Binational, Multi-State Survey on Human Trafficking Legislation and Collaboration

Phase I Report to the Council of State Governments-WEST, the Conference of Western Attorneys General, the Border Legislative Conference, and the Border Governors Conference

Prepared by:

North American Center for Transborder Studies
Arizona State University

In partnership with:

CSG WEST
CWAG
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Mexico

servin g Western Legislators
U.S.-Mexico State Alliance Partnership

United States Agency for International Development, Mexico

Council of State Governments-WEST
Edgar Ruiz, Executive Director, CSG-WEST
Paul Somerhausen, Director, Border Legislative Conference

Border Legislative Conference
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Representative Andy Nuñez, New Mexico State Legislature, Vice Chair

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Karen White, Executive Director

Project Partner
Border Governors Conference Security Work Table
Daniel de la Rosa Anaya, Secretary, Department of Public Security, Baja California, Chair
Gorden E. Eden Jr., Secretary, New Mexico Department of Public Safety, Co-Chair

NACTS/ASU Research Team

Principal Investigator/Project Lead
Erik Lee, Associate Director, North American Center for Transborder Studies, Arizona State University (ASU)

Research Team
Jonathan Alanis, NACTS Undergraduate Policy Research Assistant, Political Science, ASU
Felicia Cantrell, Second-year law student, Sandra Day O’Connor School of Law, ASU
Zoe Sarabo, Masters Program in Liberal Studies, ASU

Project Advisors
Gabriella Sánchez, PhD, Justice Studies, School of Social Transformation, ASU
Rick Van Schoik, Director, North American Center for Transborder Studies, ASU

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Courtesy of CWAG.
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_Courtesy of the Border Legislative Conference._
Project Background
Human trafficking is a complex crime involving fraud, force or coercion that is related to but distinct from human smuggling, which implies consent of those being smuggled. The topic of human trafficking has recently emerged as a key point of convergence on a crowded U.S.-Mexico binational agenda. There is a significant and growing amount of discussion and interest on this topic in both countries, and a large number of government and civil society stakeholders are now working intensively in this issue area. This study is by no means an exhaustive study of human trafficking but instead is meant to serve as a practical point of reference for key stakeholder on human trafficking in terms of binational, state-level exploration, discussion and further action in this area.

In particular, this document looks at existing and potential legislation and administrative actions on the part of key U.S.-Mexico state-level government stakeholders. This group of stakeholders includes two important entities that form part of the U.S.-Mexico State Alliance Partnership—including the Conference of Western Attorneys General (CWAG, www.cwagweb.org) and the Border Legislative Conference (BLC, www.borderlegislators.org)—as well as the Border Governors Conference.

While the federal governments take the lead on a large number of key binational issues, regional organizations such as CWAG, the BLC and others implement specific, local and customized solutions to a number of challenges that the two nations face.

Acknowledgements
The North American Center for Transborder Studies (NACTS) at Arizona State University is a university-based public policy analysis and advisory group that collaborates with key partners to improve North American cooperation and prosperity. NACTS shaped the analysis, synthesis, and recommendations in this report from an ongoing series of engagements (please see list of events, meetings, etc. in Figure 3 below) with a large number of U.S. and Mexican experts and organizations. This process of engagement was enlightening and helped to shape this document’s scope and detail.

This report would not have been possible without the able research assistance of ASU students Jonathan Alanis, Felicia Cantrell and Zoe Sarabo. Their detailed analysis and hard work is the foundation of this report’s findings. In addition, NACTS Director Rick Van Schoik, ASU doctoral candidate Gabriela Sanchez and NACTS Non-Resident Scholar Remigio Martínez provided critical context and review of our efforts. We thank NACTS Operations and Research Administrator Sara Sonnenberg for her support. In addition, a large set of stakeholders and experts shared their expertise with us. To name but a few, these experts included U.S. Homeland Security Investigations officials Special Agent in Charge of Investigations for Arizona Matthew Allen, Attaché Embassy Mexico Jere Miles, Special Agent/Program Manager Human Smuggling & Trafficking Unit Angie Salazar, and Deputy Assistant Director, Critical Infrastructure and Fraud Division James Spero; Gilbert Orrantia, Director of the Arizona Department of Homeland Security;
New Mexico Assistant Attorney General
Maria Sánchez-Gagne; Mariela Guajardo,
Project Expert on human trafficking for the
International Organization of Migration in
Mexico; former Sonora state representative
Leticia Amparano; Sonora state
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Baja California Víctor Manuel Quiroz Rocha. I
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General of the state of Washington), who is
heading NAAG’s important “Pillars of Hope”
anti-human trafficking initiative as well as
CWAG Executive Director Karen White for her
ongoing support and input. We would
emphasize that this is only a small part of the
community of stakeholders that work on this
issue and we will continue to expand our
network of contacts in this area on future
phases of the report.

Erik Lee
Associate Director
North American Center for Transborder Studies
Arizona State University

Figure 3: List of Report Presentations to Key Stakeholders

<table>
<thead>
<tr>
<th>Date</th>
<th>Stakeholder Group</th>
<th>Place</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 14, 2011</td>
<td>Border Legislative Conference</td>
<td>Las Cruces, New</td>
</tr>
<tr>
<td>June 6, 2011</td>
<td>CalEMA State Human Trafficking Stakeholders</td>
<td>Sacramento,</td>
</tr>
<tr>
<td>July 10, 2011</td>
<td>Conference of Western Attorneys General</td>
<td>Kona, Hawaii</td>
</tr>
<tr>
<td>Sept. 28,</td>
<td>Border Governors Conference Security Worktable</td>
<td>Ensenada, Baja</td>
</tr>
</tbody>
</table>
“This is an inferno of sexual exploitation for thousands and thousands of women.”
—President Felipe Calderón, July 17, 2011, during remarks on Mexico’s recent constitutional changes relating to human trafficking law.

Executive Summary

Background
Human trafficking is an exploitation-based crime that is distinct from human smuggling, which involves transporting people who have given their consent to be moved. A growing global awareness of this problem during the 1990s culminated in the Palermo Protocol to Prevent, Suppress and Punish the Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime of 2000.

Both the U.S. and Mexico are signatories to the Palermo Protocol and recognize human trafficking as a particularly serious crime that is both a domestic and international challenge that merits sophisticated, sustained and multi-level binational cooperation. This is particularly urgent because of the two nations’ shared responsibility to combat transnational criminal organizations as reiterated in the May 19, 2010 Joint Declaration on 21st Century Border Management.

Federal Human Trafficking Law and Implementation in the U.S. and Mexico
In the United States, the Trafficking Victims Protection Act of 2000 (TVPA) defines severe forms of trafficking in persons as sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery (8 U.S.C. § 1101).

Mexico’s federal Law to Prevent and Sanction Human Trafficking (2007) establishes that a person who commits this crime is one who promotes, facilitates, solicits, translates, delivers or receives for himself or a third
party a person through the use of physical or moral violence, deception or abuse of power to submit that victim to sexual exploitation, forced labor/service, slavery or practices analogous to slavery, servitude or to extirpate an organ, tissue or one of its components. In July 2011, Mexico’s Congress passed three important constitutional changes which set the stage for a federal “general law” on human trafficking that will provide a comprehensive legal framework for all levels of government to follow.

Both laws mandate the creation of federal interagency task forces to manage the respective nation’s federal response to the phenomenon. In addition, both laws serve as a touchstone in the ongoing federal-state-local dialogue on this issue.

State-level Human Trafficking Laws in the Western U.S. and the Mexican Border States
While U.S. state law on human trafficking is characterized by its diversity, Mexican law is notable for its relative uniformity. Some of the Conference of Western Attorneys General states and all of the six Mexican border states (Baja California, Sonora, Chihuahua, Coahuila, Nuevo León and Tamaulipas) have statutes which specifically address human trafficking as a crime. The U.S. states’ laws range from specific human trafficking legislation to related laws such as pandering. Some states have been actively updating their trafficking legislation. New Mexico has recently adopted a new human trafficking statute and the state of Washington recently updated its laws in 2010. Some states have victim assistance funds. Since 2007, the Mexican border states have developed legislation or are in the process of developing comprehensive human trafficking legislation. Similar to Mexico’s federal legislation, Mexican state human trafficking laws mandate the creation of interagency task forces and in some cases specifically encourage agencies to collaborate. The Mexican state laws share many similarities, and the ongoing homogenization of state laws is a specific and widely supported policy objective in Mexico. These legal changes are being implemented simultaneous with Mexico’s violent struggle with transnational criminal organizations and a systemic transition in Mexico to an oral adversarial system of justice, which Mexico’s federal Congress has mandated must take place throughout the country by 2016.

U.S.-Mexico Institutional Collaboration on Human Trafficking
Key U.S. federal agencies collaborate with their Mexican counterpart agencies on human trafficking issues and cases, including the Department of Homeland Security, the Department of Justice, the Department of State and USAID Mexico. Key Mexican counterparts include the Attorney General’s Office (Procuradoría General de la Republica, PGR), the federal Public Security Secretariat, the National Migration Institute, and others.

In terms of domestic collaboration, depending on the U.S. state’s departmental makeup, the district/county attorney’s office, United States Attorney’s Office, or the Attorney General’s office (as is the case in New Mexico) may handle the prosecution of these crimes. Assistant U.S. Attorneys head over three dozen metropolitan area human trafficking task forces whose members comprise local and state law enforcement agencies and NGOs and which are funded by the Bureau of Justice Assistance (U.S. Department of Justice). The Special Prosecutor for Violence Against Women and
Human Trafficking (FEVIMTRA) runs programs and shelters in Mexico. Two new institutional innovations include the federal and state interagency task forces as well as Mexico’s National Commission on Human Rights regional commissions throughout Mexico that specifically look at trafficking issues as they are handled by state and local officials.

At the crossborder/state level, the Border Governors Conference, the Border Legislative Conference and the Conference of Western Attorneys General have made binational efforts to combat human trafficking an important organizational and policy priority. In 2008, the Border Governors Conference issued a joint declaration addenda item committing to include best practice strategies on human trafficking in the BGC’s agenda going forward. New Mexico is notable for an Agreement of Understanding that Attorney General Gary King signed with then-Chihuahua Attorney General Patricia González in 2008 that outlines the creation of crossborder working groups and the development of best practices.

Recommendations

Even in a challenging binational context, a number of opportunities for positive change present themselves. We focus here on substantive and process-based recommendations for three key stakeholders in particular: the Border Legislative Conference, the Conference on Western Attorneys General (both part of the U.S.-Mexico State Alliance Partnership) and the Border Governors Conference.

Substantive Recommendations

1. Consider legislation that incentivizes and funds productive interstate, binational and international collaboration on statutory language and state law enforcement agency collaboration to address both domestic and cross-border aspects of human trafficking in a proactive manner (CWAG and BLC).

