FREEDOM WATCH

Civil wrongs

The road to tyranny is paved with good intentions

by Harvey Silverglate

Liberty took two direct hits last week. And, as is often the case, the people delivering the blows had only the best of intentions.

After all, no one is in favor of domestic violence — but there are better ways to protect women than to stretch the state's civil-rights law, as the Massachusetts attorney general proposes to do.

And though tobacco is a bane to smokers and non-smokers alike, surely the US Food and Drug Administration can find better things to do than extend the war on drugs to a substance used by fully one-quarter of adults — a step the agency's commissioner says he's seriously considering.

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Attorney General Scott Harshbarger filed a request in Suffolk Superior Court on February 25 for an injunction against Salah Aboulaz. The injunction would bar Aboulaz, a 26-year-old Revere resident, from assaulting or intimidating four women whom he'd allegedly violated, and any other woman with whom he might come in contact.

The injunction is being sought under the state's civil-rights law; if granted, it would prohibit Aboulaz from engaging in violence that is motivated by hatred of women as a class. The law was amended two years ago to add women to its long list of protected classes of victims, although this is the first time anyone has attempted to take advantage of that amendment.

One of the alleged victims told the *Boston Globe*, "The attorney general is sending a strong message that women are entitled to their basic human rights and the violation of that principle is a crime."

This "strong message," though, may be intended more for the voters than for the perpetrators of domestic violence. Indeed, the sordid history of Salah Aboulaz's abuse of women — both proven and alleged — clearly demonstrates that old-fashioned laws against assault are more effective than civil-rights statutes.

Aboulaz, as it turns out, served nine months in prison last year for beating his wife. Now he's in jail, awaiting trial on a charge of raping his wife and one of his girlfriends. If convicted, he faces life in prison; at the very least, he would likely receive a sentence of such length that he would not see the street again until his interest in sex and capacity for violence were substantially diminished by age.

Harshbarger is a public official of courage and good sense — his gutsy opposition to Governor William Weld's latest capital-punishment proposal is just one example. But his use of the civil-rights law appears to be a politically motivated attempt to court the women's vote.

Ironically, the civil-rights statute provides for only a maximum 10-year sentence for violation of an injunction in which injury results. By contrast, if Aboulaz is convicted on the rape charge, he'll go away for a lot longer.

It's easier and more effective to punish violent criminals under the earlier laws. No "hate motivation" need be proven; instead, all victims are entitled to equal protection, and the motives of the criminal are of no relevance. Besides, proceeding under established criminal statutes rather than by injunction preserves for the accused the important right to a trial by jury.

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The Food and Drug Administration, in what the *Los Angeles Times* dubbed "a major policy reversal," announced recently that it believes it has the authority to regulate cigarettes as a drug.

FDA Commissioner David Kessler said evidence that tobacco companies deliberately supply smokers with the highly addictive drug nicotine means that tobacco should be regulated like a drug rather than a commodity. This would bring tobacco under the food and drug laws, and, according to Kessler, "a strict application of these provisions could mean, ultimately, removal from the market of tobacco products containing nicotine at levels that cause or satisfy addiction."

Added Kessler: "It could have dramatic effects on our society."

Indeed it could. This backdoor approach to turning tobacco into a contraband item threatens a major expansion of the highly corrosive and unsuccessful "war on drugs" that we've been living with for years.

The drug war has already cost hundreds of billions of dollars, and has contributed to corruption on the part of police, prosecutors, and judges; to the increase in violent crime; and to a wholesale disregard for Fourth Amendment protections against "unreasonable searches and seizures."

Kessler's announcement is particularly outrageous in light of the progress that's been made against smoking.

Since the 1960s, anti-smoking campaigns, rooted primarily in the private sector, have made clear the dangers of smoking. Those efforts, with the assistance of the medical and scientific communities and a succession of surgeons general, have resulted in a dramatic drop in the adult smoking rate — from 50 percent to 25 percent over the past several decades.

Instead of calling off the failed war on drugs by decriminalizing all contraband substances, the idiots at the FDA are threatening to expand it.

There are some people, it seems, who are never satisfied until they can figure out new ways to tell other people how to live — and, yes, how to die. ❑

JEFF THIEBAUTH (HARSHBARGER) AND COURTESY OF THE *BOSTON HERALD* (KESSLER)

SAFETY FIRST: Harshbarger (left) and Kessler value security over liberty.