Introduction

> He wanted to know the history of the country. He had a college text-book, 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*[1]

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.

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[1] Warren, *All the King's Men*, 67.

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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.[2] 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.[3]

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.[4] 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.[5] 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.[6]

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[2] See the next section.

[3] For critiques of the "medieval/modern" periodization scheme, see Fasolt, "Hegel's Ghost"; Davis, *Periodization*; Symes, "Modernity"; Le Goff, *History*; Kaminsky, "Lateness."

[4] As noted by Strange, *Retreat*, 32; Chittolini, "Private," S35–36.

[5] Volkov, "Political Economy"; Marten, *Warlords*; Ahram and King, "Warlord"; Collins, "Patrimonial Alliances."

[6] 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.[7] 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.[8] 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.[9] 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).[10] 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,

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[7] North, Wallis, and Weingast, *Violence*, 62–69; Marten, "Warlordism," 48–50; Teschke, "Geopolitical."
[8] Strange, *Retreat*, 91–99.   [9] As noted by Hough, *Corruption*, 13–14, 100–01.
[10] Gebrekidan, Apuzzo and Novak, "The Money Farmers."

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.[11] 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.[12] 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.[13]

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

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[11] "Advocate, n.," *Oxford English Dictionary* online.

[12] 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.

[13] 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.[14] 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.[15]

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.[16] 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.[17] 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.[18]

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,

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[14] 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.

[15] 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.

[16] Moraw, *Verfassung*, 183–94; Schubert, *Fürstliche Herrschaft*; Whaley, *Germany*, 1:1–14; Loud, "Political"; and various articles in *Deutsche Territorialstaat*.

[17] 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.

[18] Burbank and Cooper, *Empires*, 16–17.

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.[19]

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.[20] 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

[19] I draw inspiration here from Pomeranz, *Great Divergence*. Cf. Mitterauer, *Why Europe?*
[20] 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.[21] 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.[22] 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.

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[21] 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."

[22] 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.

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.[23] 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."[24] 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.[25]

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.[26] 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").[27] 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

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[23] 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.

[24] Marx and Engels, *Reader*, 45. See also Ganshof, *Feudalism*, xv; Davis, *Periodization*, 7–11.

[25] Patzold, *Lehnswesen*, 6; Reynolds, *Fiefs*, 1.

[26] 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, *Guerriers*, 248–60. For critiques, see below and Cheyette, "Duby's *Mâconnais*."

[27] 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.[28] 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.[29]

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.[30] 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.[31] 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

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[28] 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."

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

[30] 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."

[31] 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."

choose to avoid the term altogether.[32] 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?[33] Did their successors in the East Frankish kingdom, the Ottonians (919–1024), have an effective government – or, were they rulers without a state?[34] 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.[35]

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.[36] 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

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[32] 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, *Polities*, 23–42.

[33] Airlie, "Aristocracy." More generally, Hechberger, *Adel*, 194–201. See also Chapter 1.

[34] Leyser, "Ottonian Government"; Althoff, *Ottonen*. See also Chapter 3.

[35] Buc, "What Is Order?" See also the next section of this Introduction and Chapter 4.

[36] For the nature of German "government," see Freed, *Frederick Barbarossa*, 89–110; Weiler, "King as Judge." See also Chapters 8 and 12.

thus slowing the progress narrative of the whole continent.[37] Of course, this teleology looks even slower if one takes the position that European states did not begin to emerge until the "Renaissance" of the fifteenth and sixteenth centuries at the earliest – an argument which squarely fits the idea that Europe had to shed its "medieval" youth and be reborn before it could obtain its mature, "modern" forms (including that of the nation-state).[38]

While this last stance on government and the state is more common-place among Renaissance and early modern historians than medieval ones, it is important to note that there are equally lively debates about all of these concepts in the scholarship on the fifteenth to eighteenth centuries.[39] However, these debates have gone largely unnoticed by medievalists (just as medievalists' debates have gone largely unnoticed by early modernists), further complicating any attempt to summarize succinctly what these terms mean when applied to Europe between 750 and 1800.[40] Thus, while some medieval historians are comfortable with the idea of thirteenth- and fourteenth-century bureaucracies, many early modernists prefer not to speak of professional bureaucracies and public officials existing anywhere in Europe between 1500 and 1800, emphasiz-ing instead that patron–client relationships and patrimonial forms of officeholding were the norm.[41] This begs the question: Were the advanced bureaucratic systems that supposedly developed in Europe between 1250 and 1500 somehow lost to subsequent generations for three centuries? Or, is it more likely that medievalists define the term bureaucracy differently than their modernist colleagues?