2. Consider legislative approaches that adequately fund programs that train state and local law enforcement officials in the recognition and prevention of human trafficking (CWAG and BLC).

3. Consider legislative approaches that take a victim-centered approach and prioritize comprehensive approaches to victims of both sex trafficking and labor trafficking through mechanisms such as victims assistance funds (CWAG and BLC).

4. U.S. states should strongly consider adopting the language of the Trafficking Victims Protection Act of 2000 to aid in building a more comprehensive approach at the state level (CWAG and BLC).

Organizational, Process and Collaboration Recommendations

5. Create a permanent binational policy review committee made up of representatives from the U.S.-Mexico State Alliance Partnership member organizations (the Conference of Western Attorneys General, the Border Legislative Conference, the North American Center for Transborder Studies, the Mexico Institute at the Woodrow Wilson International Center for Scholars), the Border Governors Conference Security Work Table, state and county prosecutors, and the relevant federal agencies and non-governmental organizations in the U.S. and Mexico (BGC, BLC and CWAG).
6. Conduct regular U.S.-Mexico State Alliance Partnership visits and publication of findings with key U.S. and Mexican border state legislatures’ commissions to discuss human trafficking legislation and a broad range of policy implementation in the U.S.-Mexico border region, with a focus on best practices on issues such as attention to victims and coordination (CWAG and BLC).

7. Develop partnerships with key Mexican academic and policy organizations to further research and evaluate human trafficking, measures taken to address both the crime and victims of trafficking in Mexico (BGC, BLC and CWAG).

8. Discuss and adopt key medium- and long-term measures that evaluate legislative success on the issue of human trafficking and attention to victims of both sex trafficking and labor trafficking in the U.S. and Mexico (BLC).

9. Develop or link to innovative programs to recognize state legislatures and legislators for innovative and best legislative practices to combat human trafficking (BLC).

10. Enable CWAG to offer binational trainings and best practice development on handling human trafficking cases in partnership with key Mexican government and civil society stakeholders as part of its trainings for Mexican judges, prosecutors, forensic workers and police (CWAG).
Introduction

“The United States was founded on the principle that all people are born with an unalienable right to freedom . . . Yet even today, the darkness and inhumanity of enslavement exists . . . Fighting modern slavery and human trafficking is a shared responsibility . . . Together we can and must end this most serious, ongoing criminal civil rights violation.”

--Proclamation of President Barack Obama, January 2010

A Challenging Policy Area for All Jurisdictions

Human trafficking is a global phenomenon and an exceedingly difficult crime to define, detect, prosecute, prevent and rehabilitate victims from. First and foremost, it is critically important to distinguish human trafficking—an exploitation-based crime—from human smuggling, which involves transporting people who have given their consent to be moved. Yet to further complicate matters, it is important to note that what starts out as human smuggling (for example, an undocumented migrant pays a smuggler to move him or her from Mexico to the United States) may later turn into an issue of human trafficking (that same migrant is compelled to work at substandard wages and conditions). And finally, the precise quantification with respect to the human trafficking problem is a work in progress and an additional ongoing challenge for all interested stakeholders in the U.S. and Mexico as well as globally.

Despite these challenges, the issue area of human trafficking is addressed by a large number of governmental and non-governmental actors on the global, regional, national, state/provincial, and local levels. This introduction will attempt to give some global, national and binational context to the anti-human trafficking work of the various states featured in this report, specifically the CWAG member states (the western U.S.) and the six Mexican border states. (The emphasis will be on governmental actors; a full analysis of non-governmental organization activity in this area is beyond the scope of this current study.)

Global conventions

Human trafficking—essentially the exploitation of another human being—is a relatively recently articulated international issue. A growing global awareness of this problem during the 1990s culminated in the United Nations Convention against Transnational Organized Crime, which was adopted by the General Assembly (Resolution 55/25) on November 15, 2000 as the main international instrument in the fight against transnational organized crime. The Palermo Protocol to Prevent, Suppress and Punish the Trafficking in Persons Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime, which was adopted by the General Assembly (Resolution 55/25) on November 15, 2000 as the main international instrument in the fight against transnational organized crime. The Palermo Protocol to Prevent, Suppress and Punish the Trafficking in Persons Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime allowed trafficking to be addressed as part of the Convention without having to create a separate convention.

Both the U.S. and Mexico are signatories to the Palermo Protocol and recognize human trafficking as both a domestic and international challenge. The U.S. Department of State publishes an annual Trafficking In Persons (TIP) Report which assesses how countries address the human trafficking issue. To get a sense of the issue, the report currently classifies Mexico as a Tier 2 country.
Countries whose governments do not fully comply with the TVPA’s minimum standards, but are making significant efforts to bring themselves into compliance with those standards”) and the U.S. as a Tier 1 country (complies with the TVPA’s minimum standards). It is important to note that this is an evaluation undertaken by the U.S. federal government and that the report itself recognizes Mexico’s progress on this issue. In April of 2010, the Mexican government became the first country in Latin America to adopt the UNODC’s “Blue Heart” campaign.

Federal Legislation and Definitions in the U.S. and Mexico
The various legal definitions of human trafficking—which include both sex trafficking and labor trafficking—present a challenge to the effective coordination to address and prosecute this crime both domestically and internationally. Both the United States and Mexico have major federal legislation regarding human trafficking. The Trafficking Victims Protection Act (TVPA) was passed by the U.S. Congress as part of the Victims of Trafficking and Violence Protection Act of 2000. Mexico’s federal congress passed the Law to Prevent and Sanction Human Trafficking in 2007 and modified this law in 2011. Both laws strive for both a broad and detailed definition of human trafficking and mandate, among other components, the creation of a federal interagency task force to manage the respective nation’s federal response to the phenomenon. In addition, both laws serve as a touchstone in the ongoing federal-state-local dialogue on this issue. Figure 3 (below) shows how both countries’ federal legislation defines human trafficking.

**Figure 3. U.S. and Mexican Federal Definitions of Human Trafficking**

<table>
<thead>
<tr>
<th>Mexico</th>
<th>United States</th>
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<tbody>
<tr>
<td><strong>Law to Prevent and Sanction Human Trafficking (2007)</strong></td>
<td><strong>Trafficking Victims Protection Act of 2000 (TVPA)</strong></td>
</tr>
<tr>
<td>Establishes that a person who commits this crime is one who promotes, facilitates, solicits, translates, delivers or receives for himself or a third party a person through the use of physical or moral violence, deception or abuse of power to submit that victim to sexual exploitation, forced labor/service, slavery or practices analogous to slavery, servitude or to extirpate an organ, tissue or one of its components.</td>
<td>Defines severe forms of trafficking in persons as sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery (8 U.S.C. § 1101).</td>
</tr>
</tbody>
</table>
**United States: The Trafficking Victims Protection Act of 2000 (TVPA)**

The Trafficking Victims Protection Act (TVPA) of 2000 is part of a larger bill, the Victims of Trafficking and Violence Protection Act of 2000 that also includes the Violence Against Women Act of 2000. This bill mandates the creation of an interagency task force to monitor and combat human trafficking, led by the Secretary of State (see Figure 5 below for a full list of the component and participating agencies).

§1590 Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor states that that “Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or the attempt to commit to kidnap, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.”

§1591 Sex Trafficking of Children or By Force, Fraud or Coercion states that “whoever knowingly in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or benefits, financially or by receiving anything of value knowing that force, fraud, or coercion will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished.” If the minor is between the ages of 14-18, the sentence is a fine and a maximum imprisonment of 20 years. If the victim is under 14 years of age then the sentence increases to life imprisonment. This bill also mandates monetary restitution to the victim.

While the TVPA only applies to federal prosecutions of human trafficking, it is important to note that several CWAG member states have adopted the language of the TVPA including Oregon, New Mexico, Arizona, Idaho, Utah, Nevada, North Dakota, and Guam.

A key component of the TVPA is how the law deals with victims of trafficking in the United States. An alien who is a victim of a severe form of trafficking in persons shall be eligible for benefits and services under any federal or state program to the same extent as an alien who is admitted to the United States as a refugee. All victims less than 18 years of age automatically qualify as a victim of a severe form of trafficking.

Nonimmigrant visas for trafficking victims include the “U” and “T” Visas. “T” visas are available to individuals who are victims of a severe form of trafficking in persons (which includes either status as a minor or having been recruited for labor or services through the use of force, fraud, or coercion). The law states that after 3 continuous years of good standing in the United States, a victim may apply for legal permanent residency in the United States. Almost all grounds of inadmissibility are waived in these cases. The Attorney General determines whether or not...
a victim is inadmissible for purposes of nonimmigrant status.¹

The “U” visa is available to immigrants who are either victims of or who possess information concerning one of the following forms of criminal activity: rape, torture, trafficking, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, etc. A federal, state, or local official must certify that an investigation or prosecution would be harmed without the assistance of the immigrant or, in the case of a child, the immigrant’s parent. There is a limit of 10,000 “U” Visas that may be issued in one year.² “U” Visa decisions are left to the discretion of local law enforcement, so depending on the jurisdiction in which the crime takes place, this often effects whether or not the visa is issued.

**Mexico: The Law to Prevent and Sanction Human Trafficking**

Published in March of 2007, Mexico’s federal Law to Prevent and Sanction Human Trafficking was the first of its kind to address human trafficking within Mexico. The law is divided into four sections (chapters) which outline the federal government’s responsibilities in this area.

In general, the law has three major objectives:

1) Prevent and sanction human trafficking as well as provide protection, care and assistance for the victims of the crime.

2) Direct federal government agencies to collaborate or cooperate in programs that aim to prevent human trafficking, and.

3) Mandate that the Mexican government prosecutes, investigates, and sanctions human trafficking cases when they are initiated, planned and/or committed outside national boundaries as long as they produce or intend to produce consequences in the Mexican national territory.

Mexico’s 2007 law establishes that a person who commits this crime is one who promotes, facilitates, solicits, translates, delivers or receives for himself or a third party a person through the use of physical or moral violence, deception or abuse of power to submit that victim to sexual exploitation, forced labor/service, slavery or practices analogous to slavery, servitude or to extirpate an organ, tissue or one of its components.

Mexico’s definition of human trafficking differs from that established in the UN Trafficking in Persons Protocol (TIP/Palermo Protocol) by including in its activities the promotion, soliciting, offering and facilitation and delivery of victims. Mexico’s definition of the crime unfortunately fails to include the irrelevance of a victim’s consent when

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² Id.
elements of coercion or force are verified as stated on the 2000 UN Trafficking in Persons Protocol.

**Penalties**
The 2007 federal law also includes penalties for those who are found guilty of human trafficking. This set of guidelines prescribing penalties that range from six to nine years for general human traffic cases in which the victim is 18 years or older. Penalties increase to a range between nine and eighteen years when the victim is below the age of eighteen or the victim is “incapable of comprehending the significance of the act or capacity to resist”.

