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The Honorable Michael Mukasey  
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U.S. Department of Justice  
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Washington, D.C. 20530

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

December 20, 2007

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Dear Attorney General Mukasey:

We are writing to express our serious concern over a recent decision by the Board of Immigration Appeals (BIA) that calls into question the commitment of the United States to respect the human rights of women. On September 27, 2007, the BIA decided in *Matter of A-T*, 24 I&N Dec. 296 (BIA 2007), that a woman from Mali who had been subjected to female genital mutilation (FGM) as a child and who fears being forced into a marriage if she returns to Mali is not eligible for asylum.

Part of the BIA's reasoning in this regard focused on the legislative definition of a "refugee" (8 U.S.C. §1101(a)(42)) and thereby drew a distinction between forced sterilization and abortion, which are specifically included in the definition, and FGM, which is not. The BIA reasoned that since Congress included only involuntary sterilization and abortion in the "refugee" definition, no other similar kind of gender or sexually related harm inflicted on a person, no matter how reprehensible, could establish eligibility for asylum on the basis of past harm alone. We take issue with the Board's reasoning in this regard. Congress' specification of forced sterilization and abortion as bases for asylum certainly does not preclude other similar grounds for asylum based solely on past harm, depending on the severity of the harm inflicted and its consequences.

In this case, FGM certainly warrants the same consideration as these other two forms of persecution, based on the "special nature of the persecution at issue." (Cf. *Matter of Y-T-L-*, 23 I&N Dec. 601 at 606 (BIA 2003)). In 1996, Congress criminalized FGM in this country, finding that "the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved," and that "such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional."

As you may know, on October 9, 2007, the House of Representatives unanimously passed H. Res. 32, which included a denunciation of FGM as a "barbaric practice" and characterized it together with other certain acts as gender-based persecution and a crime. It is our position that a woman who has been subjected to FGM should be eligible for asylum on the basis of the severity of the physical harm inflicted, and the ongoing pain and suffering that accompanies this atrocity.

In addition, the BIA dismissed the applicant's fear of forced marriage. In doing so, it did not take into account evidence that women subjected to forced marriage in Mali often suffer abuse and are powerless to extricate themselves from abusive relationships. Such evidence is highly relevant in a situation where a woman will be vulnerable to human rights violations including rape and other forms of sexual and physical violence.

In short, the Board failed to recognize that harms unique to women – FGM and the possible consequences of forced marriage – may constitute persecution entitling a woman to the protection of asylum. We strongly urge you to address the implications of this decision, and its devastating consequences for women seeking protection in the United States from these severe human rights abuses, by certifying the case for review.

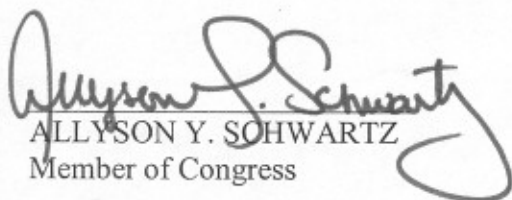
Sincerely,



STEVEN R. ROTHMAN  
Member of Congress



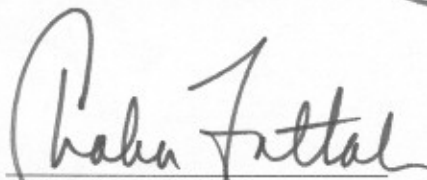
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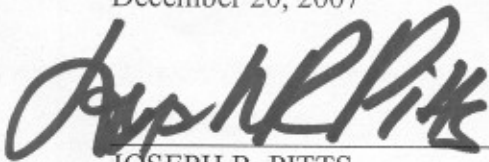
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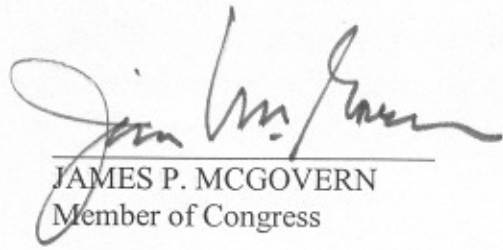
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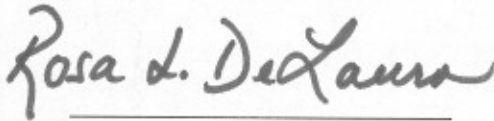
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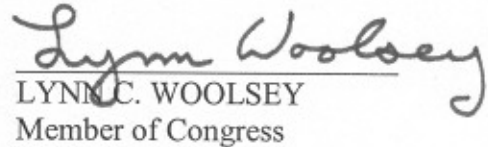
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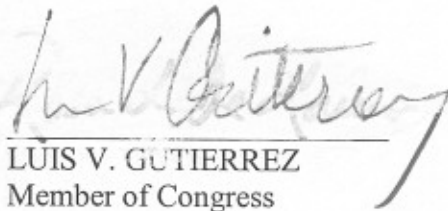
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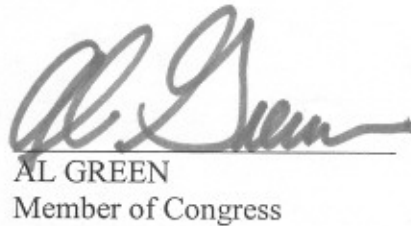
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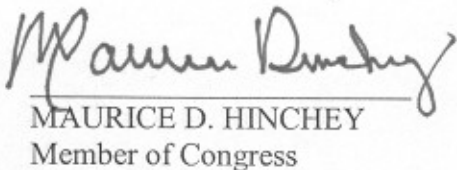
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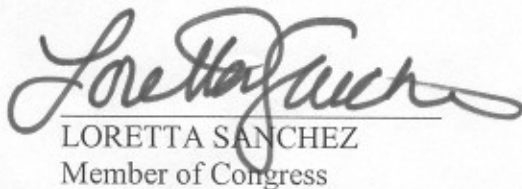
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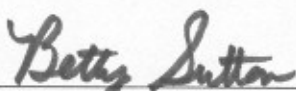
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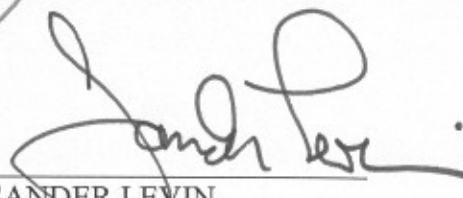


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