

**Symposium:  
Waco: Twenty Years Later**

The Contested Legacies of Waco

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**1. Introduction**

In the spring of 2003, I asked the editor of a well-known online publication whether he'd be interested in an essay I wanted to write on the topic of "Waco, Ten Years Later." He wasn't. Waco, he told me, was one of those topics that fell between the proverbial high stool and the low stool: it wasn't quite history, and it wasn't quite current—and so, it was irrelevant to his readership. I resolved at that point to wait ten years when Waco would finally become "history," and try again. As it happens, I've waited *eleven* years, and ultimately decided to run my own symposium on the subject.

"Waco," as I'll refer to it here, is popular shorthand for what the U.S. Treasury Department Report refers to as "the Firearms Investigation of Vernon Howell, Also Known as David Koresh," what the U.S. Justice Department Report refers to as "the Events at Waco, Texas," and what the Danforth Report calls "the 1993 Confrontation at the Mt. Carmel Complex."<sup>1</sup> In the year 2014, however, the quoted phrases neither clarify very much nor refresh memories in any helpful way. When I taught the topic of Waco to undergraduates in an upper-level seminar called "Philosophical Issues in

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<sup>1</sup> See *Report of the Department of the Treasury on the Bureau of Alcohol, Tobacco, and Firearms Investigation of Vernon Wayne Howell also known as David Koresh* (September 1993), accessed online at: <https://archive.org/details/reportofdepartme00unit>; *U.S. Department of Justice Report to the Deputy Attorney General on the Events at Waco, Texas* (October 8, 1993), accessed online at: <http://www.justice.gov/publications/waco/wacotocpg.htm>; *Final Report to the Deputy Attorney General Concerning the 1993 Confrontation at the Mt. Carmel Complex, Waco, Texas* (November 8, 2000), also known as the "Danforth Report," accessed online at: [http://en.wikisource.org/wiki/Final\\_report\\_to\\_the\\_Deputy\\_Attorney\\_General\\_concerning\\_the\\_1993\\_confrontation\\_at\\_the\\_Mt.\\_Carmel\\_Complex,\\_Waco\\_Texas](http://en.wikisource.org/wiki/Final_report_to_the_Deputy_Attorney_General_concerning_the_1993_confrontation_at_the_Mt._Carmel_Complex,_Waco_Texas).

Criminal Justice” at Felician College in the fall of 2011, not one of my 18-21 year old students recognized the words or phrases “Waco,” “Mt. Carmel Complex,” “Branch Davidian,” or “David Koresh.” In the wake of 9/11, the Iraq War, the Fort Hood Massacre, and innumerable mass shootings in the U.S. from Aurora to Newtown, my students seemed unsure why anyone might want to single out Waco for special attention, even after I explained what it was.

Given this collective loss of memory, it might be worth rehearsing the bare bones of the event, just to refresh memories and have them before us. Wikipedia does a perfectly creditable job in describing the event:

The **Waco siege** (also known as the Waco Massacre) was a siege of a compound belonging to a religious group, the Branch Davidians, by the FBI between February 28 and April 19, 1993. The Branch Davidians, a sect that separated in 1955 from the Seventh-Day Adventist Church, was led by David Koresh and lived at the Mount Carmel Center ranch in the community of Elk, Texas, nine miles east-northeast of Waco. The group was suspected of violations of federal gun control laws and a search and arrest warrant was obtained by the Bureau of Alcohol, Tobacco and Firearms (ATF) in order to investigate the matter.

The incident began when the ATF attempted to raid the ranch on February 28. An intense gun battle erupted, resulting in the deaths of four agents and six Branch Davidians. Upon the ATF’s failure to raid the compound, a siege was initiated by the Federal Bureau of Investigation (FBI), the standoff lasting 51 days. Eventually, the FBI launched an assault and initiated a tear gas attack in an attempt to force the Branch Davidians out of Mt. Carmel. During the attack, a fire engulfed Mount Carmel Center and 76 men, women, and children, including David Koresh, died.

Much dispute remains as to the actual events of the siege. A particular controversy ensued over the origin of the fire; a government investigation concluded in 2000 that sect members themselves had started it. The events at Waco were cited as the primary motivation for the perpetrators of the Oklahoma City bombing that took place exactly two years later in 1995.<sup>2</sup>

Broadly speaking, two competing interpretations of Waco—which I’ll call *libertarian-anarchist* and *mainstream*—sit side by side in our national consciousness, expressing dissonant elements of a sort of repressed national trauma, the nature of the clash between them obscured by the passage of time.

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<sup>2</sup> Accessed online at: [http://en.wikipedia.org/wiki/Siege\\_of\\_Waco](http://en.wikipedia.org/wiki/Siege_of_Waco). I’ve taken the liberty of editing the entry slightly for clarity and style, of re-writing a few clauses, and of eliminating the hyperlinks and footnotes in the original.

