

U.S. Increases Nuclear Weapons Spending, Violates the Nuclear Nonproliferation Treaty

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[War is a Crime](#)

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So now we (or at least the 0.03% of us who care to hunt for it) discover that U.S. [military spending](#) is not actually being cut at all, but increasing. Also going up: U.S. [nuclear weapons spending](#). Some of the new nukes will [violate](#) treaties, but the entire program violates the Nuclear Nonproliferation Treaty, which requires disarmament, not increased armament. The U.S. policy of first-strike and the U.S. practice of informing other nations that “all options are on the table” also violate the U.N. Charter’s ban on threatening force.

But do nuclear weapons, by the nature of their technology, violate the U.S. Constitution? Do they violate the basic social contract and all possibility of self-governance? Thus argues a new book called *Thermonuclear Monarchy: Choosing Between Democracy and Doom* by Elaine Scarry. It’s not unheard of for people to see out-of-control nuclear spending as a symptom of out-of-control military spending, itself a symptom of government corruption, legalized bribery, and a militaristic culture. Scarry’s argument suggests a reversal: the root of all this evil is not the almighty dollar but the almighty bomb.

The argument runs something like this. The primary purpose of the social contract is to create peace and prevent war and other injury. The U.S. Constitution (Article I, Section 8, clause 11) bans the making of war without the approval of both houses of Congress. This approval was to be required not just for an existing military to attack another country, but for a military to be raised at all — standing armies not being anticipated. And it was understood that an army would not be raised and deployed into war unless the citizen-soldiers went willingly, their ability to dissent by desertion not needing to be spelled out (or, let us say, their ability to dissent by *mass*-desertion, as desertion in the war that led to the Constitution was punished by death).

And yet, because this point was so crucial to the entire governmental project, Scarry argues, it was in fact spelled out — in the Second Amendment. Arms — that is 18th century muskets — were to be freely distributed among the people, not concentrated in the hands of a king. “Civilian” control over the military meant popular control, not presidential. The decision to go to war would have to pass through the people’s representatives in Congress, and through the people as a whole in the form of soldiers who might refuse to fight. By this thinking, had the Ludlow Amendment, to create a public referendum before any war, passed in the 1930s, it would have been redundant.

Before the 1940s were over, in Scarry’s view, a Ludlow Amendment wouldn’t have been worth the paper it was written on, as the existence of nuclear weapons erases Constitutional checks on war. With nuclear weapons, a tiny number of people in a government — be it 1 or 3 or 20 or 500 — hold the power to very quickly and easily kill millions or billions of human

beings, and other species, and very likely themselves in the process. “We may have democracy, or we may have wealth concentrated in the hands of a few, but we can’t have both,” said Louis Brandeis. We may have democracy, or we may have thermonuclear bombs, but we can’t have both, says Elaine Scarry.

Each of the series of presidents beginning with Truman and running up through Nixon is known to have repeatedly come close to choosing to use nuclear bombs, something the public has learned of, each time, only decades after the fact. No more recent president has said he *didn’t* come close; we may very well learn their secrets on the usual schedule. When you add to that insanity, the long string of accidents, mistakes, and misunderstandings, the damage of the testing and the waste, and the repeated ability of ploughshares activists (and therefore anybody else) to walk right up to U.S. nuclear weapons to protest them, it’s amazing that life exists on earth. But Scarry’s focus is on what the new ability to kill off a continent at the push of a button has done to presidential power.

While wars since World War II have been non-nuclear, apart from depleted uranium weapons, they have also been endless and undeclared. Because presidents can nuke nations, they and Congress and the public have assumed that a president on his or her own authority can attack nations with non-nuclear weapons too. Now, I suspect that the military industrial complex, corrupt elections, and nuclear thinking all feed off each other. I don’t want a single person who’s trying to clean up election spending or halt fighter-jet production to stop what they’re doing. But the possible influence of nuclear thinking on U.S. foreign policy is intriguing. Once a president has been given more power than any king has ever had, one might expect some people to do exactly what they’ve done and treat him like a king in all but name.

