

THE ZEIT GIST

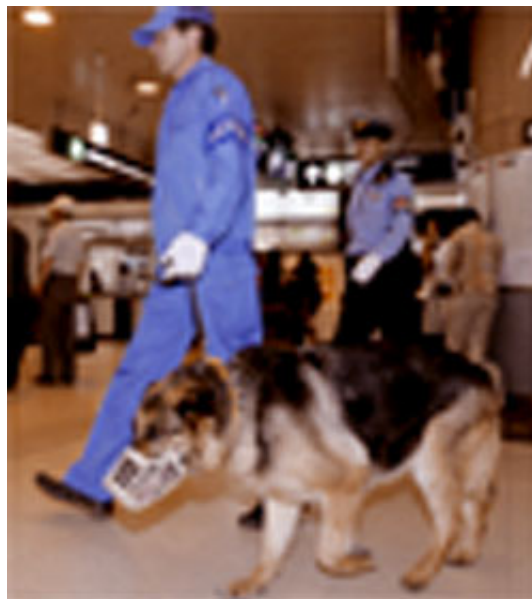
Beware the foreigner as guinea pig

By DEBITO ARUDOU

Anywhere in the world, noncitizens have fewer legal rights than citizens. Japan's Supreme Court would agree: On June 2, in a landmark case granting citizenship to Japanese children of unmarried Philippines mothers, judges ruled that Japanese citizenship is necessary "for the protection of basic human rights."

A shortage of rights for some humans is evident, however, whenever police partake in racial profiling — for example, stopping you for walking or cycling while "gaijin." Japanese citizens are protected against such random interrogations by the "Police Execution of Duties Act," which requires probable cause of a crime. But noncitizens, thanks to the Foreign Registry Law, can be questioned at anytime, anyplace, under penalty of arrest.

The societal damage caused by this is not so easily compartmentalized by nationality. Denying legal rights to some people will eventually affect everyone, especially since non-Japanese (NJ) are being used as a proving ground for embryonic public policy.



On the best: Security patrols Sapporo train station Sunday as Hokkaido hosts the 2008 Group of Eight Summit. KYODO PHOTO

Let's look closer at racial profiling. Mark Butler (a pseudonym), a 10-year Caucasian resident of Japan, has been stopped by police a lot — 117 times to be exact. He cycles home at sunrise after working in the financial night markets.

Never mind that these cops see Butler every night. Or that the same cop has stopped him several times. Or that they sometimes make a scene chasing him down the street and interrogate him in the cold and rain like a criminal suspect. The real question is why they do this.

Cops generally claim a quest for bicycle thieves, never making it clear why Butler arouses suspicion. When pressed further they admit: "Sure, we know you're not a crook, but Chinese gangs are causing trouble, and if we don't crack down on foreigners, the public thinks we're not doing our job."

But at stop No. 67, at a police box that had checked him more than 40 times already, a nervous junior cop admitted that this was his "kunren" (training).

"It seemed the older officer there remembered I wasn't a thief," said Butler, "and saw an opportunity for some on-the-job training — without the risk of dealing with an actual criminal."

"I'd be happy to serve as a paid actor who rides past police stations and cooperates (or not, as directed) with the trainees. But these are officials making use of innocent people — and foreigners at that — for their kunren, with small and large risks forced upon the innocent party."

No larger risk imaginable was recently forced upon a gaijin gimp by Narita Customs.

On May 26, a customs official planted 124 grams of cannabis in a NJ tourist's bag. Why again? It was to train the sniffer dog.

Unbelievably, the bag got lost. Customs later tracked down the tourist and his bag at a Tokyo hotel. They publicly blamed one bad egg — and one bad dog.

However the Kyodo news agency now reports Narita has laced bags 160 times since last September. The Mainichi in English called it "common practice."

Never mind that anyone else doing this would be committing a crime. If the bag had got on a connecting flight to a place such as Singapore, the unwitting possessor could have been executed!