The two ranges for penalties, both dependent on the severity of the case at point, are increased by half if the agent being prosecuted was to be using the benefits of public office or a public position. It is also interesting to mention that this particular section of the law also increases the penalties if the victim is over sixty years old or indigenous. Finally, Mexico’s 2007 law also increases the penalties for those being prosecuted under Human Trafficking charges if the accused has a relationship to the victim through consanguinity, affinity or a civil union and/or the accused lives in the same address as the victim even if there is no direct relationship between the two.

**Intersecretarial Commission**
One of the major elements of the 2007 Federal law was the establishment of an Interagency commission to coordinate the elaboration and implementation of a national Program to Prevent and Sanction Human Trafficking (see Figure 5 below for a list of the component agencies). As might be expected, no state-level agencies or governments are considered part of the federal task force, although, as outlined below, state legislation in Mexican states has mandated state-level interagency task forces.

**National Plan to Prevent and Sanction Human Trafficking**

More than two years passed between the 2007 Federal law and the publishing of the National Plan to Prevent and Sanction Human Trafficking, a document that attempts to approach human trafficking in a truly comprehensive manner. The plan acknowledges Mexico’s geographic position as a main component of Mexico’s intense migratory dynamics and the reason why Mexico has been portrayed as a place of transit, origin and destiny of human traffic victims.

Mexico’s national plan has the general objective of preventing and fighting human trafficking as well as providing care and protection for victims of the crime via coordination, collaboration and raising awareness of the public, social and private sectors of the Mexican society.

Mexico’s National Program to Prevent and Sanction Human Trafficking has 4 specific objectives:

Objective 1: To get to know and understand the current (actual) context of human trafficking, as well as its causes and consequences on the country.
Objective 2: Prevent human traffic and transform the current context of cultural patterns of tolerance towards sexual, labor and any other forms of exploitation associated with Human traffic.

Objective 3: To contribute in the improvement of the deliverance of justice in terms of human traffic (help me with this one)

Objective 4: To provide quality, integral care to victims of human traffic as well as relatives and witnesses.

Perhaps one of the most significant and innovative strategies presented in the National Plan to Prevent and Sanction Human Trafficking given the lack of mentioning of any collaboration mechanisms amongst local governments in the 2007 Federal law is language proposing agreements between states and federal government and the creation of specialized commissions in state legislatures and municipal governments.

Also of particular interest to the U.S.-Mexico State Alliance Partnership members and the Border Governors Conference is the plan’s major objective of “Contribute[ing] to the improvement in the administration of justice related to human trafficking.” The National plan provides 5 strategies to fulfill this objective (see figure 4 below).

Figure 4. Strategies for Objective 3: Contribute to the Improvement in the administration of justice related to human trafficking. Source: 2010-2012 National Program for Preventing and Sanctioning Human Trafficking (http://www.dof.gob.mx/nota_detalle.php?codigo=5174064&fecha=06/01/2011)

<table>
<thead>
<tr>
<th>Number</th>
<th>Strategy</th>
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<tbody>
<tr>
<td>3.1</td>
<td>Implement workable and safe procedures for human trafficking victims.</td>
</tr>
<tr>
<td>3.2</td>
<td>Incentivize the reporting of human trafficking.</td>
</tr>
<tr>
<td>3.3</td>
<td>Promote international cooperation on prosecuting the crime.</td>
</tr>
<tr>
<td>3.4</td>
<td>Promote training for public safety and justice systems personnel at the three levels of government.</td>
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<tr>
<td>3.5</td>
<td>Analyze the national legal framework on human trafficking and, if necessary, propose reforms to this framework.</td>
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In particular we would call special attention to one of the key action items for item 3.3, which encourages the federal government to “promote legislative harmonization for the effective application of the various international agreements and instruments...
that deal with human trafficking and organized crime.”

2011 Reforms
Mexico’s Congress has debated reforms to the law on human trafficking over the last several months. The Mexican Chamber of Deputies approved modifications to the federal human trafficking law on March 16, 2011. The latest changes at the federal level focus on penalties for the use of print and electronic media to promote human trafficking. Between six to 27 years were contemplated for this kind of media-based promotion, and the Intersecretarial Commission is explicitly mandated to monitor media for advertisements and postings that are potentially exploitive in nature. The bill has been passed to the Mexican Senate for consideration.

U.S.-Mexico Law Enforcement Approaches and Collaboration on Human Trafficking
Both U.S. and Mexican law enforcement agencies have a particular focus on human trafficking. Both countries have federal interagency task force through which key agencies collaborate.

U.S. federal agencies collaborate, including the Immigration and Customs Enforcement, the U.S. Department of Justice, and the U.S. Department of State. In terms of domestic collaboration, depending on the U.S. state’s departmental makeup, the district/country attorney’s office, United States Attorney’s Office, or the Attorney General’s office may handle the prosecution of these crimes. In the U.S., Assistant U.S. Attorneys head over three dozen metropolitan area human trafficking task forces whose members comprise local and state law enforcement agencies and NGOs (see Figure 6 below for a map showing the task force locations).

Investigation of crimes and attention for victims is also a multi-agency task in Mexico. Key agencies include the Attorney General’s Office (Procuradoría General de la República, PGR), the federal Public Security Secretariat, among others. Most human trafficking investigations originate when Mexico’s National Migration Institute (INM) suspects that human trafficking is taking place. INM then produces a report which is then directed to Mexico’s federal attorney general’s office (PGR). PGR then sends the report to either the Special Prosecutor’s Office for Violent Crimes Against Women and Human Trafficking (FEVIMTRA) or to the Assistant Attorney General’s Office for Special Investigations on Organized Crime (SIEDO).

The Special Prosecutor’s Office for Violent Crimes Against Women and Human Trafficking (FEVIMTRA) is a sub-agency of PGR that originated as FEVIM and was originally created to investigate crimes against women in Chihuahua. Currently, FEVIMTRA investigates human trafficking cases along with Mexico’s National Center for Information, Analysis and Planning to Fight Crime (CENAPI). FEVIMTRA handles federal cases of human trafficking involving 3 or fewer suspects. FEVIMTRA also manages two shelters for victims of human trafficking where victims receive free legal advice, psychological treatment, and education and are ultimately reintegrated into society. FEVIMTRA also uses a part of its own budget to fund anti-trafficking campaigns in Mexico; the State Department reports that the sub-
agency spent $1.4 million in prevention campaigns in 2009.

Mexico’s National Commission on Human Rights serves as a kind of federal-level ombudsman and now operates 12 regional commissions throughout Mexico that specifically look at trafficking issues as they are handled by state and local officials.

In terms of collaboration, the Department of Justice, the United States Agency for International Development, and Homeland Security Investigations (formerly Immigration and Customs Enforcement) all play an active role in training Mexican officials on human trafficking, remain in active communication and also share information with Mexican officials. Discussions centering on this binational collaboration undertaken for this report suggests that this collaboration is a work in progress but does represent a promising area for binational cooperation going forward. This is important for a number of reasons but was perhaps most succinctly expressed by U.S. officials interviewed for this report, who expressed concern that transnational criminal organizations could at some point in the future move decisively into human trafficking as a way to supplement funds gained from drug trafficking.

Figure 5: Federal anti-human trafficking task forces

Mexico

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<th>Mexico - Federal Intersecretarial Commission*</th>
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<tr>
<td><strong>Members</strong></td>
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<tr>
<td>Secretariat of Government (President of Commission)</td>
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<td>Secretariat of Communications and Transport Ministry</td>
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<td>Secretariat of Foreign Affairs</td>
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<td>Secretariat of Public Education</td>
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<td>Secretariat of Tourism</td>
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<td>Attorney General’s Office</td>
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<tr>
<td><strong>Participants</strong></td>
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<tr>
<td>National System for the Integral Development of Family</td>
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<td>National Women’s Institute</td>
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<td>National Migration Institute</td>
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<td>National Institute of Penal Sciences</td>
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<td>National Board of Population</td>
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<td>National Commission for the Development of Indigenous Communities</td>
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<td>National Commission For Refugee Assistance</td>
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<td><strong>Invited advisor</strong></td>
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<td>National Commission for Human Rights</td>
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**United States - President’s Interagency Task Force to Monitor and Combat Trafficking in Persons***

<table>
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<tr>
<th>Department of Homeland Security</th>
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<td>Department of State (lead)</td>
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<td>Department of Health and Human Services</td>
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<td>United States Agency for International Development</td>
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<td>Office of Management and Budget</td>
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<td>Office of the Directorate of National Intelligence</td>
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Participants: National Security Council, Office of the U.S. Global AIDS Coordinator and the Department of Education.

*The Senior Policy Operating Group (SPOG) was created to follow up on PITF initiatives and to implement U.S. Government anti-trafficking policies and guidelines. The SPOG meets quarterly.

The U.S. Department of Justice’s Bureau of Justice Assistance began the Anti-Human Trafficking Task Force Initiative in 2004. There are currently 40 active BJA funded task forces located throughout the United States. BJA funding is provided to local law enforcement authorities. All BJA task forces involve law enforcement at all levels, victim services agencies, and U. S. Attorneys Offices. Source: Presentation by Susan Carbon, Director, Office on Violence Against Women, U.S. Department of Justice. Conference on Combating Human Trafficking, March 11, 2011, ASU Sandra Day O’Connor School of Law.

Border Governors Conference Work on Human Trafficking
With the exception of 2010, the U.S.-Mexico Border Governors Conference has been formally held annually since 1980. In addition to providing an opportunity for discussion between the border state governors, the Conference’s various work tables meet to address policy areas of common interest. Typically, various work tables draft Joint Declarations which are issued at the conclusion of the conference.

The topic of human trafficking was given special prominence at the XXVI Border Governors Conference held in Hollywood, California in 2008. An addendum to that year’s declarations committed the BGC “to
include Human Trafficking (HT) in the agenda for the XXVII Border Governors Conference (BGC) and encourage relevant work tables to address this issue by developing “best practice” strategies and actions to ameliorate human trafficking.” At the XXVII Border Governors Conference held in 2009 in Monterrey, Nuevo Leon, the Conference committed to “Sign and implement a Memorandum of Understanding (MOU) establishing a multi-state, binational task force on human trafficking in order to carry out and implement the recommendations and provisions contained within the BGC XXVI Joint Declaration. This Task Force will provide the Worktable a written report, complete with findings and recommendations, within a year of the signing of this agreement.”