What they represent are contested conceptions not just of the U.S. government, but of government as such, understood as an unregulated regulator of force in a given territory.

Within libertarian-anarchist circles, Waco is thought to be the conclusive answer to charges of “paranoia” about the nefarious intentions of the U.S. government, and in particular of federal gun control laws and federal law enforcement. The point is succinctly put in this way by libertarian journalist James Bovard:

Waco is the preeminent symbol of government out of control, of law enforcement turning into a marauding army, and of federal agencies acting as if they were responsible to no one. Waco is also a classic example of the Clinton administration continually spinning its way out of a catastrophe, showing how any problem can be “solved” if the truth is sufficiently delayed and rationed.<sup>3</sup>

The basic normative presupposition of the libertarian-anarchist account of Waco is the justifiability of a strong right to own firearms and use them in self-defense, including self-defense against the government itself. On this view, there is something *prima facie* illegitimate about gun control, or at least about gun control as typically conceived by its advocates. Consequently, there is little reason for sympathy or patience for federal law enforcement engaged in the enforcement of firearms regulations. A further implication of the view is the essentially non-threatening and non-rights-violative nature of the Branch Davidians’ gun-related activities, a.k.a. “stockpiling illegal weapons.” If we have a right to firearms, there is nothing inherently threatening, immoral, or rights-violative about unorthodox religious groups’ stockpiling weapons of the sort currently regarded as illegal. Such activities ought to be, legally speaking—and are, constitutionally speaking—permissible. In fact, a government that interferes with them is *prima facie* engaged in rights violations.

Considered in this way, the basic lesson of Waco is that a government structured like the U.S. government is inevitably bound to engage in systematic rights violations. A federal gun control policy, like a federal tax code or any government-enforced regulatory regime, demands full compliance, down to the bureaucratic details of the activities it regulates. Those who fail to comply invite the wrath of the full force and power of the federal government, as the Branch Davidians did. Thus unorthodox or dissident groups that insist on arming themselves practically invite violent confrontation with the federal government. The odder their beliefs, the less sympathy they can expect from the wider population; the less sympathy they

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<sup>3</sup> James Bovard, “*feeling your pain*”: *The Explosion and Abuse of Government Power in the Clinton-Gore Years* (New York: Palgrave, 2001), p. 269.

get, the more likely they are to end up dead over what are ultimately squabbles over bureaucratic paperwork.

Many defenders of the libertarian-anarchist view would go further. On what has become a standard interpretation, “Waco” names a deliberate massacre of innocent civilians by the government:

The governmentally authorized and deliberately planned slaughter of seventy-six adults and children at Waco, Texas on April 19, 1993 illustrated the lengths to which the central government now is prepared to go in deploying lethal force against its subjects.

Some years ago an acquaintance of mine, a legal scholar and expert in the field, remarked on the importance of studying the U.S. government’s treatment of Native Americans in order to learn what government might someday do to other groups in society. His prophetic words merit attention as we contemplate the federal government’s actions in Waco.<sup>4</sup>

On this view, Waco was an atrocity on par with, say, the Sand Creek and My Lai massacres, and deserves a place of ignominy besides them. After all, a government capable of burning dozens of civilians alive is probably capable of any conceivable atrocity, and if it rationalizes its conduct by invoking its power to regulate firearms, that power is a fundamental threat to all of us. So conceived, the libertarian-anarchist interpretation gives us “license to infer the worst,” that is, license to infer that the U.S. government is less the rights-respecting institution that most Americans take it to be, and more accurately describable as a rights-violative regime that deserves armed resistance by those on the receiving end of its many depredations.

Within mainstream circles, by contrast, Waco has had little traction and has little political-cultural meaning.<sup>5</sup> The most recent item on *The New*

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<sup>4</sup> Charlotte Twight, *Dependent on D.C.: The Rise of Federal Control Over the Lives of Ordinary Americans* (New York: Palgrave Macmillan, 2003), pp. 308-9. See also Carol Moore, *The Davidian Massacre: Disturbing Questions About Waco Which Must Be Answered* (Franklin, TN: Legacy Communications, 1995).

<sup>5</sup> There are, of course, some exceptions that effectively prove the rule. Among books, three have achieved a certain degree of mainstream recognition and popularity: Dick J. Reavis’s *The Ashes of Waco: An Investigation* (Syracuse, NY: Syracuse University Press, 1995); David Thibodeau and Leon Whiteson’s *A Place Called Waco: A Survivor’s Story* (New York: Harpercollins, 1999); and most recently, Clive Doyle, Catherine Wessinger, and Matthew D. Witmer’s *A Journey to Waco: Autobiography of a Branch Davidian* (Lanham, MD: Rowman and Littlefield, 2012). Among film documentaries, the two best known are perhaps PBS’s Frontline documentary, “Waco: The Inside Story” (1995), and William Gazecki’s “Waco: The Rules of Engagement” (1997). For a brief discussion of the influence of Waco on popular culture, see part 5 of Carl Hoover’s “Branch Davidians’ Impact on Pop Culture Ranges Between Wacky, Insightful,” *Waco Tribune-Herald* (March 23, 2003), accessed online at:

*York Times*'s "Times Topics Branch Davidian" page dates to July 1, 2007, and mentions the Waco siege only in passing. The item before it, dated April 15, 2007, describes a conflict between various contemporary successors to David Koresh's Branch Davidian group. Tellingly, the last sustained series of articles on Waco in the *Times* dates to the summer of 2001, and focuses on the aftermath of Senator John Danforth's year 2000 inquiry into the possibility of a government cover-up over Waco. Needless to say, there is no item in the *Times* offering a twenty-year (much less twenty-one year) retrospective on the event.<sup>6</sup> On the mainstream view, Waco is simply the case of a cult that challenged the federal government to a duel, lost, and deserved to lose. As President Clinton put the point: "I do not think the United States government is responsible for the fact that a bunch of fanatics decided to kill themselves."<sup>7</sup> In this case, we have a mirror-image of the libertarian-anarchist narrative, with implications that take us to the exact opposite of the libertarian-anarchists' conclusions.

The basic normative assumption of the mainstream view is the *justifiability* of a federal gun control policy. On this view, gun control is a moral and practical necessity, and a legitimate, indeed essential, government function. A government that fails to regulate the possession and use of weapons under its jurisdiction ceases to *be* a government: it fails to sustain the monopoly on the legitimate use of force that a government is required to have, and thereby surrenders to anarchy. So some sort of gun control is a non-negotiable feature of government as such. If such a government tolerates gun ownership at all, that ownership must be controlled by law, and there is properly speaking no rule of law without a single, consistent regulatory and enforcement framework. In the American context, that means a system of federalized law ultimately fashioned and supervised by Congress. Furthermore, the rule of law demands recognition of a basic asymmetry between the powers of law enforcement and the procedural rights of citizens confronting law enforcement as suspects in a criminal investigation. While citizens have rights of due process, and law enforcement has responsibilities to respect the rules of criminal procedure, ultimately, the task of law enforcement requires that government be expected to issue demands backed by force, and requires that criminal suspects acquiesce peacefully in those demands. That applies, of course, to gun laws as well: those who defy the

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<http://www.religionnewsblog.com/2812/the-branch-davidian-sieges-influence-on-popular-culture>. One notable cultural artifact omitted from Hoover's survey is AC/DC's "Burnin' Alive," a hard-rock critique of the Clinton Administration and defense of the Branch Davidians (from *Ballbreaker*, 1995).

<sup>6</sup> An exception to the rule from *The Journal*, an Irish news website: Christa Finn, "The Waco siege ended on this day 21 years ago, leaving 79 dead," accessed online at: <http://www.thejournal.ie/the-waco-siege-ended-on-this-day-21-years-ago-leaving-79-dead-1422082-Apr2014/>

<sup>7</sup> Quoted in Bovard, "*feeling your pain*," p. 269.

enforcement of gun laws, as the Branch Davidian leadership did, are a threat to the rule of law, and are by implication a threat to those protected by it. Given the value of the rule of law, no such threat can be tolerated. If one appears, it must be neutralized, by force if necessary, by overwhelming force if it comes to that. Though what happened at Waco was regrettable, it was ultimately justifiable: a state must defend itself against those who challenge its monopoly on force, which is what the Branch Davidian leadership self-consciously chose to do.

As a factual matter, the mainstream position holds that it was the Branch Davidian leadership, not the government, that started the fire that led to the deaths of the Branch Davidians. From this perspective, the contrary libertarian-anarchist position is simply a form of conspiracy theorizing characteristic of the notorious “paranoid style in American politics.”<sup>8</sup>

Every state, legitimate or otherwise, faces enemies that seek its overthrow. In the past, the federal government of the United States has faced enemies motivated by racism in the guise of the Confederacy and the architects and defenders of Jim Crow. Today, the federal government faces an alliance of religious fundamentalists who regard the state’s monopoly on force as a challenge to God’s law, and libertarian-anarchists who regard the same monopoly as a challenge to their rationalistic, Jacobin conception of liberty. The Branch Davidians seem to have embodied both conceptions simultaneously. Given the indispensable value of the state for the protection of genuine liberty, the mainstream account holds that such paranoia be delegitimized at both the normative and straightforwardly factual levels. After all, a cult capable of burning its own members alive is capable of anything, as are the anarchist paranoids who would attribute the Branch Davidians’ murder-suicide to the government that tried to save them from it. Here, too, we have license to infer the worst, not about the government, but about those who reject its legitimacy.<sup>9</sup>

Put in interrogative form, the *specific* issues that divide the two interpretations might be enumerated as follows:

1. Is gun control justified? If so, in what form? If not, how are arms races between competing groups of citizens to be handled?
2. What degree of suspicion justifies a government’s authority to use force while conducting a search for contraband on private property?