Here, we see clearly how the sharp dividing line drawn around the year 1500 in European periodization schemes has made it difficult to have a common conversation about feudalism, lordship, government, officehold-ing, bureaucracy and state-building. More generally, the well-entrenched logic of the medieval-to-modern teleology means that, wherever one places the break between nonstate and state, between private power and public authority, a much larger set of assumptions about progress in European history inevitably comes with it. This is one of the principal reasons why my

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[37] Bisson, *Crisis*. See also Cheyette, "Reflections," 248–49.

[38] For ca. 1500 as the key period for European state formation, see Tilly, *Coercion*, 36, 76–84; Hont, "Permanent Crisis," 178.

[39] See, for example, Gamberini and Lazzarini, "Introduction"; Burbank and Cooper, *Empires*, 219–50; Holenstein, "Introduction"; Chittolini, "Private"; Hont, "Permanent Crisis." See also Chapter 14.

[40] Fasolt, "Hegel's Ghost," 346; Lyon, "State." Useful as a comparison is Rustow, *Lost Archive*, 103–6.

[41] Adams, *Familial State*; Fritz, "Diener"; Reinhard, "Introduction," 13. See also Chapter 14.

focus here will be on the *advocatus* and *Vogt* – specifically, on what these advocates are described as doing in our sources across a millennium – and why I will consciously avoid referencing lordship and government when framing the actions of individual advocates. Through this approach, I will show that beneath the surface of traditional narratives of European progress is a substratum, a long history of corrupt practices of protection and justice, that defies medieval/modern periodization and other teleologies. Not only the typical division drawn ca. 1500 but also the dividing lines historians like to draw ca. 1000 and ca. 1250 – and, I will suggest at the end, ca. 1800 as well – look much less significant from this perspective than generations of historians have been trained to expect.

The third and final reason why I set aside feudalism, lordship, government, officeholding, bureaucracy and state-building in the pages that follow concerns the enduring impact of the medieval-to-modern teleology on arguments in some of the other social sciences. Medieval historians' lively debates around all of these concepts in recent decades have led to important reconsiderations of the nature of power and authority in Europe. However, these debates have not necessarily resonated outside the field. The traditional narrative arc that sees the rise of government and the state defeating the forces of feudalism and lordship by 1500 remains commonplace in many social-scientific discussions. This narrative unquestionably serves a useful purpose; by studying the interrelationship between weak governmental institutions and violence in the Middle Ages, scholars seek to develop a better understanding of some of the challenges facing weak states today.[42] Unfortunately, work in this field tends to rely on the arguments of mid-twentieth-century medieval historians – Marc Bloch, François Louis Ganshof, Walter Ullmann, Georges Duby, Brian Tierney, Ernst Kantorowicz and Joseph Strayer – when explaining how medieval society and political institutions supposedly worked.[43] Strayer's *On the Medieval Origins of the Modern State* (published in 1970), in particular, remains one of the most important pieces of scholarship written by a medieval historian for social scientists seeking a quick overview of the supposed transition from lordship to government.[44] Twenty-first-century scholarship by

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[42] See, for example, Marten, *Warlords*, 20–24; North, Wallis, and Weingast, *Violence*, 91–106.

[43] De Long and Shleifer, "Princes," 681; Teschke, "Geopolitical"; Volkov, "Who Is Strong," 81–84; North, Wallis, and Weingast, *Violence*, 62–69; Blaydes and Chaney, "Feudal Revolution"; Mungiu-Pippidi, *Quest*, 61–62. What is striking about much of this work is how few medieval historians are cited at all. Norbert Elias's *The Civilizing Process* (originally published in 1939) and more recent works by Charles Tilly and Hendrik Spruyt are cited much more often than works by scholars trained as medieval historians.