Japan also has stiff penalties for drug possession, so imagine this being your bag, and police on the beat snag you for some questioning. Do you think "how'd that get there?" would have sufficed as an excuse?

It did not for Nick Baker, arrested shortly before World Cup 2002, and sentenced to 14 years despite evidence he was an unwitting drug mule.

And it did not suffice for a Swiss woman, arrested in October 2006 on suspicion of smuggling meth from Malaysia. Despite being found innocent *twice* in court, she has not been released.

Narita Customs said reprimands would be issued, paychecks docked, but nobody fired. That'll learn 'em.

But still the lack of transparency, such as whether Mr. Bad Egg knew the suitcase owner's nationality from the bag tag, is indicative. It is not inconceivable that his bag selection was judicious: If he had egged a Japanese, think of the lawsuit.

Mr. Bad Egg had spiked bags 90 times according to Kyodo. Apparently he was determined not to follow what customs officials claim is standard procedure (such as stashing the contraband in a dummy bag; although common-sense precautions, like including a GPS locator or labeling the box "Property of Narita Customs," apparently are not), it seems logical that he would target a gaijin guinea pig and safely hedge his bets.

But why should citizens care what happens to NJ? Because NJ are crash-test dummies for policy creep.

For example, systemic full-time contract employment, or "ninkisei" first started with the foreigners. In

Japan's universities (and many of its workplaces), if a Japanese was hired full-time, he got lifetime employment — unable to be sacked unless he did something illegal or really stupid (like, um, planting drugs?).

However, NJ educators and employees were given contracts, often capped at a certain age or number of renewals. And they didn't get "fired" in legal terms — their contracts were merely "nonrenewed." There was no legal recourse, because you agreed to the poison pill by signing the contract. Thus nationality and job stability were correlated, in a practice long derided as "academic apartheid." Who cared? NJ were supposed to go back to their home countries someday anyway.

However, in the 1990s, with the low birthrate and declining student numbers, Japan's universities found themselves in trouble. So in 1997, a new law was passed enabling full-time Japanese educators to be hired on contracts like foreigners. Hey, it had kept the gaijin disposable for the past century — why not downsize everyone?

Eventually the entire job market recognized how "temping" and "freetering" workers empowered the bottom line. Contract employment is now universal — applied, according to Louis Carlet of the National Union of General Workers, to 20 percent of Japanese men, 50 percent of Japanese women and 90 percent of NJ workers.

Another example occurred back in 2003 when the government tried "gaijin carding" the entire population with the Juki-Net System. However, it faced a huge (and rare) public backlash; an Osaka High Court Judge even ruled it unconstitutional in 2006 as an invasion of privacy. Oddly, the judge died in an apparent suicide four days after his ruling, and the Supreme Court reversed his decision last March 6. Now the decks are legally cleared to track everyone.

Meanwhile, new, improved, centralized gaijin cards with computerized chips are in the pipeline to keep the policing system evolving.

More examples that show how Japanese citizens being subjected to treatment traditionally reserved for NJ include police stopping Japanese and rifling through their backpacks (vernacular articles are now advising readers that this is still illegal).

Also, more public surveillance cameras are appearing nationwide, after Japan's first neighborhood "foreign crime" cameras were installed in Tokyo's Kabukicho district in February 2002. According to NHK, Tokyo is getting 4000 new ones for the Group of Eight Summit — temporarily, we hope — as Japan has been converted into a temporary police state for the sake of catching "terrorists" (foreigners, naturally).

What's next? How about fingerprinting everyone and forcing them to carry tracking devices? Hey, if you've done nothing wrong, you've got nothing to fear from extra surveillance, right? Besides, the gaijin have already set the precedent.

The moral here is that our fellow native residents should not think that they won't be "gaijinized" just because they are citizens. No matter what the Supreme Court writes about the power of citizenship, when it comes to the erosion of civil rights, noncitizens are the canaries in the coal mine.

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