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November 6, 2009

The Honourable Jason Kenney, P.C., M.P.
Citizenship and Immigration Canada
Ottawa, Ontario K1A 1L1
Email: Minister@cic.gc.ca

Dear Minister Kenney,

I am writing to express West Coast LEAF's views on two bills currently before Parliament, both related to Canada's immigration response to human trafficking: Bill C-45, *An Act to amend the Immigration and Refugee Protection Act*; and Bill S-223, *An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures in order to provide assistance and protection to victims of human trafficking*.

West Coast LEAF is a legal organization working towards women's equality in British Columbia. We do so through law reform initiatives, strategic litigation and rights-based public legal education. West Coast LEAF has a strong interest in ensuring that Canada, as a source, destination and transit country, protects the human rights of the victims of human trafficking, particularly women who are trafficked for a sexual purpose.

West Coast LEAF opposes the passage of Bill C-45. Rather than criminalizing the conduct of traffickers, this bill seeks to make victims of trafficking (or potential victims of trafficking) "illegal" under immigration law and to return them to a place of vulnerability. Instead of protecting victims, this Bill both punishes victims for their involvement in trafficking and heightens their exposure to violence and further trafficking in their countries of origin. Furthermore, the provisions of the proposed bill are overly broad, therefore leaving the door open to discretionary decision making that may have a particularly negative impact on immigrant women. Since women are more likely to be perceived to be in positions of subjugation, particularly sexual exploitation, the officers' discretionary assessment of whether the applicant is subject to degrading treatment or exploitation will most likely be used to deny visas to immigrant women. The potential for discrimination is high. What measures will you have in place to educate officers and monitor their decisions on this issue?

West Coast LEAF supports aspects of Bill S-223, although urges the government to ensure that the rights of victims are placed at the front and centre of all responses to human trafficking. The proposed measures in Bill S-223 are an improvement upon the current victim protection regime, and West Coast LEAF supports extending the term of Temporary Resident Permits (TRPs) to three years. However, in certain respects, this bill does not go far enough to ensure that victims are adequately protected.

West Coast LEAF recommends that the public awareness component of the bill be strengthened, to ensure that trafficking victims are aware that their legislative protections do not hinge on their participation in the prosecution of their abusers. West Coast LEAF also urges the government to ensure that immigration and refugee determination officers are aware that this requirement is optional. Further, it is unclear from the *IRPA*'s implementing regulations and guidelines whether there is a process for appealing the determination that an individual is not a victim of trafficking, and this lack of provision for appropriate procedural safeguards is of substantial concern to West Coast LEAF. Any revision to *IRPA* and the TRP regime will need to ensure that victims of trafficking facing deportation from Canada are provided with the same procedural protections as any other individuals facing removal orders under like circumstances, and that they are fully apprised of the other legislative and administrative measures available to them, such as refugee protection claims and applications for humanitarian and compassionate consideration.

I am attaching West Coast LEAF's position statement on this issue, which includes our position on these two Bills, as well as Bill 268. **I urge you to review our position statement and carefully consider, in all legislative decisions, the human rights of women and girls who are being trafficked across our country and through our borders.** Thank you for considering our position; I look forward to hearing back from you.

Sincerely,



Kasari Govender
Legal Director

Cc: Honourable Robert Nicholson, P.C., Q.C., M.P., Minister of Justice and Attorney General of Canada, webadmin@justice.gc.ca

Honourable Michael Ignatieff, M.P., Leader of the Liberal Party, IgnatM@parl.gc.ca

Honourable Jack Layton, M.P., Leader of the NDP, LaytoJ@parl.gc.ca

Encl.