Scarry believes that we’re suffering from the false idea that we’re in a permanent emergency, and that in an emergency there’s no time to think. In fact, the Constitutional constraints on war were intended precisely for emergencies, Scarry argues, and are needed precisely then. But an emergency that can be dealt with by raising an army is perhaps different from an emergency that will leave everyone on earth dead by tomorrow either with or without the U.S. government having the opportunity to contribute its measure of mass-killing to the general apocalypse. The latter is, of course, not an emergency at all, but an insistence on glorified ignorance to the bitter end. An emergency that allows time to raise an army is also different from an emergency involving 21st century “conventional” weapons, but not nearly as different as we suppose. Remember the desperate urgency to hit Syria with missiles last September that vanished the moment Congress refused to do it? The mad rush to start a war before anyone can look too closely at its justifications does, I think, benefit from nuclear thinking — from the idea that there is not time to stop and think.

So, what can we do? Scarry believes that if nukes were eliminated, Congress could take charge of debates over wars again. Perhaps it could. But would it approve wars? Would it approve public financing, free air time, and open elections? Would it ban its members from profiting from war? Would people killed in a Congressionally declared war be any less dead?

What if the Second Amendment as Scarry understands it were fulfilled to some slight degree, that is if weapons were slightly more equitably distributed as a result of the elimination of nukes? The government would still have all the aircraft carriers and missiles and bombs and predator drones, but it would have the same number of nukes as the rest of

us. Wouldn't compliance with the Second Amendment require either the madness of giving everybody a missile launcher or the sanity of eliminating non-nuclear weapons of modern war-making along with the nuclear ones?

I think the historical argument that Scarry lays out against the concentration of military power in the hands of a monarch is equally a case either for distributing that power or for eliminating it. If large standing armies are the greatest danger to liberty, as James Madison supposed on his slave plantation, isn't that an argument against permanently stationing troops in 175 nations with or without nukes, as well as against militarizing local police forces at home? If unjustified war and imprisonment are the greatest violations of the social contract, must we not end for-profit mass incarceration by plea bargain along with for-profit mass-murder?

I think Scarry's argument carries us further in a good direction than she spells out in the book. It's a thick book full of extremely lengthy background information, not to say tangents. There's a wonderful account of the history of military desertion. There's a beautiful account of Thomas Hobbes as peace advocate. Much of this is valuable for its own sake. My favorite tangent is a comparison between Switzerland and the United States. Switzerland decided that air-raid shelters would help people survive in a nuclear war. While opposing and not possessing nuclear weapons, Switzerland has created shelters for more than the total number of people in the country. The United States claimed to have concluded that shelters would not work, and then spent more on building them exclusively for the government than it spent on all variety of needs and services for the rest of us. The nuclear nation has behaved as a monarchy, while the non-nuclear nation may preserve a remnant of humanity to tell the tale.

Scarry ends her book by stating that Article I and the Second Amendment are the best tools she's found for dismantling nuclear weapons, but that she'd like to hear of any others. Of course, mass nonviolent action, education, and organizing are tools that will carry any campaign beyond the confines of legal argumentation, but as long as we're within those confines, I'll throw out a proposal: Comply with the Kellogg-Briand Pact. It is far newer, clearer, and less ambiguous than the Constitution. It is, under the Constitution, unambiguously the Supreme Law of the Land as a treaty of the U.S. government. It applies in other nations as well, including a number of other nuclear weapons nations. It clarifies our thinking on the worst practice our species has developed, one that will destroy us all, directly or indirectly, if not ended, with or without nuclear: the practice of war.

The treaty that I recommend remembering bans war. When we begin to think in those terms, we won't see torture as the worst war crime, as Scarry suggests, but war itself as the worst crime of war. We won't suggest that killing is wrong because it's "nonbattlefield," as Scarry does at one point. We might question, as Scarry seems not to, that Hawaii was really part of the United States in 1941, or that U.S. torture really ended when Obama was elected. I'm quibbling with tiny bits in a large book, but only because I want to suggest that the arguments that best reject nuclear weaponry reject all modern war weaponry, its possession, and its use.

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