-state. As a result, scholars are increasingly paying attention to various groups of people whom the modern state had supposedly eliminated from the world stage: warlords, strongmen, mercenaries, gangs, cartels and mafias. Some of these groups have acquired new names in recent studies – nonstate actors, violent entrepreneurs, specialists in violence – which are sufficiently imprecise to allow for comparisons across time and around the globe.<sup>5</sup> One of the overarching arguments of much of this work, regardless of the terms employed, is that protection and justice remain privatized in the twenty-first-century, not only in Latin America, Africa and the former Soviet Union but also in the United States and Europe, to an extent that generations of twentieth-century scholars locked in a triumphalist statist teleology of public power and authority never could have imagined.<sup>6</sup>

<sup>2</sup> See the next section.

<sup>3</sup> For critiques of the “medieval/modern” periodization scheme, see Fasolt, “Hegel’s Ghost”; Davis, *Periodization*; Symes, “Modernity”; Le Goff, *History*; Kaminsky, “Lateness.”

<sup>4</sup> As noted by Strange, *Retreat*, 32; Chittolini, “Private,” S35–36.

<sup>5</sup> Volkov, “Political Economy”; Marten, *Warlords*; Ahram and King, “Warlord”; Collins, “Patrimonial Alliances.”

<sup>6</sup> Eloquent on this issue is Cordelli, *Privatized State*, 1–13. See also Tilly, *Coercion*, 204; Mehlum, Moene, and Torvik, “Plunder”; Arias, “Dynamics”; Owens, “Distinctions”; Joireman, *Government*; Konrad and Skaperdas, “Market.”

Many of these arguments about the privatization of various types of authority have turned to the “medieval” Europe of feudalism and lordship as a historical example of a weak state system.<sup>7</sup> To look to “medieval” Europe to understand how privatized, arbitrary forms of power came to be replaced by accountable government, bureaucracy and the state is to assume, however, that “modern” Europe was successful in supplanting these forms of power with public authority. To a significant extent, this is unquestionably true. Nevertheless, many people now recognize that European nation-states have not been as successful as once thought at controlling gangs, cartels, mafias, and other nonstate actors.<sup>8</sup> Gone are the days when people could argue, as they did in the 1960s and 1970s, that many European states had eliminated corruption from within their borders and that only “backward” or “immature” countries still had to confront this problem.<sup>9</sup> At the level of the European Union, too, the extent of corruption is coming into sharper focus. A 2019 investigative report by the *New York Times* found that “corrupt ties between government officials and agricultural businessmen” had led to gross abuses of the EU’s farm subsidies in many countries, with oligarchs and the mafia profiting handsomely from programs intended to help small farmers (I highlight this example because siphoning money and goods away from agriculturalists is a central theme of this book).<sup>10</sup> Thus, even in the heart of Europe, skepticism is growing about the grand narrative of the success and stability of Western political structures.

As a result, a reassessment of historical practices of authority in Europe is necessary, one that avoids relying on assumptions about European progress. Put simply, we need to think differently about the people who exercised power in the millennium between 750 and 1800 if we are to understand the lessons this period can teach us. Here, I will argue that by focusing on two of the basic building blocks of how authority is manifested in human society – namely, providing protection and exercising justice – we can peel back some of the layers of accumulated misunderstanding around feudalism, lordship, government, officeholding, bureaucracy and state-building and start anew. My approach is one that has long been central to the historian’s craft: set aside older assumptions, return to the sources and retell a story we thought we knew, but in a different way.

In arguing that the standard medieval-to-modern teleology of European history is problematic for the study of protection and justice,

<sup>7</sup> North, Wallis, and Weingast, *Violence*, 62–69; Marten, “Warlordism,” 48–50; Teschke, “Geopolitical.”

<sup>8</sup> Strange, *Retreat*, 91–99. <sup>9</sup> As noted by Hough, *Corruption*, 13–14, 100–01.

<sup>10</sup> Gebrekidan, Apuzzo and Novak, “The Money Farmers.”

4 Introduction

I adopt here an unconventional methodology to distance myself from traditional narratives. Throughout the pages that follow, the focus will remain squarely on a term that appears in tens of thousands of surviving sources from across many regions of Europe between 750 and 1800 – and yet has attracted almost no attention in English-language scholarly debates about feudalism, lordship, government, officeholding, bureaucracy and state-building. This is the Latin noun *advocatus* and its German vernacular equivalent *Vogt*, both of which I will translate throughout as “advocate.”