[44] Strayer, *Medieval Origins*. Later editions include a foreword by Charles Tilly. See also the foreword by William Chester Jordan, esp. xix–xx.

medieval historians, on the other hand, is rarely cited in works in other fields – despite its many reassessments of older claims.[45]

Thus, outside of the academic field of medieval history, the European Middle Ages as a whole remain in many ways the anarchic, decentralized opposite of modernity. We can still read of "the problems of feudal particularism" and the "feudal maladies" that Europe needed to overcome in order to progress.[46] In one study of warlordism in a global historical perspective, in which warlordism is essentially synonymous with lordship, the author argues that "warlordism … in medieval Europe … lasted for several centuries: from the fall of the Carolingian (or Frankish) empire at the turn of the first millennium until the emergence of sovereign kings in France during the Renaissance in the 1400s."[47] In another study, "the fragmentation of political power" between 950 and 1150 is described as leading to a period of lordship and "*personalized anarchy*," which then gave way to a "feudal state system" between 1150 and 1450 characterized by the territorialization of "public power."[48] My point here is not to critique any of these scholars; rather, it is to highlight how disparate our understandings of the teleological narrative of European history are across the social sciences. At this point, a common conversation is only possible if we stop assuming that feudalism, lordship, government, officeholding, bureaucracy and state-building still have explanatory force and instead seek to understand, at a more basic level, how power and authority work(ed).[49] An important aim of this book is to invite readers to see how a careful analysis of historical sources on the *advocatus* and *Vogt* – one that is conversant with both older and newer scholarship on European history – can illuminate potential paths forward.

A New Conversation

To further dismantle the dominant paradigm of European progress from a "medieval" to a "modern" period, I rely here on various strands of early twenty-first-century scholarship on governance and authority in the near-contemporary and contemporary worlds. This does not mean that I will

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[45] Among medieval historians, the shift away from Strayer's model came in the closing years of the twentieth century: Freedman and Spiegel, "Medievalisms," 689–90. Nevertheless, the entire debate about the so-called Feudal Revolution has garnered relatively little attention beyond the confines of the field of medieval history (for this debate, see the next section). For one reason why this might be, see Ferguson et al., "Polity," 11.

[46] Spruyt, "Institutional Selection," 539; Graulau, *Underground*, 73.

[47] Marten, "Warlordism," 48.   [48] Teschke, "Geopolitical," 349–52 (italics in original).

[49] For experiments with this sort of conversation, see Patzold, "Human Security," 420–22; Esders and Scheppert, *Mittelalterliches Regieren*.

introduce a new scholarly jargon to the history of the period between 750 and 1800. That would only deepen the morass. Rather, this scholarship will form a (mostly) invisible substructure to my argument, a substructure designed to replace the unseen assumptions attached to feudalism, lordship, government, officeholding, bureaucracy and state-building. This work thus provides a set of concepts that my audience should keep in mind while reading the chapters that follow, even though I will rarely reference these concepts directly. Two strands of social-scientific scholarship are especially important.

The first concerns violence. For generations, medieval historians have debated ideas about "violent lordship" and the so-called Feudal Revolution around the year 1000. According to older scholarship, the growth of hereditary lordship and the privatization of violence in the wake of the Carolingian empire's collapse led to a period of political fragmentation, violent exploitation of local populations and statelessness in Western Europe.[50] Since the later twentieth century, however, scholars have been carefully reassessing just how reliable the sources for endemic violence truly are. Historians influenced by anthropology have emphasized the ways in which violence, as well as threats of violence, could be one strategy among many in dispute-resolution processes.[51] Viewed from this perspective, violence was neither anarchic nor uncontrolled but had specific uses, which members of local elites – both those committing acts of violence and those experiencing them – understood to be components of a broader set of legal and extralegal negotiations about property rights and related issues.

Late twentieth- and twenty-first-century scholarship in other fields has drawn similar conclusions, most compellingly in work on people and organizations that the modern world typically see as perpetrators of casual violence. Studies of both the Sicilian mafia and Russian street gangs have emphasized that there is a logic to criminal protection rackets and other illegal operations and that the mafia and gangs use violence strategically, in a limited fashion, because profits are more stable when criminal enterprises can develop strong networks and relationships.[52] Thus, both medievalists and scholars in other social-scientific fields are in many ways confronting similar problems and asking similar questions as they

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[50] See, for example, Below, *Deutsche Staat*, 342–50; Bloch, *Feudal Society* (esp. vol. 2).