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<sup>8</sup> Richard Hofstadter, “The Paranoid Style in American Politics,” *Harper’s Magazine* (November 1964), accessed online at: <http://harpers.org/archive/1964/11/the-paranoid-style-in-american-politics/>.

<sup>9</sup> For a classic expression of this sort of view (though not directly about Waco), see Conor Cruise O’Brien, “Thomas Jefferson: Radical and Racist,” *The Atlantic* (October 1996), pp. 53-74.

3. Do citizens have a right to self-defense against what they perceive to be disproportionate uses of force by the government?
4. Granting that some uses of force are clearly disproportionate, even in cases of self-defense, what are the criteria of proportionality for the use of force in self-defense, whether by governments or private citizens?
5. How do we adjudicate between mainstream and “conspiratorial” interpretations of controversial events? At what point are we entitled to dismiss conspiracy theorizing as paranoid psychopathology, instead of taking it seriously and engaging with it in public discourse?

All five of these issues remain recurring and unresolved ones in the psychopolitics of American democracy.

As the contributors to our symposium make clear, it is clear enough why Waco has drifted into relative obscurity over the years, having been displaced by the events of 9/11, by the wars in Afghanistan and Iraq, and by Islamic terrorism generally. Interestingly, Waco competed for attention with Islamic terrorism from the very outset: the Waco siege began on February 28, 1993, two days after the first bombing of the World Trade Center on February 26 of that year. To take *The New York Times* once again to illustrate the point: the first major coverage of the Branch Davidian siege consisted of a single article on March 2, 1993, following three solid days of wall-to-wall coverage of the Trade Center attack, with articles on the Trade Center bombing vastly outnumbering those on Waco until well into the Waco siege.

When on April 19, 1995, Timothy McVeigh and his co-conspirators blew up the Alfred P. Murrah Building in Oklahoma City, a casual viewer might easily have followed the news while missing the fact that McVeigh had intended his attack as retaliation for the government’s actions at Waco. The Oklahoma City bombing was soon followed by the Monica Lewinsky scandal (1998), by the bombings of the U.S. embassies in Kenya and Tanzania by Islamic terrorists (August 1998), and by rumors of a “Wag the Dog” scenario involving the Clinton Administration’s bombing of the Shifa Pharmaceutical Plant in Khartoum, Sudan (August 1998). The three items formed a single narrative thread supplied by the film “Wag the Dog” (1997): rumor had it that Clinton had started a phony war in order to distract attention from the sex scandal of which he was the culpable protagonist.

It’s plausible to think that the sex appeal, intrigue, and disquieting ramifications of the “Wag the Dog” controversy muted the impact of Waco across the breadth of the Clinton presidency. In any case, the Clinton Administration was effectively vindicated on Waco in ways it was not vindicated in the “Wag the Dog” scandal. Whether he perjured himself or not, Clinton ultimately admitted to lying under oath in the matter of Lewinsky, and

though no “Wag the Dog” scenario was involved, the fact remains that the Clinton Administration bombed the Shifa Pharmaceutical plant without ever being able to offer conclusive evidence that it was (as the administration had claimed) an Al-Qaeda terrorist facility for the manufacture of VX nerve gas.<sup>10</sup> By contrast, Special Counsel John J. Danforth’s year 2000 inquiry into Waco was widely thought to have proven that the Branch Davidians rather than the government had set the fire that consumed the Mt. Carmel complex, thereby vindicating the government’s version of events. As a *New York Times* headline somewhat hyperbolically put the point: “A Special Counsel Finds Government Faultless at Waco.”<sup>11</sup> So it’s easy to see why “Wag the Dog” would attract attention, while Waco would fall into obscurity.

By the time of Timothy McVeigh’s execution in June 2001, few people, I suspect, could connect the execution with anything having to do with Waco. By the fall of 2001, the execution itself had faded into the background of national awareness, and had long since been forgotten.<sup>12</sup> The fall of 2001 was of course the fall of 9/11, and it was imagery of the destruction of the Twin Towers that effectively displaced Waco, permanently, from social memory. After the carnage of the decade-and-a-half following 9/11, Waco had come to seem quaint in the scope of destruction it involved, and also irrelevant to current events, which seemed to have less to do with Christian fundamentalists than with Islamic ones.

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<sup>10</sup> For accounts of the Lewinsky scandal, see Richard Posner, *An Affair of State: The Investigation, Impeachment, and Trial of President Clinton* (Cambridge, MA: Harvard University Press, 2000), and Ken Gormley, *The Death of American Virtue: Clinton vs. Starr* (New York: Broadway Books, 2011). For an account of the bombing of the Shifa Pharmaceutical Plant, see Daniel Benjamin and Steven Simon, *The Age of Sacred Terror: Radical Islam’s War Against America* (New York: Random House, 2003), chap. 9.