In a broad sense, an *advocatus/Vogt* was someone who acted on another’s behalf, who performed various functions that the other was unable or unwilling to perform himself or herself. Many readers will be familiar with “advocate” as an occupation comparable to lawyer or barrister today in countries whose legal systems are based on traditions of Roman law.<sup>11</sup> Between 750 and 1800, however, some advocates held other types of responsibilities. Crucial to my argument here is that, in many parts of Europe, advocates were tasked with providing protection and exercising justice on other people’s property, most often church property.<sup>12</sup> In this capacity, they frequently disputed with property holders over the proper limits of their authority and employed a variety of (sometimes violent) tactics to profit in whatever way they could from their positions. These advocates illuminate a set of practices of protection and justice across a millennium of European history that were fundamentally corrupt: that is, designed to benefit the advocate, his family and his followers rather than the property holder he represented or the people he was assigned to protect and judge.<sup>13</sup>

As my emphasis on the vernacular word *Vogt* indicates, the advocates that are my focus here were especially common in the German-speaking lands of the Holy Roman Empire (modern Austria, Germany and Switzerland). This book therefore further distances itself from traditional arguments about European progress in anglophone scholarship by rethinking the imagined geography of the continent. The collapse of the nation-state paradigm at the start of the twenty-first century means that medieval England and France – the essential sites for the “origins of the modern state” teleology – can be marginalized, and other regions can

<sup>11</sup> “Advocate, n.,” *Oxford English Dictionary* online.

<sup>12</sup> The terms *advocatio/advocatia* and *Vogtei* (“advocacy”) became commonplace after the turn of the first millennium to describe, either in abstract terms or in more concrete territorial ones, the scope of advocates’ authority to judge and protect.

<sup>13</sup> For the various ways of understanding corruption today and historically, see Kroeze, Vitória, and Geltner, “Introduction,” 1–6; Hough, *Corruption*, 2–4; Waquet, *Corruption*, 1–18.

become the focus of new narratives of European history.<sup>14</sup> As I will argue here, the German-speaking lands sit at the center of a history of justice, protection, power and authority between 750 and 1800 that shares little in common with the standard English and French version of the making of Europe.<sup>15</sup>

Scholars of German history are familiar with the notion of a German political “special path” (*Sonderweg*), a historiographical argument that sought to explain why Germany developed differently than England and France and was slow to become a nation-state. In German-language scholarship, it has long been recognized that state-building in the Holy Roman Empire took place at the level of the territorial principalities (Bavaria, Saxony, Brandenburg, etc.). According to this work, government, officeholding and bureaucracy were all more visible at this level of political life than the national one.<sup>16</sup> The “special path” argument tended to frame this narrative in negative terms as a story of structural fragmentation and of the failure of the centralized state.<sup>17</sup> However, because it has become clear in the twenty-first century that the Western-style nation-state is not the *sine qua non* of political life, that there is nothing inevitable or permanent about its institutions, the German “special path” looks significantly less special than it once did. Politically heterogeneous empires with shared and overlapping sovereignty regimes (such as the Holy Roman Empire) have proven far more durable than many unitary kingdoms and nation-states, and they therefore have important lessons to teach us.<sup>18</sup>

Thus, the fragmented nature of power and authority in the German-speaking lands prior to the nineteenth century means that these regions lend themselves to comparison with the many modern polities where state-building has failed to live up to the expectations of the nation-state paradigm. As I will argue here, the position of the *advocatus/Vogt* can help us to grasp what a comparison of this sort might look like, because advocates are one of the key reasons why protection and justice in many localities remained outside of the effective control of any centralizing,

<sup>14</sup> For the standard narrative, see Strayer, *Medieval Origins* and the next section. For the need to decenter France and England in our narratives of European history, see Reuter, “Debate,” 187–95; Taylor, “Formalising,” 35–38.

<sup>15</sup> I use *Europe* in this sentence as a “hyperreal term” and a “figure of the imagination” that exerts enormous influence on how we write history; see Chakrabarty, *Provincializing Europe*, 27–28. See also Davis, *Periodization*, 4–6; cf. Bartlett, *Europe*, 1–3.

<sup>16</sup> Moraw, *Verfassung*, 183–94; Schubert, *Fürstliche Herrschaft*; Whaley, *Germany*, 1:1–14; Loud, “Political”; and various articles in *Deutsche Territorialstaat*.

<sup>17</sup> As noted by Wilson, *Heart of Europe*, 3; Scales, *German Identity*, 1–40; Reuter, “Sonderweg”; Schneidmüller, “Konsensuale Herrschaft,” 61–64. For the older, negative view: Barraclough, *Origins*, 454–55; Thompson, *Feudal Germany*, xv–xvi.