[51] For the crux of the debate, see Poly and Bournazel, *Feudal Transformation*; Bisson, "Feudal Revolution"; Barthélemy, "Debate"; White, "Debate"; Reuter, "Debate"; Wickham, "Debate"; Bisson, "Debate"; Barthélemy, *Serf*; Bisson, *Crisis*. For violence in particular, see Brown, *Violence*, 1–30; White, "Repenser."

[52] Gambetta, *Sicilian Mafia*, 2; Stephenson, *Gangs*, 67. See also North, Wallis, and Weingast, *Violence*, 274; Mehlum, Moene, and Torvik, "Plunder"; Vinci, "Worms."

increasingly recognize the importance of understanding – rather than merely criticizing – "nonstate actors" and the coercive strategies they employ(ed) in order to be successful. This convergence creates an opportunity for medieval historians to learn from scholars who are exploring logics of violence not only in other preindustrial societies but also in places where the modern state has proven unable to control organized violence within its own borders.[53] Advocates fit well within this framework, because for a millennium accusations of violence leveled against them frequently revolved around protection and justice – two functions that social scientists have long recognized as being tied to the extraction of profits from local populations by both legitimate and illegitimate means.[54]

The second, related argument concerns the distinction between lordly and official behavior, between nonbureaucratic and bureaucratic agents and officials. Medieval historians have shown an increased interest in the rise of accountable officeholding from the thirteenth century onwards. English-language scholarship in this field has tended to focus on England and France, but there is a rich historiography in German about the German-speaking lands as well.[55] Even those scholars who caution against the idea that impersonal bureaucracies had already developed by the fourteenth and fifteenth centuries can find it difficult to escape teleologies that equate accountability with state formation. As a result, historians sometimes struggle to reconcile the abundant evidence for all sorts of official corruption with arguments about the growth of government.[56] Work in other social-scientific disciplines has confronted similar challenges – and offers a useful set of arguments for readers to keep in mind.

I follow, in particular, studies that call into question traditional (especially statist) categories by emphasizing the lack of clear-cut distinctions in many parts of the world between state and nonstate actors.[57] Recent work has shown how the same person can be recognized as legitimate by some people and illegitimate by others, as a "strongman governor" or a "warlord-bureaucrat," who combines both lordly and official behavior,

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[53] Older work on violence in medieval Europe tended to draw on anthropological studies of "stateless societies" rather than studies of modern states' struggles to exert effective control; see Brown and Górecki, "What Conflict Means," 6–10.

[54] For the connections between protection, justice, and profit, see Lane, "Economic"; Bloch, *Feudal Society*, 2:359–60, 365; Duby, "Evolution"; Harding, *Medieval Law*, 48–54; Poly and Bournazel, *Feudal Transformation*, 31. German scholars have long argued about the extent to which advocacy touches on the history of taxation: Waas, *Vogtei*; Isenmann, "Holy Roman Empire."

[55] Hesse, *Amtsträger*; Schubert, *Fürstliche Herrschaft*, 14–19; *Deutsche Verwaltungsgeschichte*. See also Chapters 12 and 13.

[56] Sabapathy, *Officers*, 248–53; Carpenter and Mattéoni, "Offices," 91.

[57] Stephenson, *Gangs*, 1; Tilly, *Coercion*, 204.

both formal and informal power networks.[58] Other scholars have suggested, along similar lines, that there can be "a symbiotic relationship between extortionists and state officials" and that state officials can abandon their allegiance to "the state's power, in favor of cooperation with sources of privatized power."[59] The numerous cases from around the globe of police officers colluding with – or competing against – local gangs to profit from criminal activities are well-known examples of the gray area in which "state" or "public" officials sometimes operate.[60] Viewed from this perspective, we must be cautious with narratives of European history that suggest forms of violent and exploitative lordship were eventually replaced with the norms of accountable officeholding by 1500 or 1800.[61] Instead, we must be attuned to the possibility that advocates (and others tasked with providing justice and protection) consistently learned to blur the lines between lordship and government, public and private authority, and state and nonstate actors; as those lines shifted over the centuries from 750 to 1800, there were always advocates able to find new, creative ways to locate and profit from the spaces in between.