Two major developments happened simultaneously or almost simultaneously to this articulation of the need for report on human trafficking. One was the development of the Strategic Guidelines for the Competitive and Sustainable Development of the U.S.-Mexico Transborder Region, a set of strategies developed by El Colegio de la Frontera Norte and the Mexico Institute of the Woodrow Wilson International Center for Scholars out of key stakeholder surveys and expert analysis. Human trafficking was never explicitly mentioned in the Strategic Guidelines; the security strategies outlined in the report focused on enhancing law enforcement collaboration between the U.S. and Mexico and specific strategies such as reducing the flow of bulk cash and arms south to Mexico from the United States. Human trafficking shares a crowded U.S.-Mexico security agenda with numerous other items. Another development was the cancellation of the XXVIII Border Governors Conference that was to be hosted by the state of Arizona in 2010. Nevertheless, members of the the Border Governors Conference Security Worktable (largely comprised of state-level public security and homeland security officials) have expressed interest in collaborating with other stakeholders in addressing this issue.
Overview
Several (but not all) of the Conference of Western Attorneys General member states have statutes which specifically address human trafficking. A number of CWAG member states have actually adopted the language of the TVPA, including Oregon, New Mexico, Arizona, Idaho, Utah, Nevada, North Dakota, and Guam. In general, the U.S. states’ laws are complex and range from specific human trafficking legislation to related laws on adult and child prostitution and pandering that address trafficking by penalizing activities with elements of fraud, force or coercion. As will become clear, states have multiple statutes that an offender can be charged with. Additionally, statutes pertaining to the same crime have different sentences and fines. For example, a minor that has been prostituted is assumed to have been trafficked (a more serious crime), though a prosecutor will then have to decide what the statute with the highest level of sentencing is.

Some states have been actively updating their trafficking legislation. For example, New Mexico has recently adopted a new human trafficking statute, and the state of Washington recently revised loopholes in its laws in 2010. Both states have specific funds to aid trafficking and/or prostitution victims.

By far, the principal emphasis in U.S. state statutes is on sex trafficking. Labor trafficking is, in general, significantly under-emphasized in state legislation.

Child pornography statutes also play an important part in child prostitution and sex trafficking prosecutions. However, due to space limitations, this study will not specifically address child pornography statutes (however, they are included in the appendices to this report, which will be made available at nacts.asu.edu).

U.S. State Trafficking Law Summaries
The following section is a detailed analysis of all the applicable statutes in the area of human trafficking and related areas from CWAG member states. This type of statutory analysis is made complex for the reasons of interrelated and overlapping legislation mentioned above, though we have attempted to make this analysis as simple as possible.

Alaska
Alaska has three statutes addressing human trafficking crimes: AS §11.41.360 Human trafficking in the first degree, AS §11.41.365 Human trafficking in the second degree, and AS §11.66.110 Promoting prostitution in the first degree. A violation of the Human Trafficking statute in the first degree must include elements of force, threat of force, or deception. A violation of the Human Trafficking statute in the second degree simply states that a person is guilty if “the person benefits from human trafficking and have reckless disregard that the benefit comes from human trafficking.” Violations of the first degree has a maximum sentence of 20 years imprisonment, but presumptively on a first felony conviction the sentence will be 5-8 yrs and 10-14 years imprisonment for a second felony conviction. Violations of the second degree have a maximum sentence of
10 years, but presumptively a first felony conviction will have a sentence of 1-3 years, and 4-7 years for a second felony conviction.

The Promoting Prostitution in the first degree statute outlines that it is illegal to “cause a person to become a prostitute through force, or to cause any person less than 18 years of age to become a prostitute.” This statute only applies to pimps (not johns). Violation of this statute carries a maximum sentence of 20 years imprisonment, but presumptively on a first felony conviction the sentence will be 5-8 yrs and 10-14 years imprisonment for a second felony conviction. However, if the victim is less than 18 years of age the maximum sentence imposed is 99 years imprisonment, but presumptively a sentence of 20-30 years will be imposed.

Arizona
Arizona has four statutes that can be used for state prosecutions of offenders or pimps behind sex trafficking and child prostitution: ARS §13-3212: Child Prostitution, ARS §13-1307: Sex Trafficking, ARS §13-3552: Commercial Sexual Exploitation of a Minor, and ARS §13-3209: Pandering.

The Child Prostitution statute is broken into two parts: liability for pimps and liability for johns.

A person who violates this statute would possibly face a sentence of 7-21 years for a first offense. If the victim is under 15 years old, then the offender is subject to sentence of 13-27 years because it is considered a dangerous crime against children. If an offender violates part 3 of the second part of the statute (engaging in prostitution with a minor who is fifteen, sixteen, seventeen years old) then it has a sentence of .5-1.5 year’s imprisonment.

The Sex Trafficking statute carries a first offense sentence of 4-10 years imprisonment. If the victim is under 15, then it is subject to a harsher sentence because it is a dangerous crime against children as stated under the child prostitution statute above.

Violation of the Commercial Exploitation of a Minor statute has the same sentencing as the Sex Trafficking statute. This would likely only be used to prosecute people who knowingly use, employ, persuade, entice, induce, or coerce a minor to be part of child pornography or live sexual acts.

The Pandering statute indicates that it is unlawful to “compel, induce or encourage any person to lead a life of prostitution.” Violation of this statute has a first offense sentence of .75-2 year’s imprisonment.

If a minor is involved in prostitution, prosecutors will have a strong incentive to choose to prosecute the offender under the Child Prostitution statute because it carries much harsher penalties then the Sex Trafficking or Commercial Exploitation of a Minor statutes.

If the victim is over eighteen, then prosecutors can choose to charge the offender under the Sex Trafficking or Pandering statute. To prosecute under the Sex Trafficking statute, the offender must have used deception, force, or coercion to procure the victim. If the victim willingly consented to entering a life of prostitution, then prosecutors can still charge the offender with pandering if he or she enticed,
persuaded, obtained, or encouraged the victim or financially benefited either directly or indirectly from the prostitution.

Arizona has two statutes pertaining to labor trafficking: ARS §13-1308: Trafficking of Persons for Forced Labor or Services and ARS §13-1306: Unlawfully Obtaining Labor or Services. Violation of the Trafficking of Persons for Forced Labor or Services statute carries a first offense sentence of 4-10 years imprisonment. The Unlawfully Obtaining Labor or Services statute has a sentence of 1.5-3 years imprisonment.

**California**

California has 4 laws addressing human trafficking: CA Penal §266h Pimping and Pimping a minor, CA Penal §266i Pandering and Pandering with a minor, §266j Procurement of child under age 16 for lewd or lascivious acts, and CA Penal § 236.1 Human trafficking.

The Pimping and Pandering statutes state that it is unlawful to profit in whole or in part from another’s prostitution or to procure another for prostitution by threats, promises, or violence, or by encouraging, inducing, or persuading another person to become a prostitute. Both of these statutes carry sentences of 3, 4, or 6 years imprisonment, unless the victim is under 16 years of age, in which case the sentence is 3, 6, or 8 years imprisonment. The court may also impose a fine, not to exceed $5,000 dollars, to be deposited into the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention.

The Procurement of a Child under 16 years old for Lewd Acts statute holds a penalty of 3, 6, or 8 years imprisonment, with a fine of up to $20,000. The statute mandates that fifty percent of the fines collected will be deposited in the Victim-Witness Assistance Fund and shall be granted to community-based organizations that serve minor victims.

The Human Trafficking statute outlines that it is “unlawful to deprive a person of their personal liberty with the intent for them to engage in commercial sex acts or involuntary servitude which includes substantial and sustained restriction of another's liberty accomplished through fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.” Violation of this statute has a sentence of 3, 4, or 5 years, unless the victim was under 18 years old, then the sentence is 4, 6, or 8 years. If the offense involved a commercial sex act with a victim under 18 years old, then a fine of up to $100,000 shall be imposed. All fines collected will be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund services for victims of human trafficking.

California’s Victim-Witness Assistance Fund is a key feature of its legislation. Another interesting legislative component is CA Penal §236.2 Identification of victims of human trafficking, which is to help police identify and offer services to victims of human trafficking.
Spotlight on Recent California Efforts

California has been making significant strides in its human trafficking policy framework in recent years. In 2007, the California Alliance to Combat Trafficking and Slavery Task Force, headed by the California Attorney General’s Office, published a comprehensive report, Human Trafficking in California. The CA ACTS Task Force examined California’s response to human trafficking—including investigating and prosecuting traffickers and preventing trafficking—and reported a large number of findings and recommendations.

The report noted that T visa applications can take as long as two years to be approved, which effectively delays benefits for victims for up to two years. In 2007, 929 T visas were approved for victims of human trafficking and 636 were denied. The CA ACTS Task Force recommended that the Governor, Attorney General and state and federal legislative leaders should request that the U.S. Department of Homeland Security examine how to expedite processing of T visa applications.

An additional recommendation stated that prosecutors should be required to publish their case statistics in this area on a nationwide database. The absence of good statistics on human trafficking prosecutions has been noted as a key challenge by a number of observers.

An important recent legislative step was the passage of The Abolition of Child Commerce, Exploitation and Sexual Slavery (ACCESS) Act, signed on July 11, 2011, which requires individuals convicted of procuring sexual services from a minor prostitute to pay an additional fine (up to $25,000) to fund programs and services for commercially sexually exploited children.

California’s approach is unique in other ways as well. The state is likely the first to pass a law mandating retailers and manufacturers to disclose what efforts they have taken to eliminate human trafficking or slavery in their supply chains. S.B. 675, which was signed into law by former Governor Schwarzenegger on September 30, 2010, will affect retailers and manufacturers doing business in California that have annual worldwide gross receipts exceeding $100 million. This law mandates that these companies review their product supply chains to evaluate and address human trafficking and slavery risks. Among other requirements, this law mandates that direct suppliers certify that materials incorporated into the company’s products comply with the laws addressing human trafficking and slavery of the country or countries where the suppliers do business.
Colorado

In Colorado, there are five statutes that pertain to sex trafficking and child prostitution. The four statutes applicable to child prostitution are CRS §18-3-502: Trafficking in Children, CRS §18-7-403: Pandering of a Child, CRS §18-7-405: Pimping of a Child, and §18-7-402: Soliciting for Child Prostitution CRS §18-3-501. Trafficking in Adults is the appropriate statute for adult sex trafficking.

The Trafficking in Children statute states that “A person who sells, exchanges, barters, or leases a child and receives any money or other consideration or thing of value for the child as a result of such transaction, or receives a child as a result of a transaction, is guilty.” Violation of this statute is a class 2 felony and has a sentence of 8-24 years imprisonment with 5 years mandatory probation.

Next, the Pandering of a Child statute states that it is unlawful for “any person to do any of the following for money or other thing of value: Induce a person by menacing or criminal intimidation to commit child prostitution, or knowingly arrange or offer to arrange a situation in which a person may practice child prostitution.” Violation of this statute is a class 2 felony if the person induced a child into prostitution by menacing or criminal intimidation; otherwise, it is a class 3 felony. A class 2 felony has a sentence of 8-24 years imprisonment with 5 years mandatory probation, and a class 3 felony has a sentence of 4-12 years imprisonment with 5 years mandatory probation.