<sup>18</sup> Burbank and Cooper, *Empires*, 16–17.

6 Introduction

sovereign authority between 750 and 1800. For a millennium, advocates blurred the lines between lordship and government, public and private authority and state and nonstate actors. The study of advocates, therefore, does not lead us down a “special path” but rather a much more “normal” one from a global historical perspective, challenging many standard teleologies of European history.<sup>19</sup>

As the following chapters will demonstrate, the role of advocate was prone to abuse from the beginning, and for centuries, the people who held the position – from rulers to minor nobles to townspeople – found creative ways to benefit from it. The *advocatus/Vogt* was part-police officer, part-judge, part-tax collector – a combination of roles that, for very good reasons, modern states have tried to keep separate. From demanding extra payments when presiding over village courts, to unjustly imprisoning farmers who could not pay judicial fines, to going door-to-door in communities and demanding exactions beyond what locals rightfully owed for their “protection,” advocates acted in many ways that will look familiar to social scientists who work in places around the globe today where the state is weak. One of the best examples of the quintessential bad *advocatus/Vogt* can be found in the Swiss legend of William Tell, where advocates spark a peasant uprising by violently seizing livestock and other property, running castle-prisons where they lock up anyone who challenges their authority and sexually assaulting young girls and married women alike.<sup>20</sup> The hero William Tell and his antagonists may have been fictional, but there is little reason to question the reality of advocatial misbehavior at the core of the myth. Tracing the long history of such abuses will show why we need to move beyond the triumphalist medieval-to-modern narrative of European progress if we are to address the problem of corrupt practices of protection and justice today.

The people labeled “advocate” in the surviving sources appeared in such a variety of different settings between 750 and 1800 that it can be difficult to see the wearers of this label as a single, coherent group. Indeed, while my focus is the German-speaking lands, I will draw examples in this book from places that belong today to a dozen different European countries from France in the west to Latvia in the east. Nevertheless, across this millennium and wide landscape, there is enough consistency in the basic role of the *advocatus* and *Vogt* as defender and judge that the position can serve as a stable core for my argument. As I will demonstrate here, analyzing continuities and changes in advocates’ activities across European history challenges many traditional scholarly categories and

<sup>19</sup> I draw inspiration here from Pomeranz, *Great Divergence*. Cf. Mitterauer, *Why Europe?*

<sup>20</sup> See Chapter 15.

grand narratives about transitions from arbitrary lordship to accountable government, private to public administration and patrimonial officeholding to bureaucratic officialdom. From the level of the individual household, village and town to that of the principality and kingdom, a study of advocates highlights some of the enduring features of the relationship between property and its inhabitants, on the one side, and the many people who sought to profit from them by providing protection and exercising justice, on the other.

### Scholarly Divides

Collectively, feudalism, lordship, government, officeholding, bureaucracy and state-building comprise an enormous subject with a vast scholarship. I understand these concepts first and foremost through the lens of my own training as a historian of the European Middle Ages.<sup>21</sup> However, historians of this time and place – and historians more generally – do not have a monopoly on these terms and concepts. Numerous other social-scientific fields are also actively debating key issues surrounding them. Fruitful exchanges across the disciplines do occur, of course, and historians have a long tradition of learning from the other social sciences.<sup>22</sup> Nevertheless, even in this digital age, it is impossible for scholars in one discipline to follow all the important debates in other fields. As a result, as historians of medieval Europe employ these key terms and concepts to suit their own needs, and other historians and social scientists do likewise, the gulf between different fields' understandings of feudalism, lordship, government, officeholding, bureaucracy and state-building steadily grows wider – without practitioners in these different fields necessarily realizing it.

Three aspects of this scholarly divide must be emphasized at the outset to explain why I will focus here on the *advocatus* and *Vogt* while setting aside more popular scholarly approaches to past and present practices of protection and justice. The first concerns issues internal to the discipline of medieval history; the second concerns the broader medieval-to-modern teleology as understood by historians of Europe; and the third concerns how this teleology shapes arguments in some of the other social sciences.

<sup>21</sup> Because the term “medieval historian” is the common designation for historians who study the European Middle Ages, I will use it for clarity’s sake in this Introduction, despite my unease with the label “medieval.”

<sup>22</sup> The work of anthropologists is central to medievalists’ discussions of both conflict resolution and kinship: Brown and Górecki, “What Conflict Means,” 6–10; Hummer, *Visions*, 11–94. Closer to my topic here, the historical sociologist Michael Mann’s arguments about social power have also been influential; see Taylor, *State*, 449–51.

