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Drug war at odds with Constitution

ANTHONY DAVIES & JAMES R. HARRIGAN | Saturday, June 24, 2017, 8:51 p.m.



In this Jan. 8, 2016, photo, a handcuffed Joaquin 'El Chapo' Guzman is made to face the press as he is escorted to a helicopter by Mexican soldiers and marines at a federal hangar in Mexico City. Mexico's most notorious cartel kingpin, who twice made brazen prison escapes and spent years on the run as the country's most wanted man, was extradited to the United States on Thursday, Jan. 19, 2017, to face drug trafficking and other charges. (AP Photo/Eduardo Verdugo)

Ted Cruz, self-styled “fighter for liberty,” recently argued that we should send the military to break up Mexican drug cartels. While we might legitimately expect a “fighter for liberty” to work more toward drug legalization than military intervention, more perplexing still is his apparent inability to recognize that he seeks to use the most overwhelming form of government force to solve a problem caused by an earlier expansion of government.

The reason drug cartels exist at all is because of the U.S. government's “war on drugs,” which President Nixon declared in 1971. Since then, the United States has spent over \$1 trillion fighting drugs. And for what?

It should be clear to everyone by now that the government cannot simply wave a magic wand at things it doesn't like. When the government prohibits things people want, like drugs, those things don't just disappear; they go underground. And when that happens, buyers and sellers no longer have access to legal protections of any kind, from simple police services to the courts for contract enforcement.

What replaces those legal protections is violence, and plenty of it. How much? According to the Mexican government, around 20,000 people die annually in drug-related violence just in Mexico. This doesn't count the people killed elsewhere throughout the world. In the U.S., almost 300,000 people are in state or federal prisons on drug-related charges.

And what justifies the government's infliction of harm and the emergence of unsafe black markets? Harm, of course.

In 2015, 591,000 Americans had a substance abuse disorder involving heroin, and 12,990 died from heroin overdoses. But to put the heroin problem in perspective, 15.7 million Americans have an alcohol abuse disorder, and alcohol abuse kills 88,000 Americans annually.

Yet alcohol is perfectly legal, which raises a host of larger questions. Chief among these is what right the government has to regulate drugs in the first place.

When Prohibition arrived in 1920, banning alcohol, it didn't come by way of legislation or regulation. It came by way of the 18th Amendment. Prohibitionists knew that, absent a constitutional amendment, the government had no right to legislate or regulate alcohol. But this is a lesson the so-called drug warriors missed. Without clear constitutional authority, they have been legislating and regulating ever since.

It's time to admit the obvious: We fought a war on drugs, and drugs won. Who lost? The American people, the Constitution, and the very principle of limited government.

The road back is not an easy one, but it is clear enough. It begins by admitting that not every good idea is constitutional, nor is every bad idea unconstitutional. And while many people might well think that prohibiting drugs is a good idea, it is decidedly unconstitutional. There is no authority granted to the federal government to engage in this sort of behavior.

If prohibiting drugs is as important as some seem to think, then they should do what the alcohol prohibitionists did in 1920 and work toward a constitutional amendment. The modern-day prohibitionists know they cannot do that, though, so they press on. But in the end, constitutional government is a better idea than the drug war.

Ted Cruz should know as much. But in his mind, military intervention is a better idea than constitutional government. Or freedom.

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