While none of these arguments drawn from other disciplines are entirely new to medieval scholarship, they have not been combined and featured in a rigorous study that consciously aims to offer a detailed reassessment of the nature of practices of authority across a millennium of European history.[62] Admittedly, some readers may find my arguments overly provocative or too cynical; my drawing of inspiration from research on the Sicilian mafia, Russian gangs and Afghani warlords is a clear indication that this book's narrative is not one that aims to glorify Europe's past.[63] Nevertheless, to bring the study of protection and justice in Europe more fully into focus and more readily into conversation with other times and places, we must be prepared to abandon some long-cherished beliefs about the uniqueness of the European historical trajectory.[64]

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[58] Mukhopadhyay, *Warlords*, 4–6, 317–18; Marten, *Warlords*, 25; Rustow, *Lost Archive*, 197. For a similar point in the medieval context, see Patzold, "Warlords," 15.

[59] Meloy, "Privatization," 198.

[60] Venkatesh, *Gang Leader*, 230–31; Arias, "Dynamics," 303–07; Stephenson, *Gangs*, 76–80.

[61] For an especially careful consideration of accountable officeholding in the Middle Ages, see Sabapathy, *Officers*. Cf. Strayer, *Medieval Origins*; Bisson, *Crisis*. For the observation that scholars no longer assume that the "state" automatically brought "order" with it, see Buc, "What Is Order?," 294–300. I am also influenced here by Smail, *Legal Plunder*, esp. 160–61.

[62] Gelting, "Reflections," 263–66.

[63] I am not the first to draw inspiration of this sort: Wickham, *Framing*, 330–31; Wickham, *Sleepwalking*, 204–05; Reuter, "Nobles," 114.

[64] For similar observations, see Wickham, "Feudal Economy," 39–40; Tilly, "War Making," 169–70.

My goal is not to paint medieval Europe in an overly negative light either. Other historians who have suggested that medieval lordship – and medieval advocacy, in particular – should be understood as a mafia-style "protection racket" tend to mean this as a sharp critique, as a way to emphasize these institutions' illegitimacy as forms of authority.[65] I see protection rackets, similar to *a lot of folks wrassling round*, as a way to force scholars (myself included) to read our sources in new ways. After all, not everyone who pays for protection in a protection racket thinks it a bad system, and even the modern state has been described as nothing more than a large-scale protection racket.[66] Following scholarship that takes "violent entrepreneurs" and "warlord-bureaucrats" as serious categories of analysis throughout history and across the globe can move European history further away from the stale teleology that privatized feudal lordship inevitably gave way to something better, namely Western-style nation-states and public institutions. My aim here is to suggest a new, more plausible explanation for why it has proven so difficult and unusual for impersonal forms of government and bureaucracy to emerge and endure in modern times – including in European countries with a reputation for strong state structures today.

Advocatus and *Vogt*

How can the study of advocates redirect scholars' approaches to feudalism, lordship, government, officeholding, bureaucracy and state-building? Two answers to this question justify the arguments of this book. First, despite the fact that the advocates who are my focus here have not been discussed extensively in English-language scholarship, they were an important feature of local landscapes in many regions of Europe, especially parts of the German-speaking lands, for at least a millennium. As a result, the seeming obscurity of this subject should not be taken to mean that the *advocatus* and *Vogt* were somehow insignificant; I will demonstrate here that they can bring us to the heart of European political, social and economic life. Second, although the advocates I am discussing here were much more commonplace than many readers may realize, the lack of scholarship on them in English nevertheless presents an invaluable opportunity to further distance readers from the familiar old narratives of the period. In other words, the *advocatus* and *Vogt* offer a surprisingly vast and untouched

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[65] See, for example, Wood, *Proprietary Church*, 330; Huyghebaert, "Pourquoi," 42; Bouchard, *Strong*, 58.
[66] Tilly, "War Making." See also Brown, *Violence*, 14–15.

canvas on which to paint a new picture of European practices of power, authority, protection and justice.[67]

The Latin word *advocatus* has deep roots as someone who speaks for another in a court of law. The Roman orator Marcus Tullius Cicero (d. 43 BCE) was an advocate of this sort and used his skills as a rhetorician to plead on behalf of clients. As the volume of legal business grew during the later centuries of the Roman Empire, so too did the number of advocates (and their status), thus embedding this form of legal advocacy in the social and cultural fabric of the empire in Late Antiquity.[68] Unsurprisingly, therefore, legal advocates became associated with Christianity as well. In the Latin Vulgate's First Epistle of John we read, "But if any man sin, we have an advocate (*advocatum habemus*) with the Father, Jesus Christ the just" (1 John 2:1).[69]