<sup>11</sup> Jim Yardley, “A Special Counsel Finds Government Faultless at Waco,” *The New York Times*, July 22, 2000, accessed online at: <http://www.nytimes.com/2000/07/22/us/a-special-counsel-finds-government-faultless-at-waco.html?src=pm&pagewanted=2>.

Taken literally, the *Times*’s headline flatly contradicts both the text of the article and the text of the Danforth Report; see, e.g., Danforth Report, pp. 51-55, 65-85, and 87-95. Since most of pp. 79-84 of the Danforth Report was redacted, it’s unclear how the author of the headline could possibly have concluded that the sections specifically criticizing the government’s conduct had found the government “faultless.” The article itself seems to be a summary of the press conference at which Danforth announced his findings; it’s unclear whether the reporter had read the text of the Danforth Report.

<sup>12</sup> This despite the tendentious, factually challenged efforts of McVeigh’s most famous apologist, Gore Vidal. See Gore Vidal’s “The Meaning of Timothy McVeigh,” *Vanity Fair* (September 1, 2001), accessed online at: <http://www.vanityfair.com/politics/features/2001/09/mcveigh200109>.



In a discussion of the FBI's conduct at Waco, the historian Richard Gid Powers writes:

The lesson the FBI may have carried away from the congressional hearings [on Waco, in 1995] was that it really had nothing to fear when it attacked right-wing domestic extremists, since its actions—and its mistakes—would be excused by liberals and Democrats, while in the long run conservatives were going to support the Bureau no matter what. And so the Bureau made right-wing extremist groups the almost exclusive focus of its domestic intelligence operations, even though the first World Trade Center bombing on February 26, 1993 should have been a wake-up call that Islamist extremists represented the graver threat, despite the Oklahoma City bombing of April 19, 1995.<sup>13</sup>

I find Powers's comment ironic, implying as it does that Waco and Islamism belong in separate, hermetically sealed categories, each conceptually and practically irrelevant to the other. The implication is, I think, somewhat misleading. As I suggest in the next section, contrary to the implication of Powers's claim, I think Waco ends up illuminating the politics of the Near East and South Asia, and vice versa, and that both Waco and its Islamist cousins reflect a similar ethico-political dynamic.

## **2. From Mini-Secession to Civil War: Waco, Jamia Hafsa, and Iraq**

Despite its apparent obscurity and provinciality, I would suggest that Waco is a historically significant event with global relevance, an event that functions as a token of a recurring type of event. At the most fundamental level, Waco is an instance of *theologically or ideologically inspired mini-secession*.

In prototypical form mini-secession works like this: A determined secessionist group, often religious, appropriates a piece of land in a sovereign nation (or some functional equivalent), inviting others to join the group in escape from a sinful and fallen culture, and in expectation of apocalypse and salvation. In defiance of the law, the group stockpiles weapons and practically invites confrontation with the outside world; eventually, a reluctant government responds with force to what it takes to be intolerable provocation with force with the intention of upholding the rule of law. Rejecting the moral and political legitimacy of the government and its authority to uphold its sovereignty, the secessionists invoke and act on a God-given right of self-defense against aggression. The government responds in kind, and eventually escalates its own use of violence against the group. The ultimate result is widespread loss of innocent life.

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<sup>13</sup> Richard Gid Powers, *Broken: The Troubled Past and Uncertain Future of the FBI* (New York: Free Press, 2004), p. 378.

In the wake of the disaster, partisans of the government as well as those of the secessionist group struggle to assign blame for the event in an atmosphere of conspiracy theorizing and outrage. After a series of hard-fought ideological battles (themselves marked by violence), the victors win an uneasy victory against what appear to be anarchist fanatics and conspiracy theorists. The fundamental philosophical and political issues go unresolved, however, so that when another token of the same type of event arises in outwardly different guise, it goes unrecognized, and the pattern continues, driven by the unresolved character of the issues that gave rise to it.

In this light, consider the Lal Masjid siege that took place in Islamabad, Pakistan from roughly February until July of 2007. Setting aside the religion of the combatants and the geographic location of the siege, the Lal Masjid siege bears an obvious similarity to its Branch Davidian counterpart. The siege began over a land dispute between the Pakistani government (more specifically, the Capital Development Authority of Islamabad) and Lal Masjid/Jamia Hafsa, a mosque and religious school run by Abdul Rashid and Abdul Aziz Ghazi, two charismatic Islamic fundamentalist clerics with ties to (and sympathies for) Al-Qaeda. According to the Pakistani government, the school was built “illegally”—that is, without proper permission on “public land”—and was therefore to be slated for demolition. The Ghazi brothers and their supporters described the government’s decision as an act of desecration, and vowed to resist the government. In doing so, the brothers seem to have capitalized on the ostensible similarity of the government’s actions in the Lal Masjid case with those of the Hindu fundamentalists who in December 1992 had destroyed the historic Babri Masjid at Ayoydha, India.