Thirdly, the Pimping a Child statute maintains that “any person who knowingly lives on or is supported or maintained in whole or in part by money or other thing of value earned, received, procured, or realized by a child through prostitution is guilty.” Violation of this statute is a class 3 felony, which has a sentence of 4-12 years imprisonment with 5 years mandatory probation.

Lastly, the Soliciting for Child Prostitution statute says that it is illegal “for a person to solicit another for the purpose of prostitution of a child or by a child, to arrange or offer to arrange a meeting of persons for the purpose of prostitution of a child or by a child, or to direct another to a place knowing such direction is for the purpose of prostitution of a child or by a child.” Violation of this statute is a class 3 felony as well, which carries a sentence of 4-12 years imprisonment with 5 years mandatory probation.

Defendants may not raise as a defense that he did not know the child’s age or he reasonably believed the child to be 18 years of age or older in regard to the statutes Pandering a Child, Pimping a Child, or Soliciting for Child Prostitution.

Trafficking in Adults is the statute pertaining to victims over the age of 18. It states that it is unlawful for “a person to sell, exchange, barter, or lease an adult and receive any money or other consideration or thing of value for the adult as a result of such transaction, or receive an adult as a result of a transaction.” Violation of this statute is a class 3 felony with a sentence of 4-12 years imprisonment with 5 years mandatory probation, unless the adult who has been trafficked is illegally present in the U.S. If that is the case then it is a class 2 felony with
a sentence of 8-24 years imprisonment with 5 years mandatory probation.

**Hawaii**

In Hawaii, there is one applicable statute: HRS §712-1202 Promoting prostitution in the first degree. This statute criminalizes advancing prostitution through force, threat, or intimidation, or advancing prostitution of any person less than 18 years old. Violation of this statute has a maximum sentence of 10 years imprisonment.

**Idaho**

In Idaho, there are two statutes addressing sex trafficking: IC §18-8602 Human trafficking and IC §18-5609 Inducing a person under eighteen years of age into prostitution. The Human Trafficking statute requires an element of force, fraud, or coercion, unless the victim is under 18 years of age, in which case force, fraud, and coercion are not necessary elements. Violation of this statute carries a maximum sentence of 25 years imprisonment. This statute also includes restitution for the victim which includes the gross income or value to the defendant of the victim’s labor or services or the value of the victim’s labor as guaranteed under the minimum wage and overtime provisions of the federal Fair Labor Standards Act. The court shall also order the trafficker to pay an amount determined by the court to be necessary for the mental and physical rehabilitation of the victim.

The Inducing a person under eighteen years of age statute has a sentence of two years to life imprisonment with a fine of up to $50,000 dollars.

**Montana**

In Montana, there is one statute applicable to this area: MCA §45-5-603 Aggravated promotion of prostitution. This statute states that a person is guilty if they compel or promote another person into prostitution. Violation of this statute can carry either a maximum life sentence, or a maximum sentence of 20 years imprisonment and a fine not to exceed $50,000 dollars. If the victim is less than 18 years of age then the sentence is either life imprisonment or imprisonment of not less than 4 years or more than 100 years and a fine not to exceed $100,000.

**Nevada**

Nevada has five statutes that address human trafficking violations: NRS §200.463 Involuntary servitude, NRS §200.464 Recruiting, enticing, harboring, transporting, providing or obtaining another person to be held in involuntary servitude; benefiting from another person being held in involuntary servitude, NRS §200.465 Assuming rights of ownership over another person; purchase or sale of person, NRS 200.467 Trafficking in persons for financial gain, and NRS §200.468 Trafficking in persons for illegal purposes.

The Involuntary Servitude statute states that any person who subjects another to involuntary servitude by causing or threatening to cause physical harm, restraining a person, abusing the legal system, withholding documentation, or threatening to cause financial harm is guilty and is facing a sentence of 5-20 years imprisonment. If the victim suffers substantial bodily harm, the sentence becomes 7-20 years imprisonment.
The Recruiting, enticing, harboring, transporting, providing or obtaining another person to be held in involuntary servitude statute has a sentence of 1-15 years imprisonment.

Violation of the Assuming rights of ownership over another person; purchase or sale of person statute has a sentence of 5-20 years imprisonment. This includes paying money or receiving money to place a person in someone’s custody for the purpose of involuntary servitude.

Violation of the Trafficking persons for financial gain statute has a sentence of 1-10 years and includes transporting or procuring transportation to bring a person into the state of Nevada who is not legally allowed to be in the country for financial gain.

Violation of the Trafficking persons for illegal purposes statute includes transporting or procuring transportation to bring a person into the state of Nevada who is not legally allowed to be in the country for the purpose of putting them into involuntary servitude. This carries a sentence of 1-20 years imprisonment. A person found guilty of any of these Nevada statutes is facing a fine of up to $50,000 dollars in addiction to jail time.

**New Mexico**

New Mexico has recently adopted a new human trafficking statute. The state currently has two laws pertaining to human trafficking: NMSA §30-6A-4 Sexual exploitation of children by prostitution and NMSA §30-52-1 Human Trafficking. The Sexual Exploitation of Child by Prostitution statute only protects children under 16 years of age. The language of the statute saying “children under 16 years old” indicates that this does not protect child 16, 17, or 18 years old. Violation of this statute has a maximum sentence of 15 years imprisonment.

The Human Trafficking statute says that a person who knowingly “recruits, solicits, entices, transports or obtains by any means another person with the intent or knowledge that force, fraud or coercion will be used to subject the person to labor, services or commercial sexual activity, or anyone who benefits financially” is guilty. Violation of this statute has a sentence of 6 years imprisonment, but if the victim is under 16 years of age then the sentence is 15 years imprisonment. The statute also prescribes that restitution to the victim for the gross income or value of the victim's labor or services and any other actual damages will be paid and that social services will be offered to the victim regardless of immigration status.

New Mexico is also notable for an Agreement of Understanding that Attorney General Gary King signed with then-Chihuahua Attorney General Patricia González in 2008. The MOU outlines the creation of crossborder working groups and the development of best practices (see Figure 7 below). In addition, the Attorney General’s office has been active in developing public awareness campaigns on the topic (see Figure 8 below).
Figure 7: Agreement of Understanding on human trafficking collaboration signed between New Mexico and Chihuahua Attorney General’s offices in 2008.
North Dakota
North Dakota has one law pertaining to this section: NDC §12.1-40-01 Human trafficking. This statute says that any person who “promotes, recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to promote, recruit, entice, harbor, transport, provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking, or benefits financially from human trafficking” is guilty. Violation of this statute has a maximum sentence of 20 years and a fine of up to $10,000. If the victim is less than 18 years of age then the sentence is increased to a maximum penalty of life imprisonment without parole.

Oregon
In Oregon, there are 4 statutes related to human trafficking: ORS §163.263 Subjecting another person to involuntary servitude in the second degree, ORS §163.264 Subjecting another person to involuntary servitude in the first degree, ORS §163.266 Trafficking in persons, and ORS §163.537 Buying or selling a person under 18 years of age.

The Subjecting another person to involuntary servitude in the first and second degrees involves using force or attempted force. Violation in the first degree has a maximum sentence of 5 years imprisonment, and violation in the second degree has a maximum sentence of 10 years imprisonment.

The Trafficking in persons statute says that any person who “knowingly: (a) Recruits, entices, harbors, transports, provides or obtains by any means or attempts to do those things or benefits financially from those things” is guilty and will be facing a sentence of up to 10 years. Buying or selling a person under 18 years of age also carries a sentence of up to 10 years.

South Dakota
South Dakota has three statutes applicable to this area: SDC §22-23-2 Promoting prostitution, SDC §22-23-8 Pimping--Renting
for prostitution, and SDC § 22-24A-5
Solicitation of a minor.

The Promoting Prostitution statute includes encouraging, inducing, or procuring a person into prostitution, or promoting the prostitution of a minor. This statute has a sentence of up to 5 years imprisonment and a fine of up to $10,000 dollars.

The Pimping statute includes soliciting a person to patronize a prostitute, transport a person for purposes of prostitution, or runs a place of prostitution. Violation of this statute carries a sentence of up to two years imprisonment and a fine of up to $4,000 dollars.

The Solicitation of a Minor statute includes either soliciting a minor for a sexual act or publishing or sending any information about a minor in order to solicit another to engage in sexual acts with a minor. This statute is one of the only directly addressing pimps or traffickers who post ads in print or on the internet with physical characteristics of a minor and a telephone number to reach them at. Violation of this statute has a sentence of up to 10 years imprisonment and a fine of up to $20,000 dollars. This statute has one of the harshest sentences of johns soliciting minors as well.

In August, the Governor signed a new human trafficking law, which will be the first law to address trafficking in the state. People convicted of human trafficking would face up to 10 years in prison and a $20,000 fine. Those convicted of human trafficking involving kidnapping, prostitution, death or a victim younger than 16 could face up to 25 years in prison and a $50,000 fine.

Texas
In Texas, there are 2 statutes pertaining to human trafficking: TPC §20A.02: Trafficking of Persons and TPC §43.05: Compelling Prostitution. The Trafficking of Persons statute states that it is illegal to “knowingly traffic another person with the intent or knowledge that the trafficked person will engage in forced labor or services, or benefit from participating in a venture that involves an activity described by the first sentence, including receiving labor or services that the person knows are forced labor or services.” Violation of this statute is a 1st degree felony with a minimum sentence of 25 years and a fine of up to $50,000 dollars. However, if the victim is under eighteen years of age (regardless of whether the offender is aware of the age of the child at the time the offender commits the offense), or the commission of the offense results in the death of the person who is trafficked, then it is a 1st degree felony with a sentence of 5-99 years imprisonment. Also, an offender can be charged with this statute in conjunction with any other crime.

The Compelling Prostitution statute states that it is unlawful to “knowingly cause another by force, threat, or fraud to commit prostitution; or cause by any means a child younger than eighteen years old to commit prostitution, regardless of whether the offender knows the age of the child at the time the actor commits the offense.” Violation of this statute is a 2nd degree felony with a sentence of 2-20 years imprisonment and a fine of up to $10,000 dollars.

In July 2011, S.B. 24 newly imposed stronger parole requirements for those convicted of
human trafficking and stricter restrictions on bail releases for anyone charged with the crime.

**Utah**

In Utah, there are three statutes addressing human trafficking: UCA § 76-5-308 Human Trafficking, UCA § 76-5-310 Aggravated human trafficking and aggravated human smuggling, and UCA §76-10-1306 Aggravated exploitation of prostitution.