More important for my argument here than John's letter is the apostle Paul's insistence that God's soldiers should avoid becoming entangled in secular affairs.[70] This became the theological basis for the idea of the ecclesiastical advocate. In the late fourth and early fifth centuries, the Christianization of the Roman Empire prompted members of the rapidly expanding Church to raise questions about the proper relationship between the ecclesiastical hierarchy and the Roman civil court system. In response, both the 407 Council of Carthage and the Theodosian Code decreed that clerics were to be represented in civil matters by advocates (*advocati*) or defenders (*defensores*).[71] The centuries-old Roman office of the legal advocate who handled lawsuits for clients and spoke on their behalf thus provided the solution to the new problem of keeping ecclesiastics free from secular business.[72]

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[67] One work that integrates advocates into a broad argument about European history is Mitterauer, *Why Europe?*, 99–143. My argument differs significantly from his, however.

[68] Brundage, *Medieval Origins*, 23–45; Humfress, "Advocates"; Crook, *Legal Advocacy*.

[69] *Douay-Rheims Bible* online; *Biblia Sacra*, 1874. The idea that Christ (or occasionally the Holy Spirit or Mary) was sinners' advocate with God was common in Late Antiquity and the Middle Ages; see, for example, Ambrose of Milan, *De Officiis*, 1:254, I.48.239; Augustine of Hippo, *Enarrationes*, 76, LI.13; Caesarius of Arles, *Sermones*, 449–50, CVIII.5; Isidore of Seville, *Etymologiae VII*, 33, VII.2.30; Bede, *Expositio*, 516, II.6.46 (quoting Ambrose).

[70] 2 Tim 2:4; *Biblia Sacra*, 1837. For the many ways of interpreting *saecularia negotia*, see Heydemann, "*Nemo Militans*."

[71] *Concilia Africae*, 215, chap. 97 (see also 202, chap. 75); *Theodosiani Libri XVI*, 848, XVI.2.38. For the Late Antique terms *advocatus* and *defensor*, see Humfress, "Defensor Ecclesiae."

[72] On this point, see *Theodosian Code*, 447, n. 111, where the translator refers to Late Antique ecclesiastical advocates as "trained professional lawyers." Other scholars are more cautious about the office: Willoweit, "Römische," 30. See also Magnou-Nortier, *Code Théodosien*, 158–60.

The question of whether Roman legal advocates survived the end of Roman imperial rule in Western Europe will be addressed in the first chapter. Regardless, later sources show that from the twelfth century onward, as ancient Roman law began to play a steadily expanding role in the legal life of many parts of Europe, advocates who pleaded on behalf of clients in courts increased noticeably in number and prominence. At the papal curia in Rome, hiring a legal advocate to assist in maneuvering one's case through the system of church courts became essential for success – especially for someone coming from north of the Alps who was completely unfamiliar with the inner workings of the Roman Church's legal apparatus.[73] The German-speaking lands also knew this kind of legal advocate from the thirteenth century onward; however, a different vernacular word came to be used to refer to them: *Advokat* – not *Vogt*.[74] The fact that the German language has two different words deriving from the Latin *advocatus* is important for readers to keep in mind; the advocates at the heart of this study were *not* the ancestors of modern lawyers and barristers.

The type of advocate that is my focus here first surfaces in sources written in eighth-century Francia, in the decades before Charlemagne came to rule over an expansive Frankish empire.[75] Many scholarly definitions of the term *advocatus* during the Carolingian period follow the idea that these advocates were similar to ancient Roman ones, that they "were secular legal representatives for those who could or should not represent themselves, notably clerics."[76] Other definitions emphasize their role within immunities, places where royal agents – especially counts – were not to exercise judicial authority or collect revenues but where agents of the property holder (usually a church or monastery) were permitted to carry out these functions instead.[77] For historians who emphasize the strong institutional framework undergirding law and justice in the Carolingian empire, eighth- and ninth-century advocates held an office (German, *Amt*) and had a specific set of roles to fulfill within the legal

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[73] Brundage, *Medieval Origins*, 346–47. The papal curia of the Renaissance period is where the office of *advocatus diaboli*, the "devil's advocate" (now known as the "promoter of the faith"), originated. For advocates at other ecclesiastical courts, see Brundage, *Canon Law*, 134–37.