The result was a very Waco-like stand-off accurately (if somewhat inelegantly) described (once again) by Wikipedia:

The **Siege of Lal Masjid** was a confrontation in July 2007 between Islamic fundamentalist militants and the Government of Pakistan led by General Pervez Musharraf and Shaukat Aziz, then Prime Minister of Pakistan. The focal points of the operation were the Lal Masjid (“Red Mosque”) and the Jamia Hafsa madrasah complex in Islamabad, Pakistan.

Since January 2006, Lal Masjid and the adjacent Jamia Hafsa Madrasah had been operated by Islamic militants led by two brothers, Maulana Abdul Aziz and Abdul Rashid Ghazi. This organization supported the imposition of sharia (Islamic religious law) in Pakistan and openly called for the overthrow of the Pakistani government, led by its President Pervez Musharraf. Lal Masjid was in constant conflict with authorities in Islamabad for 18 months prior to the military operation. They engaged in violent demonstrations, destruction of property, kidnapping, arson, and armed clashes with authorities. After Lal Masjid militants set fire to the Ministry of Environment building and attacked the Army Rangers who guarded

it, the military responded, and the siege of the Lal Masjid complex began.

The complex was besieged from July 3 to July 11, 2007, while negotiations were attempted between the militants and the state's Shujaat Hussain and Ijaz-ul-Haq. Once negotiations failed, the complex was stormed and captured by the Pakistan Army's Special Service Group. The conflict resulted in 154 deaths, and 50 militants were captured. The assault resulted in pro-Taliban rebels along the Afghanistan border nullifying a 10-month-old peace agreement with the Pakistani Government. This event triggered the Third Waziristan War, which marked another surge in militancy and violence in Pakistan and has resulted in more than 3,000 casualties. In 2013, Musharraf was arrested for being personally responsible for ordering the siege.<sup>14</sup>

Both the similarities to and differences from Waco are striking. As with Waco, we have a fundamentalist religious group engaged in weaponized mini-secession from the government. As with Waco, the secession takes place in a fortified religious complex—a sacred space that is also a militarized base of operations for illegality. As with Waco, the secessionists represent a radicalized version of a mainstream sect, and elicit the same combination of revulsion and quasi-approving sympathy from the wider population—a combination that makes law enforcement against the group particularly difficult. As with Waco, the government besieges the compound, then negotiates, then finds the negotiations at a stalemate, then escalates against secessionists, with widespread loss of life. As with Waco, the secessionists end up discredited within mainstream circles and valorized outside of them.

Of course, Jamia Hafsa differs from Waco by representing a kind of nightmarish “possible world” scenario difficult to imagine in the American case. Unlike the Branch Davidians, the Lal Masjid militants had ties to regional and international terrorist groups. Unlike the Branch Davidians, they explicitly threatened—and attacked—the rights of those outside of their circle, and beyond their walls. And unlike Waco, “the surge in militancy and violence” following the event was a full-scale civil war, rather than a single catastrophic bombing.

Given the differences between the two cases, I think we can safely infer that a Jamia Hafsa scenario is very unlikely to take place in contemporary North America. But given the similarity between them, I think we can also see why tokens of the Waco type have, under the right circumstances, the potential to generate civil wars. Political philosophers often imagine “possible world” scenarios, and we can in principle imagine a possible world in which a North American secessionist group enacts a Jamia

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<sup>14</sup>Accessed online at: [http://en.wikipedia.org/wiki/Siege\\_of\\_Lal\\_Masjid](http://en.wikipedia.org/wiki/Siege_of_Lal_Masjid). I've taken the liberty of editing the entry slightly, and of removing hyperlinks.

Hafsa rather than a Waco scenario—going on a rampage against the wider society rather than hunkering down in Mt. Carmel. It's not entirely clear whether—even with twenty years' hindsight on Waco—the results would be much prettier than was the case with Waco itself.

Now consider a case where a Waco-type event is a prelude to international war—namely, the Iraq War of 2003. The comparison of the Branch Davidian siege with the Iraq War might seem far-fetched,<sup>15</sup> but I would insist that while the events differ radically in scope and temporal duration, they are recognizably events of the same general kind. In this case, instead of secession within a sovereign nation, a sovereign nation secedes from and defies the dictates of “the international community” in the context of a dispute over weapons.