A person is guilty of Human Trafficking if he or she knowingly recruits, harbors, transports, or obtains a person through the use of force, fraud, or coercion by means of abusing the legal system, withholding documentation, or forcing a person to pay off a debt. A person is also guilty if they benefit financially either directly or from aiding another to commit human trafficking. Violation of this statute carries a sentence of 1-15 years imprisonment.

The Aggravated Human Trafficking and Aggravated Human Smuggling statute says that “if in the course of committing human trafficking or smuggling a person dies, is raped or sexually assaulted in any manner, or it involves a victim under 18 years of age, more than 10 victims at a time, or holding a victim for more than 180 days” a person is guilty and is facing a sentence of 5 years to life imprisonment.

The Aggravated Exploitation of Prostitution statute says that a person is guilty if they use force, threat, or fear against any person in order to get them to commit prostitution, or that if they procure a person under 18 years of age for prostitution then they may face a sentence of 1-15 years imprisonment.

**Washington**

There are six statutes in Washington that can be used to address human trafficking: RCW §9A.88.070 and §9A.88.080 Promoting Prostitution in the first and second degrees, RCW §9.68A.100 Commercial Sexual Abuse of a Minor, RCW §9.68A.101 Promoting Commercial Sexual Abuse of a Minor, and RCW §9A.40.100 Trafficking in the first and second degrees.

Promoting Prostitution in the first degree statute of “advancing prostitution” applies to pimps or traffickers. Violation of this statute has a sentence of up to 10 years imprisonment or a fine of up to $20,000 dollars, or both.

The difference between Promoting Prostitution in the first and second degrees is that to violate the first degree there must be compulsion by threat or force. Violation of the second degree is a class C felony with a maximum sentence of 5 years or a fine of $10,000 dollars, or both.

The Commercial Sexual Abuse of a Minor statute applies exclusively to johns. Violation of this statute has a sentence of up to 10 years imprisonment or a fine of up to $20,000 dollars, or both. In addition, the arresting officer may impound the person's vehicle if it was used in the commission of the crime. The fine is $2,500 dollars plus the towing expenses. All fines are deposited into a prostitution prevention and intervention account.

The Promoting Commercial Sexual Abuse of a Minor statute applies to traffickers and pimps. Violation of this statute has a maximum sentence of life in prison or a fine
of up to $50,000 dollars, or both. The arresting officer may again impound the offender’s car. It is not a defense that the defendant did not know the victim's age. However, it is a defense that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age by requiring product of a driver's license, birth certificate, etc., and did not rely solely on oral allegations.

Lastly, a person is who violates Trafficking in the first or second degree carries a maximum sentence of life in prison or a fine of up to $50,000 dollars, or both. It is unclear why the Legislature broke the Trafficking statute into two degrees since they both carry the same sentence. The Trafficking statute applies also to labor trafficking violations.

In April of 2010, Washington passed new legislation under SB 6476 and HB 2424 which increased fines and sentences for offenders.

In addition, SB 6476 started a Prostitution Prevention and Intervention Account to fund programs offering mental health/substance abuse counseling, parenting skills, housing relief, education, and vocational training that help victims of child prostitution. It identifies a minor involved in the commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor as a victim of a criminal act. It outlines that a juvenile who is picked up for prostitution shall be diverted into a social services rehabilitation program or safe house.

Wyoming
In Wyoming, there is one applicable statute: WC §6-4-103 Promoting Prostitution. This statute says that enticing, compelling, or procuring another person for prostitution, or profiting from that prostitution is illegal. Violation of this statute has a sentence of no more than 3 years imprisonment and a maximum fine of $3,000 dollars. If the victim is less than 18 years old then the maximum sentence is five years imprisonment with a fine of up to $5,000 dollars.

U.S. Territories
Guam
Guam has two statutes pertaining to sex trafficking: GCA §28.30 Compelling Prostitution and GCA § 26.02 Criminal Provisions, Human Trafficking and Criminal Exploitation Act of 2009. The Compelling Prostitution statute mandates the elements of force, threat, or duress to commit this crime, unless the victim is less than 18 years of age, or the victim is prostituted by a spouse or parent. Violation of this statute has a sentence of at least 1 year imprisonment.

The Human Trafficking and Criminal Exploitation Act maintains that it is illegal to knowingly attempt to or actually recruit, entice, solicit, isolate, harbor, transport, provide, or obtain by any means another person, knowing that the person will be subjected to sexual servitude of a minor or involuntary servitude, or benefit financially or receive anything of value from this. Violation of this statute has a minimum sentence of 1 year imprisonment.

American Samoa
American Samoa has 4 applicable statutes: §46.3705 Promoting prostitution in the first degree, §46.3706 Promoting prostitution in the second degree, §2422 Coercion and enticement, and §2423 Transportation of minors.
The Promoting Prostitution in the first degree statute says that it is illegal to promote prostitution by compulsion, or promoting prostitution of a person less than 16 years old. Promoting Prostitution in the second degree criminalizes a person who promotes prostitution through managing or running a prostitution house or business involving 2 or more prostitutes. Violations in the first degree have a sentence of 5-15 years imprisonment. Violations in the second degree carry a maximum sentence of 7 years imprisonment.

The Coercion and Enticement statute says that it is illegal for any person to “knowingly persuade, induce, entice, or coerce any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution.” Violation of this statute has a sentence of up to 20 years imprisonment and an unspecified fine. If the victim is less than 18 years of age then the sentence increases to 10 years to life imprisonment.

The Transportation of Minors statute specifies that it is illegal to (1) transport a person less than 18 years of age for the purpose of prostitution, (2) travel with the intent to engage in illicit sexual conduct or actually engaging in illicit sexual conduct, or (3) for financial gain, arrange, induce, or procure the travel of a person knowing they will be used in prostitution. Violation of section (1) has a sentence of 10 years to life imprisonment, sections (2) and (3) have sentences of up to 30 years imprisonment. All violations of this statute carry fines of unspecified amounts.

Northern Mariana Islands
The Northern Mariana Islands do not have an applicable statute to the area of human trafficking or child prostitution.

State Labor Trafficking Laws
Human trafficking generally refers to either sex trafficking or labor trafficking crimes. In many instances, the same statutes analyzed in the section above can be used to prosecute offenders of labor trafficking. Unless a statute specifies prostitution or commercial sex acts, then it can be applied to labor offenses. Terms in the statute such as involuntary servitude and forced labor or services are key.

Conclusion
As is demonstrated in the above overview of state legislation, U.S. states take a broad variety of approaches to dealing with problems of human trafficking. Approaches range from the direct to the more indirect. Because the CWAG states represent some of the most dynamic metropolitan areas in the U.S. and also border Mexico—which is simultaneously struggling to address human trafficking at all levels of government—a more cohesive approach at the state level is an important policy challenge that is worth serious consideration. The CWAG state attorneys general—through their role as counselors and advisors to state legislatures and state agencies and as key international interlocutors for their states through their work with Mexican law enforcement—can play a critical role in proposing legislation that is more effective in taking advantage of federal legislation and in implementing key programs with Mexican counterparts.
Overview

While U.S. state law on human trafficking is characterized by its diversity, Mexican law is notable for its relative uniformity. Since 2007, the six Mexican border states of Baja California, Sonora, Chihuahua, Nuevo León, Coahuila and Tamaulipas have developed legislation or are in the process of developing legislation that details the types of crimes falling under the rubric of human trafficking (*trata de personas*). Similar to federal legislation, Mexican border state human trafficking laws have sought to articulate a simultaneously broad and specific definition of human trafficking and have mandated the creation of state-level interagency task forces and in some cases specifically encourage agencies to collaborate. The ongoing homogenization of state laws is a specific and widely supported policy objective in Mexico. Mexico’s national human rights commission (CNDH) has recommended an integral standardization of all state legal codes to prevent confusion in regards to the penal activities that have a relation to human trafficking.

It is important to note that these legal changes to address human trafficking are taking place in the context of two extremely significant and challenging macro-level developments in Mexican public policy. One is the Mexican federal government’s aggressive pursuit of transnational criminal organizations throughout Mexico. This shift is a centerpiece of the Calderon’s Administration’s public policies, and it is difficult to overstate the importance of this to Mexico and the binational relationship. This focus on drug trafficking may imply less resources to address human trafficking (although the political will is most definitely present at the federal and state levels and within civil society more broadly). In addition, a majority of the Mexican border states have been particularly affected by this public policy shift at the federal level. All states have witnessed increases (often quite dramatic) in drug-trafficking related violence as transnational criminal organizations have responded, often quite violently, to increased federal law enforcement pressure on their operations.

The second large policy shift is the country’s change from a confessional system of justice to an oral adversarial system, which Mexico’s federal Congress has mandated must take place by 2016 in each state. This transition implies complete systemic change that includes all aspects of the judicial system, ranging from how police gather evidence to how courtrooms and court systems operate. Essentially Mexico is starting from scratch and building a justice system from the ground up. Two Mexican border states are among the first states to begin implementing this system: Baja California and Chihuahua. Obviously, Mexico’s success in addressing human trafficking will depend heavily on the success of the implementation of the oral adversarial system of justice in that country.

State law analysis

The following is a summary of the state laws on human trafficking that have been developed or are in the process of being updated in the Mexican border states since 2007.
Baja California
Mexico will be the first country in Latin America where United Nations Office of Drugs and Crime “Blue Heart” campaign will be adopted. The state of Baja California will become the starting point for this public-awareness campaign in Mexico. The state of Baja California represents a challenge in the fight against human trafficking because of its migratory dynamic. The state of Baja California, according to CNDH, has two of the cities with the largest incidence of human trafficking: Tijuana and Mexicali.

Baja California’s state legislature has recently passed a new law to fight, prevent and sanction human trafficking on September 2010. The new law was officially received by the executive on January 31, 2011. Baja California’s new law serves the same purpose as similar legislation in other states, that being providing a special framework that goes beyond the definition of the crime and its penalties which includes prevention, protection and care for victims. In its introduction, the sponsors seem to respond to criticism of the state on the subject by acknowledging reports, such as the Preliminary diagnostic on Human Trafficking: Women and Children by researcher Gudelia Rangel Gomez at El Colegio de la Frontera Norte. The law has undergone technical review and is currently awaiting publication by the executive branch.

Baja California’s new law is considered to conform with the definition established by the federal law and the Palermo Protocol. The state of Baja California defines human traffic, under article 268 of it penal code, as the act of inducing, promoting, soliciting, offering, facilitating, obtaining, transporting, recruiting, maintaining, delivering, or receiving a person through the use of physical or moral violence to submit that person to sexual exploitation, forced labor or services, slavery or similar practices, or for the extraction of any of its organs or tissues.

Baja’s law also offers a very comprehensive definition of what is considered exploitation within the state. This definition of exploitation includes: Sexual exploitation (prostitution, pornography, sexual servitude), forced labor or service, slavery, and practices similar to slavery (which are also defined). A victim’s consent to any form of exploitation does not constitute a defense.