[74] Kluge and Seebold, *Etymologisches Wörterbuch*, 18 (*Advokat*) and 962 (*Vogt*). *Vogt* appears in Old High German as early as the eighth century. *Advokat* first appears in Middle High German in the fourteenth century. See also Chapter 11.

[75] What follows is only a brief outline of the history of advocacy; I expand greatly on this narrative in the chapters that follow.

[76] West, "Significance," 187. For others who make this argument, see Chapter 1.

[77] The immunity will be discussed in Chapter 2. For an example of an immunity-based definition, see Kaminsky and Melton's entry for *Vogt, Vogtei* in the glossary of their translation of Brunner, *Land*, 367–68.

system.[78] Although some scholars have questioned the traditional picture of a sophisticated Carolingian government, this understanding of the Carolingian advocate has remained largely unchallenged since the late nineteenth century.

According to many historians, the collapse of the Carolingian empire and the subsequent political fragmentation led to significant changes in the role of the *advocatus*. For some, the Carolingian-style legal advocate faded into insignificance in the tenth century, or disappeared altogether; for others, advocates survived, but they gradually ceased to be holders of a legal office. As a result, historians sometimes insist on drawing a clear distinction between the Carolingian officeholding type of advocate and later advocates.[79] In this version of events, advocates began to behave more like lords from the tenth century onward: that is, like local power brokers who had seized for themselves rights that had been "public" under the Carolingians but that had become "privatized" – especially rights relating to the protection of churches and the carrying out of justice over churches' dependents.[80] In studies that seek to contextualize advocacy within a wider European framework, advocates are frequently compared to the castellans and seigneurial lords of rural France and the bailiffs and reeves of England.[81] As with these other types of local power holders, ecclesiastical authors often described the church advocates of the eleventh and twelfth centuries in decidedly critical terms – as robbers, plunderers and even tyrants who abused their positions for their own benefit.[82]

In the thirteenth century, as critiques of church advocates reached a crescendo, many ecclesiastical communities began to rid themselves

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[78] Brunner, *Deutsche Rechtsgeschichte*, 2:308; Senn, *L'Institution*, 1; Hirsch, *Klosterimmunität*, 6; Dopsch, "Grundherrlichkeit," 42; Ganshof, *Frankish Institutions*, 48–50; Pitz, *Verfassungslehre*, 441.

[79] For the argument that Carolingian advocacy was a different phenomenon from later forms of advocacy, see, Aubin, *Entstehung*, 318; Waas, *Vogtei*, 1:44; Mayer, *Fürsten*, 4; and more recently McNair, "Governance," 203; West, "Significance," 204.

[80] The idea that protection and justice were "public" functions that became "private" when the Carolingian empire collapsed is central to many narratives about the rise of feudal lordship. In particular, the argument that "high justice," that is justice over crimes punishable by death (*Blutgerichtsbarkeit*), passed out of the hands of the king and his officials into the hands of others was central to many classic models of feudalism: Bloch, *Feudal Society*, 2:364–65; Below, *Deutsche Staat*, 259–61; Duby, "Evolution." See also Reuter, *Germany*, 219.

[81] Reuter, *Germany*, 230–31; Poly and Bournazel, *Feudal Transformation*, 34–39; West, *Reframing*, 253–54; more generally, Bisson, *Crisis*.

[82] Stieldorf, "Klöster"; Tebruck, "Kirchenvogtei"; Lyon, "Tyrants." For debates about violent lords more generally in this period, see McHaffie, "Law"; Brown, *Violence*, 99–132; Magnou-Nortier, "Enemies." See also the debate on the Feudal Revolution above and Chapters 4 and 7 below.

of their lordly advocates, either by purchasing advocacies and keeping them more tightly under their own control, or by supporting the acquisition of advocacies by increasingly powerful territorial rulers. Historians have referred to this latter process, namely princes' procurement of advocates' "private" rights of protection and justice over churches, as *Entvogtung*.[83] In this scholarly tradition, advocacies play a central role in the history of the rise of princely administrations because many ecclesiastical advocacies formed the cores of later princely territorial states.[84] Although church advocates did not disappear entirely during the fourteenth and fifteenth centuries, there is no question that there were far fewer than there had been in the twelfth century. For this reason, the vast majority of modern scholarship on church advocates concerns the period from roughly 1000 to 1250 rather than subsequent centuries.[85]