As of the eve of war in March 2003, Iraq stood in defiance of a series of UN Resolutions stretching from UN Resolution 687 (1991) to UN Resolution 1441 (2002), each of them governing the disposition of Iraq's programs for the development of weapons of mass destruction (WMD).<sup>16</sup> Interestingly, the weapons-control provisions of UN Resolution 687 resemble those of the federal statutes used against the Branch Davidians. In both cases, violation of the law consisted not of stockpiling weapons per se, but of the possession of the technological or logistical capacity to generate illegal weapons (and by implication, a stockpile of them). As Kopel and Blackman put the point, in describing U.S. gun control laws:

In fact, machine gun conversion parts are classified as machine guns even when not assembled. Under federal law, a ‘machine gun’ is a functioning machine gun, or all the parts needed to make a machine gun, or the parts used to convert a regular gun to a machine gun. In other words, if a person possesses a machine gun conversion kit, but does not possess any type of actual firearm, the person is considered by federal law to possess a machine gun. Similarly, if a person owns all in one place all the parts necessary to assemble a machine gun, then the person is a machine gun owner under federal law.<sup>17</sup>

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<sup>15</sup> The suggestion is made independently of me by Dick Reavis in his contribution to this symposium.

<sup>16</sup> The definitive discussion of the status of Iraq's weapons of mass destruction is Charles Duelfer's *Comprehensive Report of the Special Advisor to the Director of Central Intelligence on Iraq's WMD, with Addendums*, also known as “the Duelfer Report,” accessed online at: <http://www.gpo.gov/fdsys/pkg/GPO-DUELFERREPORT/content-detail.html>.

<sup>17</sup> David Kopel and Paul Blackman, *No More Wacos: What's Wrong with Federal Law Enforcement and How to Fix It* (Amherst, NY: Prometheus Books, 1997), p. 54, but see generally, pp. 53-58.

With respect to Iraq, clause (8a) of UN Resolution 687, describing the post-1991 war settlement for Iraq, puts the weapons issue in this way:

The Security Council . . . [d]ecides that Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of:

(a) All chemical and biological weapons and all stocks of agents and *all related subsystems and components and all research, development, support, and manufacturing facilities . . .*

I won't belabor the obvious and undeniable differences between the two cases, but the similarities are, to my mind, striking, instructive, and easily missed. We do not, in ordinary (non-weaponized) life, typically equate the parts of a thing with an assembled version of the thing. No one thinks that if you have own the unassembled parts of a 1969 Gibson SG guitar, you own the guitar, or if you own the unassembled parts of a house or a car, you own a house or a car. Nor would anyone think that if I sold you unassembled parts, I had sold you the assembled thing. Weapons, apparently, are different. To own an unassembled machine gun is to own a machine gun. To possess the subsystems, components, and manufacturing facilities of a WMD is to be in possession of a WMD. Furthermore, the threshold for suspicion of ownership or possession is even lower than ownership or possession of all the relevant parts. You can trigger probable cause if a law enforcement officer discovers that you own some machine gun parts. You can trigger the war-like enforcement of a UN Resolution if weapons inspectors discover some evidence that you are engaged in research and development of WMD.

The Branch Davidians, of course, were discovered to have *had* an illegal stockpile at the time of the ATF raid; Saddam Hussein had no such stockpile at the time of the 2003 invasion. But arguably, the *ex post facto* discovery or non-discovery of weapons stockpiles wasn't the relevant issue in either case. The legitimacy of the ATF's warrant to search the Branch Davidian complex didn't turn on whether or not the Branch Davidians actually possessed stockpiles of illegal weapons; it depended on whether there was probable cause to search for violations of federal weapons laws. If we apply the same analogy to the case of Iraq, the legitimacy of the U.S. government's "warrant to search" Iraq for WMD didn't turn on whether or not Iraq ended up having WMD; it turned on whether Iraq's defiance of UN Resolution 1441 was or was not the international equivalent of probable cause to search for violations of Iraq's post-war weapons agreements.<sup>18</sup>

The lesson here is that there is an inevitable connection between weapons control and violence. By its nature, weapons control is an uncertain

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<sup>18</sup> Those unwilling to accept the analogy between the Branch Davidian siege and the Iraq War may wish to apply the analogy not to the war but to the sanctions applied to Iraq between 1991 and 2002. I think one gets the same result in either case: sanctions regimes are, after all, sieges.

business. If weapons are illegal, those who possess illegal weapons will have an incentive to hide them. But if they are hidden and illegal, the law requires that they be ferreted out. Given the dangerousness of weapons, and the capacity to hide them, the threshold for suspicion will always be low: the possession of certain weapons cannot be tolerated, but cannot easily be detected, either. So the slightest hint of their possession will trigger some equivalent of search and seizure. But people on the receiving end of search and seizure do not typically take kindly to searches and seizures predicated on low thresholds of suspicion. If they are armed, they will use their weapons against those who have come to seize them, and when they do, government must respond in kind. The dynamic, it seems to me, is inherent in the very idea of a government's monopoly over the legitimate uses of force or weapons, whether local, national, or international. At some level, then, Charlton Heston was right: if you want to control someone's possession of weapons that he insistently wants to have, you have to be prepared to pry them out of his cold, dead hands. This implies, of course, that you have to be prepared to kill him.

### **3. Anarchy, State, and Dystopia**

The Jamia Hafsa and Iraq examples serve to put Waco in a broader and more abstract context. What they suggest is that the distinctively American issue of federal gun control policy at Waco merely serves as a proxy for a more general philosophical issue applicable virtually anywhere.

