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CHRGJ Calls on Congress to Stop Discriminatory Profiling, Fix Watchlists

Urges Respect for Human Rights as Government Reviews National Security Measures

(NEW YORK, January 20, 2010)— Congress must uphold respect for human rights by ending the use of illegal and discriminatory profiling under the guise of maintaining national security, said the Center for Human Rights and Global Justice today. The Center made its statement as three Senate committees convened to discuss the attempted Christmas Day terrorist attack and its implications for the Terrorist Watchlist and related databases.

Citing a documented history of false matches in databases that include countless individuals who are not suspected of any wrongdoing, as well as those whose names have been cleared but who remain on the list, the Center urged Congress to reject proposals that would lower the criteria for inclusion in the Terrorist Watchlist.

“The attempted Christmas Day attack only highlights how inefficient it is to rely on bloated, mismanaged watchlists, rather than focusing on solid intelligence leads,” said Professor Smita Narula, CHRGJ Faculty Director and an expert on racial profiling and counter-terrorism policies.

In the most recent of a long line of reports that have considered the flaws in the watchlist system, in May 2009, the Inspector General of the Justice Department found that many of the nominations in the lists were outdated and that individuals who should have been removed remained on the lists. A September 2009 report by the Inspector General of the Department of Homeland Security also reported that the process of removing innocent people from the list is in total disarray, leaving many unable to travel or complete the naturalization process.

“Congress should recommend a comprehensive review of the Terrorist Watchlist and related databases to remove individuals who have been wrongfully included,” said Narula. “It should

also ensure due process through an effective and meaningful system of redress to allow innocent people to clear their names.”

Among the Center’s chief concerns is a new directive from the Transportation Security Administration (TSA) “mandating that every individual flying into the U.S. from anywhere in the world who holds a passport issued by or is traveling from or through nations that are state sponsors of terrorism or other countries of interest...go through enhanced screening.” Citizens of 14 countries are being targeted by the new directive.

The Center stated that the directive amounts to discriminatory profiling on the basis of national origin—in violation of U.S. obligations under international human rights law—and will result in the racial and religious profiling of individuals from the target countries.

“Profiling on the basis of race, religion, and national or ethnic origin violates human rights and offends the fundamental democratic value that all individuals should be treated equally and with dignity,” emphasized Narula. “Profiling should not be used to cover up intelligence failures or to create an illusion of security.”

The Center also expressed its disappointment at the general lack of concern exhibited by members of the Homeland Security Committee with the blatant profiling inherent in the TSA’s directive and called on Congress to uphold human rights and ban the use of discriminatory profiling.

Background

Since the events of September 11, 2001, the U.S. has increasingly engaged in illegal and discriminatory profiling against members of the Arab, Muslim, Middle Eastern, and South Asian communities as part of its counter-terrorism and immigration policies. These policies have had a devastating impact—breaking up families, causing lengthy and illegal citizenship delays and mass disenfranchisement, and contributing to harassment and humiliating treatment at the borders. The U.N. Committee on the Elimination of Racial Discrimination has on multiple occasions criticized the U.S. for its use of discriminatory policies, emphasizing that counter-terrorism measures may never involve discriminatory profiling against non-citizens.

About the CHRGI

The Center for Human Rights and Global Justice (CHRGI) at New York University School of Law was established in 2002 to bring together the law school’s teaching, research, clinical, internship, and publishing activities around issues of international human rights law. The Center has focused on the illegal use of profiling in counter-terrorism and immigration policies, publishing two widely-cited reports—[*Americans on Hold: Profiling, Citizenship, and the “War on Terror”*](#) and [*Irreversible Consequences: Racial Profiling and Lethal Force in the “War on Terror”*](#)—which, respectively, highlight the problematic use of profiling in security checks for U.S. naturalization applications and in the context of dangerous “shoot-to-kill” policies.

The Center is currently producing a documentary film entitled [*Americans on Hold*](#) to expose the racial profiling that is at the heart of both citizenship delays and border-crossing detentions and delays.