In terms of penalties, the state of Baja California punishes human traffickers with sentences that range from six to 12 years in prison to sentences that could range from 12 to 22 years in prison if the crime is committed against a minor, someone who is not capable of comprehending the crime or someone who is not capable of resisting.

As it is the case in other states, Baja California increases sentences by up to half when:

- The accused is taking advantage of public function
- When the accused is taking advantage of a condition of extreme vulnerability (inexperience, ignorance, extreme necessity) in the victim
- When the victim is over 60 years of age/or indigenous/ or a migrant
- When the accused has a relationship with the victim (tutor, relative, religious minister). The state of Baja also includes a
position of authority by virtue of a labor, domestic, medical situation that implies subordination.

**Sonora**
In 2007, the state of Sonora unanimously approved reforms to its legal code (Article 301-K) with the intent of preventing and sanctioning human trafficking. It articulated and expanded on the definition of human trafficking in Mexico’s federal human trafficking law.

Under this law, by definition a person guilty of human trafficking is defined as one who induces, promotes, captures, recruits, facilitates, translates, obtains, solicits, offers, maintains, delivers or receives a person for himself or a third party through the use of physical or moral coercion, deprivation of liberty, deceiving, power abuse, taking advantage of a vulnerable situation, or the concession or receipt of a payment or benefits to submit that person to exploitation or to remove an organ, tissue or any of their components.

The law defined exploitation as the act of obtaining economic benefit or any other kind of benefit though submitting an individual to prostitution or any other forms of sexual act, forced labor or services, slavery or forcing an individual to beg.

It is important to note that the state of Sonora made consent by the victim in any mode of the crime irrelevant. According to the final version of the law, consent by the victim will not constitute a cause to discard the crime.

At the time, Sonora’s definition of human trafficking, according to a 2009 CEIDAS-CNDH report, was the only Mexican border state law that is perfectly aligned with the definition established by the Palermo protocol amongst border states (2009 study).

**Penalties**
Human trafficking law in Sonora penalizes those found guilty with penalties that range from 6 to 18 years in prison. As it is the case with federal law, Sonora doubles the penalties for those found guilty of engaging in human traffic if:

- The crime is committed against a person less than eighteen years of age,
- The crime is committed against a person over sixty years of age,
- The crime is committed against that who has no capacity to comprehend the meaning of the act; or
- When the accused has a relationship though consanguinity, affinity, civil union, the accused lives in the same address as the victim, has a similar relationship to consanguinity or has a sentimental or trust-based relationship with the victim.

According to the bill’s sponsor and author, the clause on “sentimental relationships” aims to address abusive relationships.

The Sonoran state congress has recently passed a new “Law that Prevents, Combats and Fights Human Trafficking in the State of Sonora.” In the new law’s introduction, the sponsor (state congressman Cuauhtémoc Galindo) emphasized the seriousness of human trafficking as an activity that should be analyzed and prosecuted with even more seriousness that drug trafficking because of
the violation of fundamental human rights that takes place with human trafficking victims.

The new law, which took over a year and a half to make it through the Sonoran congress, includes:

- More detailed penalties and double fines for other actors that may have a personal relationship to the victim (including religious ministers, among others that imply a subordinate relationship).
- Double fines extended to include trafficking of migrants and indigenous people.
- A more extensive definition of human traffic that includes other forms (or extended definitions) of sexual exploitation such as pandering.
- A definition of exploitation, which is defined as:
  - Subjecting an individual to condition of slavery
  - Submitting a person to forced servitude, servitude as a result of debt, forced marriage, as well as forcing a person to beg on the streets
  - Obligating a person through the use of force, threats, coercion, or any other kind of moral or physical restriction to provide forced labor or services
  - Exploitation of someone else’s prostitution as well as any other kind of sexual exploitation, including procuring (pimping), maintaining a brothel, pornographic production
- Creation of an interagency commission to prevent and combat human trafficking in the state of Sonora which, similarly to the federal commission, will be in charge of elaborating and implementing a state program to prevent, fight and sanction human trafficking.
  - The new law encourages the commission to invite representatives from autonomous public organisms and other civil organizations, as well as academic experts on human traffic, to be invited to any commission meetings.
  - This interagency commission is required to promote agreements with other state governments, as well as municipal governments, in relation to the security, protection and transportation of victims.
  - The commission is to formulate an annual report with the obtained reports of the state program which it is set to formulate.

The state of Sonora is one of 12 states in Mexico that has been selected by the National Commission of Human Rights (CNDH) for regional committees to train public officials who prosecute and sanction the crime.

**Nuevo León**

In 2010, Nuevo León responded to reports that ranked it as the state with the second largest number of human trafficking cases in Mexico with the passage of a law titled “Nuevo León Law to Prevent, Consider, Fight and Eradicate Human Trafficking.”

The new Nuevo León law defines human trafficking as the capture, transport, transfer, reception of people recurring to threat or the use of force or any forms of coercion,
abduction, fraud, deception, abuse of power or a situation of vulnerability or the concession or reception of payments to obtain the consent of a person that has authority over another with the purpose of exploitation.

Exploitation under Nuevo León law includes, at its minimum, exploitation of any form of sexual exploitation, forced labor or services, slavery or practices analogous to slavery, servitude or the extraction or removal of human organs or tissues.

Nuevo León also calls for the creation of an interagency commission with the objective of establishing public policy in regards to protection, assistance and care for the victims of human traffic as well was policy in regards to prevention, attention, fight and eradication of human traffic in the state. This commission will be made up by directors or secretaries of state government agencies such as Public Safety, Health, Social Development, Labor, the State Women’s Institute, Finance and Treasury, among others. This commission will also include representatives of the main urban areas in the state, representatives of the state legislature and the state human rights commission.

One particularly unique aspect that sets apart Nuevo León’s interagency commission from those of other states is the fact that Nuevo Leon’s law requires the commission to promote inter-institutional collaboration and coordination agreements with other states and the Federal District (Mexico City) in relation to the protection of human trafficking victims. This concept of interstate collaboration, at least with respect to the protection of victims, is a novel concept in this issue area (Coahuila also mandates interstate collaboration).

In terms of prevention, Nuevo León’s new law puts great emphasis on creating public awareness about the causes, effects, risks and implications of human trafficking. Nuevo León demands that new campaigns and strategies are designed and implemented to warn the general audience about everything from “hitching” practices by traffickers to risks and health hazards that victims suffer. The law also mandates orientation for public servants on how to detect and prosecute human trafficking cases.

Coahuila

The Coahuila state legislature passed new legislation on human trafficking in October 2010. The “Law to Prevent and Combat Human Traffic in the state of Coahuila” is intended to be an instrument to regulate the pending actions and programs related to prevention, investigation and fight against the crime. This new law in the state of Coahuila had, among other goals, the intent to penalize the act of soliciting and carrying out human trafficking with the same penalties imposed to the act of soliciting, promoting, obtaining or delivering a person.

Originally, the state of Coahuila’s legal code established penalties ranging from 3 to 6 years with the potential of the sentence being increased by up to 12 years depending on the case.

In its original version, the state of Coahuila emphasized its status as one of the Mexican states with the lowest penalties for human traffic. The new law aims to increase the
sanctions for the crime as well as include conducts related to the crime. Coahuila’s 2010 law does not aim to present a new definition of what constitutes human trafficking but rather aims to expand and elaborate on the 2006 reforms that it made to its legal code.

The state of Coahuila— as it is the case in almost every other state that has adopted a similar law—includes the creation of an interagency commission with the objective of coordinating actions to elaborate and implement a state-level program to fight human trafficking. The guidelines for the state-level program are the same model mentioned in the Sonoran law.

The interagency commission created by Coahuila’s 2010 law includes the state governor, state prosecutor, finance secretary, education secretary, among other agencies.

The interagency commission, in a similar fashion to Nuevo Leon’s law, opens the possibility to include members of the private sector and academia to join the commission.

With respect to protection of victims of human trafficking, the state of Coahuila requires state authorities to identify victims and possible victims of human traffic and:

- Provide legal orientation
- Provide social, medical, psychological, education and labor assistance to victims as well as translation services if necessary.
- Develop and execute assistance plans and programs, including the construction of shelters created especially for victims of the crime.

Tamaulipas

First introduced in October 2010, Tamaulipas’ law is one of the most extensive pieces of legislation written by Mexican border states. In its introduction, the sponsors of the Tamaulipas bill, titled “Law to fight, prevent and sanction human traffic in the state of Tamaulipas”, recognize Tamaulipas’ geographic location as a key aspect or the state’s attractiveness in the eyes of delinquents who take advantage of the large number of migrants who attempt to cross the border only to fail and eventually settle in Tamaulipas.

The 2010 law in Tamaulipas also recognizes vulnerability factors that facilitate human trafficking. Among the vulnerability factors mentioned as having a direct correlation with human trafficking—particularly with respect to women, children and adolescents, the state of Tamaulipas includes, poverty, lack of economic opportunities, low educational level, unemployment, inequity, neglect, lack of birth registration, as well as the demand for sexual exploitation and cheap labor.

Tamaulipas’ new law established the creation of an inter-agency commission with similar objectives to those established by legislation in other states.

The Tamaulipas law defines human trafficking as the crime of recruiting, promoting, offering, facilitating, transports, receives or delivers one or several people through deception, physical or moral violence, privacy of liberty, abuse of power or taking advantage of a vulnerable situation with sexual or labor exploitation, slavery (or practices considered analogous to slavery), or
to extract an organ, tissue or any of its components as the goal.

Fines in the state of Tamaulipas include:

- Seizing of all goods that are product of the previously described conducts.
- 6 to 12 years in prison and a fine ranging from 500 to 1500 days of the minimum wage.
- 9 to 18 years and a fine ranging from 740 to 2250 days of the minimum wage if the victim is under 18 years of age or if the victim does not have the capacity to comprehend the significance of the crime.

Penalties in the state of Tamaulipas, in a similar way to other states, increase my half when:

- The accused takes advantage of a public position.
- The accused takes advantage of a vulnerability condition derived from ignorance, inexperience, extreme misery or extreme necessity on the side if the victim, or when the victim is over 60 years of age, is indigenous, or a migrant.
- The accused has a personal relationship to victim (same household, civil or blood relationship, caretaker or tutor, religious minister or taking advantage of a power authority that implies subordination).

The state of Tamaulipas does not recognize a victim’s consent as a reason to exclude any form of exploitation from being prosecuted.

**Chihuahua**

Although it does not have a state law specifically on human trafficking as is the case with other border states, the state of Chihuahua has been recognized as the only state that has reported the formal prosecution of human trafficking with 15 cases reported, according to a 2009 report by Mexico’s National Human Rights commission and CEIDAS.