What is common to all three cases—Waco, Jamia Hafsa, Iraq—is a fundamental conflict between a legally legitimized monopolizer of force enforcing its laws—whether a single state or an alliance of states acting in the name of the United Nations—and a powerful but subordinate entity that simultaneously falls within the domain of these laws while claiming (weaponized) immunity from them in the name of some other set of laws. At one level, the conflict concerns the possession of weapons: who is allowed to have which weapons, and where? At a deeper level, however, the conflict concerns the legitimacy of the very idea of an entity that monopolizes the means of law enforcement: who is to enforce what law, and how?

The basic theoretical issue might be put as follows. Either a single political entity monopolizes the instruments and exercise of force over a given territory, or not. If we grant the legitimacy of a force-monopolizing state, we must grant the state a monopoly over the means of coercion—weapons. So *some* sort of weapons control policy will be an essential feature of the monopoly power of any government. No government can afford to compromise in any significant way on its power to enforce its weapons control policies because no government can remain a government unless it monopolizes the possession and use of weapons. A state must either put down threats to that power, or lose its capacity to remain what it is—a state.

If, by contrast, we reject the idea of a force-monopolizer—if no single political entity is to monopolize the use of force—we're forced (so to speak) to anarchy. By most lights (including my own), a position that reduces

to anarchy seems to have found its way to absurdity. But contemporary libertarian thought is now essentially anarchist in theoretical orientation. On this view, the state needs—but lacks—a justification. It lacks one because the idea that constitutes the state, that of a legitimate or legitimized force-monopolizer, is a fundamentally illegitimate or incoherent one.<sup>19</sup>

Ultimately, I'm inclined to think that Wacos are an inevitable consequence of states that simultaneously claim a monopoly on the use of force while permitting a significant degree of religious and political freedom. A state that claims a justified monopoly on force is obliged to uphold the rule of law against those who do not wish to obey its laws, whether as a matter of general principle, or else on a particular occasion. But a liberal state (or its functional equivalent) gives people latitude to do as they please, holding out that freedom as the very basis of its legitimacy. If the freedom in question includes the freedom to possess weapons of a sort that challenges the state's monopoly on force, we have the inevitable makings of a weaponized Waco-like conflict between the state and private weapons owners. A state must enforce its monopoly in order to retain that monopoly and remain a state. But private citizens may combine unconventional beliefs with the possession of threatening weapons. Once those beliefs put in question the state's presumed monopoly on the use of force, we get a motivation for mini-secession, and the makings of a Waco.

The question is whether or not such inevitabilities are a price worth paying for the unregulated regulator of force that is the modern state. And *that* question turns on the price of the alternative—anarchy. If states inevitably lead to Wacos, why not avoid further Wacos by dispensing with the state? The question of the necessity of the state, and with it, the necessity of a uniform arms control policy is a highly unpalatable one, easy to ignore or evade—particularly easy once the initial traumatic event is buried under further layers of trauma. In any case, political philosophers might profit by conducting inquiries into the legitimacy of the state by considering the normative implications of what happened at Waco. Meanwhile, those interested in Waco and similar events might likewise profit by thinking about Waco in the context of philosophical debates about the legitimacy of the state.

This leads us, I suppose, to a suitably Biblical conclusion. If Wacos are an inevitable consequence of the existence of states, and the state is, for

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<sup>19</sup> For libertarian discussions of anarchy, see Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974); Murray Rothbard, *The Ethics of Liberty* (Atlantic Highlands, NJ: Humanities Press, 1982); John T. Sanders and Jan Narveson, *For and Against the State: New Philosophical Readings* (Lanham, MD: Rowman and Littlefield, 1996); Roderick T. Long and Tibor R. Machan, *Anarchism/Minarchism: Is a Government Part of a Free Country?* (Burlington, VT: Ashgate, 2008); Michael Huemer, *The Problem of Political Authority: An Examination of the Right to Coerce and the Duty to Obey* (London: Palgrave Macmillan, 2012); Peter T. Leeson, *Anarchy Unbound: Why Self-Governance Works Better Than You Think* (Cambridge: Cambridge University Press, 2014).

the foreseeable future, here to stay, we ought in some form to expect the recurrence of Wacos in the foreseeable future. That might sound a bit too deterministic, even prophetic, to some ears, as though we'd learned nothing in the last twenty years from Waco, and couldn't. I don't mean that. I simply mean that we haven't resolved the fundamental problem that led to Waco in the first place, and that we can't prevent a dynamic we don't understand. Perhaps it's best, then, to take the (paraphrased) advice of the Gospel of St. Matthew: "Woe to states because of Wacos—for it is inevitable that Wacos come, but woe to those through whom Wacos come."<sup>20</sup>

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<sup>20</sup> Matthew, 18:7.

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