8 Introduction

Within the field of medieval history, different scholars have long defined and understood feudalism, lordship, government, office-holding, bureaucracy and state-building differently. This has led to very different narratives of the period. As noted above, feudalism does not appear as often as it once did in works in the field. One reason for this is the recognition that there has never been a broad consensus on what the term means; some use it narrowly for the relationship between lords and vassals, while others prefer to understand it as a more general term for the overarching political and social structures of the medieval period.<sup>23</sup> Significantly, in this latter sense feudalism has frequently had a negative connotation, with French Revolutionaries using it to describe everything wrong with the *Ancien Régime*, and Karl Marx arguing that “the political spirit” of the people had “been dissolved, fragmented and lost in the various culs-de-sac of feudal society.”<sup>24</sup> Thus, another reason why medievalists have shied away from the term is that, for too many people, it conjures an image of bad lords and abused peasants that is (while not necessarily incorrect) a caricature when it becomes the one descriptor for the whole of medieval history.<sup>25</sup>

Lordship – *Herrschaft* in German, *seigneurie banale* in French – is the label that many historians now use instead of feudalism for the most common form of political authority in Europe between the tenth and thirteenth centuries.<sup>26</sup> As ubiquitous as the term is in modern scholarship, however, it too lacks a clear and consistent definition. Some historians rely to varying degrees, either consciously or unconsciously, on Max Weber’s definition of *Herrschaft* (which can also be translated as “domination”).<sup>27</sup> These scholars argue that the people in medieval society who exercised lordship were the ones who could constrain others and make dependents obey their commands. Other historians take different approaches to the term, using other modern conceptual frameworks, or

<sup>23</sup> Wickham, “Feudal Economy,” 3, n. 1, and more generally, Bloch, *Feudal Society*; Ganshof, *Feudalism*; Strayer, “Feudalism”; Cheyette, “Introduction”; Brown, “Tyranny”; Reynolds, *Fiefs*, esp. 1–3; Patzold, *Lehnswesen*. Cf. Anderson, *Passages*, 147–53.

<sup>24</sup> Marx and Engels, *Reader*, 45. See also Ganshof, *Feudalism*, xv; Davis, *Periodization*, 7–11.

<sup>25</sup> Patzold, *Lehnswesen*, 6; Reynolds, *Fiefs*, 1.

<sup>26</sup> Here again, the scholarship on the topic is vast. Useful overviews include Schreiner, “Grundherrschaft”; Reuter, “Forms”; Hechberger, *Adel*, 226–45. Georges Duby provides the clearest descriptions of what is meant by *seigneurie banale*: Duby, *Early Growth*, 172–74; Duby, *Guerrriers*, 248–60. For critiques, see below and Cheyette, “Duby’s *Mâconnais*.”

<sup>27</sup> Weber, *Economy*, 53. For the challenge of translating Weber’s *Herrschaft* into English, see *ibid.*, 61–62, n. 31 and Goetz, *Moderne Mediävistik*, 194. For Weber’s enduring influence on the study of medieval history, see Brunner, *Land*, 96; Bosl, “Ruler,” 359; Reynolds, *Fiefs*, 27; Reuter, “All Quiet,” 437; Sabapathy, *Officers*, 20–21; Taylor, *State*, 2–3.



preferring instead to tie lordship more closely to distinctly medieval aspects of power, such as castles.<sup>28</sup> Regardless of how one understands the term, like feudalism it typically carries a negative connotation: lordship is the coercive, violent and arbitrary exercise of power by elites over subject populations.<sup>29</sup>

What medieval historians mean by government, officeholding, bureaucracy and state-building can be equally difficult to pin down, because scholars have widely diverging opinions on the extent to which strong institutional and administrative structures existed in different places at different times during the Middle Ages. Thus, while some historians are comfortable writing about English and French government developing in the twelfth century – or even about Carolingian and Ottonian government existing in earlier periods – other scholars prefer the term governance to suggest less rigid forms of authority and to avoid the modernizing implications of the word government.<sup>30</sup> Like government, the terms officeholding and bureaucracy frequently go undefined, especially in scholarship on the thirteenth to fifteenth centuries. Although Weber's definitions of these terms were closely tied to his ideas about modernity and do not transfer easily into the medieval setting, many historians are nevertheless quick to describe medieval governments in Weberian terms as being staffed by professional bureaucrats who understood their positions as public offices.<sup>31</sup> Not surprisingly, some scholars have taken this one step further and argued that the state existed in the Middle Ages and already possessed institutions that were forerunners to modern state structures. Other historians, however, are equally insistent on a definition of the state that is unique to the medieval European context in order to escape teleological modes of thinking. Still others

