

**FOR IMMEDIATE RELEASE**

**March 31, 2009**

**Contact:**

Smita Narula,  
Faculty Director, CHR&GJ  
917-209-6902  
[narulas@exchange.law.nyu.edu](mailto:narulas@exchange.law.nyu.edu)

Veerle Opgenhaffen,  
Program Director, CHR&GJ  
212-992-8186  
[opgenhaffen@exchange.law.nyu.edu](mailto:opgenhaffen@exchange.law.nyu.edu)

**CHR&GJ Calls on Administration to Stop Racial Profiling in Citizenship Process**

*Applauds Naturalization of Zuhair Mahd but Urges Reform of FBI Name Check Program*

(New York—March 31, 2009) The Obama Administration should end the use of racial and ethnic profiling in the U.S. Citizenship and Immigration Services (USCIS) citizenship application process, said the Center for Human Rights and Global Justice (CHR&GJ) at New York University School of Law today. While the agency has taken important steps to clear its naturalization backlog, its ongoing reliance on the Federal Bureau of Investigation's (FBI) ineffective National Name Check Program (NNCP) may continue to illegally delay citizenship for Arab, Muslim, Middle Eastern, and South Asian applicants who otherwise meet U.S. eligibility requirements for citizenship.

The CHR&GJ called for an end to profiling in the citizenship process as it applauded the naturalization of longtime immigrant rights activist, Zuhair Mahd, whose citizenship application was delayed for more than five years as a result of the FBI's name-check process. Mr. Mahd is a central figure in the forthcoming CHR&GJ documentary, *Americans on Hold*, which chronicles the human rights impact of racial and ethnic profiling in U.S. immigration processes. His naturalization ceremony is the culmination of a long and arduous struggle to attain U.S. citizenship.

"Today marks a personal triumph in my quest to be officially recognized as an American," said Mr. Mahd, as he prepared to enter the new USCIS headquarters for his swearing in ceremony. "After a long battle to enjoy the basic right to be considered for citizenship by the same standards as all other applicants, I am both happy and sad on this occasion. Even as I celebrate, I know there are still thousands of people out there waiting for this day, whose only so-called crime has been to have a particular name."

In 2004, Mr. Mahd—a blind information technologies specialist from Jordan—filed his naturalization application after successfully completing all the requisite citizenship requirements. Like many other Arab, Muslim, Middle Eastern, or South Asian applicants, Mr. Mahd's application was delayed by the FBI's name check process. In 2006, Mr. Mahd took his case to federal court, where a district judge ordered that the FBI and Department of Homeland Security rule on his application within 90 days. In spite of that order, Mr. Mahd's case remained pending until

March 2009, when the Denver District Director of Homeland Security's Citizenship and Immigration Services finally announced that he would be sworn in as a citizen.

Although federal law requires USCIS to grant or deny citizenship within 120 days of an applicant's examination, increased security checks in the citizenship application process since September 11, 2001, substantially expanded name-check procedures. USCIS's November 2002 decision to check naturalization applicant names against the FBI Universal Name Index's (UNI) reference files in addition to its main files caused a massive backlog of unanswered or unresolved applications due to the number of false positives generated by the expanded checks. The UNI includes the names of individuals who are the main subject of an FBI investigation while reference files in the UNI contain names of associates, witnesses, co-conspirators, or victims. This backlog—which illegally delayed the processing of hundreds of thousands of applicants for years on end—resulted in a significant spike in applicant lawsuits and contributed to mass disenfranchisement in the 2008 elections.

Muslim, Arab, Middle Eastern, or South Asian men like Zuhair Mahd are particularly susceptible to delays as a result of the selective targeting of individuals from these communities since September 11, 2001. This selective targeting through public as well as private profiling renders these men more vulnerable to having their names, or derivations of their names, register as "hits" in the FBI's UNI.

In 2008 and early 2009, USCIS implemented a number of key reforms to respond to citizenship delays, which included: announcing a joint plan with the FBI to eliminate the majority of name-check delays by June 2009; hiring hundreds of new employees to help speed up application processing; improving personnel training; and creating an electronic system to replace their paper-based case-management system.

Though commendable first steps, the CHRGI remains concerned that the ultimate, underlying problem with the NNCP—namely the presence of individuals in the FBI's UNI who have not been charged with any terrorism-related offense and who have been targeted as a result of racial and ethnic profiling—has not been resolved. The failure to address these underlying problems will continue to result in discrimination in violation of the U.S. government's obligations under international human rights law.

"Right now USCIS and the FBI are essentially treating the symptoms while ignoring the disease," said Smita Narula, CHRGI Faculty Director and co-author of the [CHRGI report on citizenship delays](#). "The NNCP is both discriminatory and ineffective. Before we can declare a real victory for immigration policy, we must address the racial and ethnic profiling that is at the heart of a number of these delays."

To act on these concerns, the CHRGI calls on the Obama Administration to ensure that:

- All U.S. intelligence agencies, including the FBI, end the use of discriminatory profiling as a counter-terrorism mechanism;
- Congress acts quickly to reintroduce and pass the *End Racial Profiling Act*, which bans racial profiling at all levels of law enforcement;
- The FBI provides greater transparency around how UNI indices are populated and the period for which individuals' names remain in the UNI once entered;
- The Department of Justice create an appealable administrative mechanism for individuals who believe they are affected by the FBI's UNI to challenge their possible inclusion in the Index;
- The USCIS's 2002 expansion of name-check procedures is evaluated in order to assess the efficacy of the expansion and the extent to which it has affected particular communities. If the evaluation determines that the name check process is ineffective, USCIS should no longer require that the names of naturalization applicants be checked against reference files in the FBI's UNI;
- The FBI meet its stated goal of completing 98% of USCIS name-check requests within 30 days and the remaining 2% within 3 months by June 2009;
- USCIS decisions on naturalization applications are made within 120 days of examination, as required by law; and
- Congress acts quickly to reintroduce and pass the *Citizenship Promotion Act*, which was originally introduced in March 2007 by then-Senator Barack Obama and Representative Luis Gutierrez, and calls for

the timely processing and adjudication of naturalization applications and seeks to reduce USCIS's financial dependence on application fees by authorizing the agency to receive congressional appropriations.

For more information on the Center's work related to citizenship delays please visit:

<http://chrgj.org/projects/profiling.html>

For more about racial profiling and disenfranchisement in the 2008 elections please visit:

<http://www.chrgj.org/press/docs/oct08electionpressrelease.pdf>

For more information about the Americans on Hold Documentary or to view footage of Mr. Mahd, please

visit: <http://www.chrgj.org/projects/documentary.html>

For more information about our work, please visit the Center's website at: <http://www.chrgj.org>

### **About the CHRJ**

The Center for Human Rights and Global Justice was established in 2002 to stimulate cutting edge scholarship and to make original and constructive contributions to on-going policy debates in the field of human rights. By emphasizing interdisciplinary analyses, the Center's programs seek to situate international human rights law in the broader context of the political, jurisprudential, economic, sociological, historical, anthropological and other influences that shape it and determine its impact.

Philip Alston is the Center's Faculty Chair; Smita Narula and Margaret Satterthwaite are its Faculty Directors; Jayne Huckerby is Research Director; Veerle Opgenhaffen is Program Director; Amna Akbar is Clinical Fellow; and Lama Fakih is Center Fellow.

\*

\*

\*