This does not mean that the position of *advocatus* ceased to be important after 1250, however. From the twelfth century onward, sources begin to provide glimpses of secular elites' attitudes toward the role of the advocate, allowing us to see the history of advocacy through a different lens than that of ecclesiastical sources. This evidence reveals that, from rulers and prominent nobles to local lords and even leading burghers, the position of advocate – and especially the opportunities for profit that came with it – was viewed in decidedly positive terms. In the centuries after 1250, a wide range of secular property holders gave the label *advocatus*, and increasingly its German equivalent *Vogt*, to various types of agents who worked for them and performed functions that in many ways paralleled the roles of church advocates as providers of protection and justice. The "territorial advocate" (*advocatus terrae, Landvogt*) and "urban advocate" (*advocatus civitatis, Stadtvogt*) are only two of the new positions that proliferated from the thirteenth century onward. Both medieval sources and modern historiography frequently describe these forms of advocacy as offices (*Ämter*) within the military and legal administrations of German principalities and towns.[86]

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[83] For an overview of the history of the term *Entvogtung*, see Reichert, *Landesherrschaft*, 128–35.

[84] The connection between advocacy and the rise of territorial lordship is one of the bedrocks of German "constitutional history" (*Verfassungsgeschichte*): Waitz, *Deutsche Verfassungsgeschichte*, 7:320–21; Mayer, *Fürsten*, 276–301; Schlesinger, *Entstehung*, 203–8; Simon, *Grundherrschaft*, 41–42.

[85] I will discuss this scholarship in more detail in the chapters that follow. For a similar narrative to the one I have just provided, see Margue, "Klostervogtei," 383–89.

[86] Schubert, *Fürstliche Herrschaft*, 15; Moraw, *Verfassung*, 189–91; Brunner, *Land*, 255–58. Encyclopedia entries are the best place to find church advocates discussed alongside other types of advocates; see, for example, Schmidt, "Vogt, Vogtei." Some historians have argued that the countless people who appear over the centuries with the label *advocatus*

Thus, even if the terms *advocatus* and *Vogt* are not well known in English-language studies on the period from 750 to 1800, the narrative arc of the history of advocates outlined here is one that should look familiar to many readers. The people who appear in the surviving sources with the label "advocate" had official roles to play within the public legal institutions of the Carolingian empire, became private power holders and local troublemakers between the tenth and early thirteenth centuries and then gradually became integrated into the burgeoning princely administrations from the late thirteenth century onward. As I will argue in the pages that follow, each of the various elements of this grand narrative is in need of significant reassessment. To analyze, across a millennium, individual advocates' roles in providing protection and exercising justice is to understand how local elites could – time and again – find creative means to benefit from other people's property and dependents in ways that defy easy categorization and resist our standard histories.

Plan of the Book

My argument unfolds chronologically across the first fourteen chapters. Chapters 1 to 4 cover the period from roughly 750 to 1050, Chapters 5 to 10 the period 1050 to 1250 and Chapters 11 to 14 the period 1250 to 1800. The fifteenth and final chapter offers a wide-ranging assessment of the cultural significance of advocacy across European history. I will introduce the types of sources that are central to my arguments as they become important in the various chapters. Similarly, the shifting geography of advocacy over time will be explained as those shifts become significant. Regardless of time period, place and source material, my focus throughout the following pages will center, as much as possible, on the agency of the individual actors – advocates, ecclesiastics, rulers, princes, burghers and peasants – who were drawn into the often-violent competition over the profits to be had from providing protection and exercising justice.

shared little if anything in common: Aubin, *Entstehung*, 320; Clauss, *Untervogtei*, 18–19; Wood, *Proprietary Church*, 328. Claiming that all advocates were different has tended to justify local studies and microhistories rather than broader, synthetic arguments; on this point, see also Heilmann, *Klostervogtei*, 14–15; Stengel, "Zur Geschichte," 121–22. My arguments here directly challenge this assumption of difference.