<sup>28</sup> For definitions, see Bisson, *Crisis*, 3; Barton, *Lordship*, 7; West, *Reframing*, 84; Eldevik, *Episcopal Power*, 14. Other historians who have pointed out the challenges of the word lordship include West, "Lordship," 4–7, 33–38; Veach, *Lordship*, 6; Reynolds, "States," 554; Arnold, *Princes*, 65–68. German scholarship has also called attention to the variety of meanings of the term *Herrschaft*: Goetz, *Moderne Mediävistik*, 193–98; Kroeschell, "Herrschaft."

<sup>29</sup> Influential here is Bisson, "Medieval Lordship." For the "Feudal Revolution" debate, which also shapes conceptions of lordship, see the next section of the Introduction.

<sup>30</sup> Green, *Government*; Baldwin, *Government*; Hollister and Baldwin, "Rise"; Leyser, "Ottonian Government"; Ganshof, *Frankish Institutions*. For the relationship between lordship and government, see Strayer, "Feudalism," 14; Reynolds, "Government," 86–87; Bisson, *Crisis*, 17–19. For governance, see Davis, *Practice*, 7–23; Patzold, "Human Security."

<sup>31</sup> For Weber's bureaucratic ideal type in the medieval context, see Brunner, "Feudalism," 52–54. For uses of the terms bureaucracy and office in the medieval period, see Kittell, *Ad Hoc*; Watts, *Polities*, 238–44; Clanchy, *Memory*, 64–70; Firnhaber-Baker, *Violence*, 90–91; Howe, *Before*, 63; Wolter, "Verwaltung."

10 Introduction

choose to avoid the term altogether.<sup>32</sup> The result is a cacophony of disparate voices.

How medieval historians understand and use these terms shapes the broader issue of the medieval-to-modern teleology of European progress. Did Charlemagne (768–814) and his immediate descendants preside over a strong Carolingian state aided by a service aristocracy and public officials?<sup>33</sup> Did their successors in the East Frankish kingdom, the Ottonians (919–1024), have an effective government – or, were they rulers without a state?<sup>34</sup> Scholars’ answers to these questions inevitably influence not only narratives of the ninth and tenth centuries but also those of the eleventh and twelfth, the high point of feudalism and lordship according to most historians. The level of government and state-building ascribed to the Carolingians and Ottonians directly impacts the level of disorder that ought to be ascribed to the period of feudal lordship. The less well governed the Frankish lands were in the ninth and tenth centuries, the less dramatic the transition; the better developed the Carolingian and Ottonian states were, the more anarchic the decades after the year 1000 look.<sup>35</sup>

These issues, in turn, feed directly into the question of when feudalism and lordship were replaced by government, accountable officeholding and bureaucracy in the “origins of the modern state” narrative. To speak already in the twelfth century of government in England and France is to suggest that these kingdoms began to free themselves from “feudal” and “medieval” structures of power quite early and to progress along the proper European historical track faster than other parts of the continent. In contrast, since scholars are largely in agreement that the German kings and emperors of the same period did *not* preside over a government that was in any way comparable, it can easily look like Germany was already lagging behind its European rivals centuries before it lost two world wars.<sup>36</sup> If, instead of focusing on the twelfth century, historians push the origins of government and the state into the thirteenth or fourteenth centuries, the twelfth century moves firmly into the category of the age of feudal lordship, making it a period of crisis and instability and

<sup>32</sup> Key for the history of the medieval state is Strayer, *Medieval Origins*. For this work’s significance, see Freedman and Spiegel, “Medievalisms,” 686–90. See also Guenée, *States*, 4–6; Powicke, “Presidential Address”; Reynolds, “Historiography”; Goetz, *Moderne Mediävistik*, 180–85; Davies, “Medieval State”; Reynolds, “States”; Pohl, “Staat”; Watts, *Politics*, 23–42.

<sup>33</sup> Airlie, “Aristocracy.” More generally, Hechberger, *Adel*, 194–201. See also Chapter 1.

<sup>34</sup> Leyser, “Ottonian Government”; Althoff, *Ottonen*. See also Chapter 3.

<sup>35</sup> Buc, “What Is Order?” See also the next section of this Introduction and Chapter 4.

<sup>36</sup> For the nature of German “government,” see Freed, *Frederick Barbarossa*, 89–110; Weiler, “King as Judge.” See also Chapters 8 and 12.