The state of Chihuahua defines human traffic as the act of inducing, procuring, promoting, facilitating, recruiting, maintaining, capturing, transferring, delivering or receiving for himself or a third party a person by resorting to physical or moral coercion, privation of liberty, deception, abuse of power or a “situation of vulnerability” or the concession or reception of payments or benefits to submit that person to any form of exploitation or to remove that person’s organs, tissues or any of its components.

Chihuahua recognizes exploitation as the act of obtaining economic (or any other sort) of benefit from pandering or other forms of sexual exploitation, forced labor, slavery or similar practices, servitude, someone else’s act of begging or receiving economic (or any other sort) of benefit from the extraction of organs, tissues or any other components.

In Article 199 of its legal code, the state of Chihuahua does not recognize a victim’s consent in any form of the crime as a cause to exclude the crime from being prosecuted.

**Penalties**

- Between 6 and 12 years in prison
- Between 9 and 18 years if physical or moral violence has been employed by the accused or if the agent had taken
advantage of a public office/function regardless if the agent had that position or pretends to have it.

Penalties increase by half if:

- The victim is under 18 years of age or over 60 years of age.
- If the victim does not have the capacity to comprehend the significance of the act.
- When the accused has a blood (consanguinity) or civil relationship with the victim, when the accused lives at the same address as the victim, and when the accused has a similar relationship to parenthood with the victim or when the accused has an emotional or trust-based relationship with the victim.

As of September 2010, the state of Chihuahua did not have a law with regards to human trafficking. Although the state penalizes the crime, it lacks a law similar to Sonora’s or Nuevo Leon’s laws to fight, prevent and eradicate human traffic. Chihuahua finds itself amidst a fight to combat drug cartels and the involvement of those DTO’s with human trafficking has been brought up recently by Fernando Batista, an ombudsman from Mexico’s Human Rights commission on a visit to the state of Chihuahua to discuss the crime.

The number of prosecutions listed is somewhat confusing because of varying numbers from different reports. Mexico City (which is a federal district, not a state) in its accounting of prosecutions.

Mexico’s Human Rights Commission, according to Batista, established one of its regional anti-human trafficking committees in Chihuahua with the objective of accomplishing the adoption of a state law to fight the crime. FEVIMTRA also has one of its 3 offices in Ciudad Juarez.

According to the CNDH-CIEDAS report, a particular vulnerability has been identified in Ciudad Juarez in regards to human trafficking. The special rapporteur discusses how manufacturing plants (maquiladoras) prefer to employ young and underage women to submit them to labor exploitation more easily.

**Conclusion**

Nuevo Leon, Tamaulipas, Sonora, Coahuila all recognize their respective state programs (To be implemented by the inter-agency commission) as the principal tool in regards to prevention and prosecution of the crime as well as the tool to protect and provide assistance for the victims.

The states lay out 10 aspects (all equal) to be considered by the inter-agency commission in the formulation of their respective state program:

- Diagnosis of the situation that prevails on the issue, as well as identification of the problem to be overcome
- General and specific objectives of the program
- Strategies and lines of action of the program
• Mechanisms of inter-institutional cooperation and linkage with similar authorities that protect victims and deal with prevention

• Elaboration of strategies in regards to active and propositional participation on behalf of the population.

• Entailment, collaboration and stewardship criteria with civil organizations

• Design of campaigns in mass media to sensitive society on the forms of prevention and care for victims

• Promote prevention culture on human traffic and protection of victims

• Generate alternatives to obtain resources and finance the actions of the program

• Establish methodology on evaluation and tracking of activities derived from this program(s), setting indicators to evaluate the results

As is spelled out above, this is relatively new legislation adopted by the Mexican border states within the last four years, often within the last year. Legislation takes time to implement by state agencies. And it is important to understand that the implementation of these laws is a work in progress and to a large extent depends on the success and continuity of the macro-level policy changes mentioned above: the struggle against transnational criminal organizations and the implementation of the oral adversarial system of justice in Mexico.

The interagency commissions established by the state laws in Mexico stand out as a key institutional innovation at the state level in Mexico. They present challenges but also opportunities for cooperation on a state and regional level. In particular, the interagency commissions present an opportunity for the Border Governors Conference (which serves as an annual meeting for state-level agency officials with crossborder portfolios) to serve as a key mechanism for coordination, the sharing of information and best practices on addressing human trafficking.
Challenges and Opportunities for Regional Actors

Challenges
For state-level actors interested in addressing human trafficking in the U.S.-Mexico border region, challenges are numerous. Because of the clandestine nature of the crime, human trafficking is a particularly difficult crime to detect, prosecute and prevent, no matter the jurisdiction. U.S. state law is varied in its approaches. Mexico’s 2007 federal law is still relatively new legislation and is currently being debated. Mexico’s national program on human trafficking was just unveiled in January 2011. Legislation, administrative rules and programs take time to implement and must be effectively evaluated. More significantly, the shared U.S.-Mexico focus on drug trafficking may imply less resources to address human trafficking (although the political will is most definitely present at various levels) and will have a disproportionate affect on the Mexican border states. In addition, Mexico’s shift to an oral adversarial system of justice implies complete systemic change.

However, even in this challenging context, a number of opportunities for positive change present themselves. We focus here on substantive and process-based opportunities for three key stakeholders in particular: the Border Legislative Conference, the Conference on Western Attorneys General (both part of the U.S.-Mexico State Alliance Partnership) and the Border Governors Conference.

Recommendations for the U.S.-Mexico State Alliance Partnership Partners and the Border Governors Conference

Substantive Recommendations

1. Consider legislation that incentivizes and funds productive interstate, binational and international collaboration on statutory language and state law enforcement agency collaboration to address both domestic and cross-border aspects of human trafficking in a proactive manner (CWAG and BLC).

2. Consider legislative approaches that adequately fund programs that train state and local law enforcement officials in the recognition and prevention of human trafficking (CWAG and BLC).

3. Consider legislative approaches that take a victim-centered approach and prioritize comprehensive approaches to victims of both sex trafficking and labor trafficking through mechanisms such as victims assistance funds (CWAG and BLC).

4. U.S. states should strongly consider adopting the language of the Trafficking Victims Protection Act of 2000 to aid in building a more comprehensive approach at the state level (CWAG and BLC).
Organizational, Process and Collaboration Recommendations

1. Create a permanent binational policy review committee made up of representatives from the U.S.-Mexico State Alliance Partnership member organizations (the Conference of Western Attorneys General, the Border Legislative Conference, the North American Center for Transborder Studies, the Mexico Institute), the Border Governors Conference Security Work Table, state and county prosecutors, and the relevant federal agencies and non-governmental organizations in the U.S. and Mexico (BGC, BLC and CWAG).

2. Conduct regular U.S.-Mexico State Alliance Partnership visits with key U.S. and Mexican border state legislatures’ commissions to discuss human trafficking legislation and a broad range of policy implementation in the U.S.-Mexico border region, with a focus on best practices on issues such as attention to victims and coordination (CWAG and BLC).

3. Develop partnerships with key Mexican academic and policy organizations to further research and evaluate human trafficking, measures taken to address both the crime and victims of trafficking in Mexico (BGC, BLC and CWAG).

4. Discuss and adopt key medium- and long-term measures that evaluate legislative success on the issue of human trafficking and attention to victims of both sex trafficking and labor trafficking in the U.S. and Mexico (BLC).

5. Develop or link to innovative programs to recognize state legislatures for innovative and best legislative practices to combat human trafficking (BLC).

6. Enable CWAG to offer binational trainings and best practice development on handling human trafficking cases in partnership with key Mexican government and civil society stakeholders as part of its trainings for Mexican judges, prosecutors, forensic workers and police (CWAG).
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Coahuila State Congress. http://www.congresocoahuila.gob.mx/

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Alaska Statutes § 11.41.365 Human trafficking in the second degree
Alaska Statutes § 11.66.110 Promoting prostitution in the first degree
Arizona Revised Statutes §13-3212: Child Prostitution
Arizona Revised Statutes § 13-1307: Sex Trafficking
Arizona Revised Statutes § 13-3552: Commercial Sexual Exploitation of a Minor
Arizona Revised Statutes § 13-3209: Pandering
California Penal Code § 266h Pimping and Pimping a minor
California Penal Code § 266i Pandering and Pandering with a minor
California Penal Code § 266j Procurement of child under age 16 for lewd or lascivious acts
California Penal Code § 236.1 Human trafficking
Colorado Revised Statutes § 18-3-502: Trafficking in Children
Colorado Revised Statutes § 18-7-403: Pandering of a Child
Colorado Revised Statutes § 18-7-405: Pimping of a Child
Colorado Revised Statutes § 18-7-402: Soliciting for Child Prostitution
Colorado Revised Statutes § 18-3-501. Trafficking in Adults
Hawaii Revised Statutes § 712-1202 Promoting prostitution in the first degree
Idaho Code § 18-8602 Human trafficking
Idaho Code § 18-5609 Inducing a person under eighteen years of age into prostitution.
Montana Code Annotated § 45-5-603 Aggravated promotion of prostitution
Nevada Revised Statutes § 200.463 Involuntary servitude
Nevada Revised Statutes § 200.464 Recruiting, enticing, harboring, transporting, providing or obtaining another person to be held in involuntary servitude; benefiting from another person being held in involuntary servitude,
Nevada Revised Statutes § 200.465 Assuming rights of ownership over another person; purchase or sale of person
Nevada Revised Statutes § 200.467 Trafficking in persons for financial gain
Nevada Revised Statutes § 200.468 Trafficking in persons for illegal purposes
New Mexico Statutes Annotated § 30-6A-4 Sexual exploitation of children by prostitution
New Mexico Statutes Annotated § 30-52-1 Human Trafficking
North Dakota Code § 12.1-40-01 Human trafficking
Oregon Revised Statutes § 163.263 Subjecting another person to involuntary servitude in the second degree
Oregon Revised Statutes § 163.264 Subjecting another person to involuntary servitude in the first degree
Oregon Revised Statutes § 163.266 Trafficking in persons
Oregon Revised Statutes § 163.537 Buying or selling a person under 18 years of age
South Dakota Code § 22-23-2 Promoting prostitution
South Dakota Code § 22-23-8 Pimping--Renting for prostitution
South Dakota Code § 22-24A-5 Solicitation of a minor
Texas Penal Code § 20A.02: Trafficking of Persons
Texas Penal Code § 43.05: Compelling Prostitution
Utah Code Annotated § 76-5-308 Human Trafficking
Utah Code Annotated § 76-5-310 Aggravated human trafficking and aggravated human smuggling
Utah Code Annotated § 76-10-1306 Aggravated exploitation of prostitution
Revised Code Washington § 9A.88.070 and § 9A.88.080 Promoting Prostitution in the first and second degrees
Revised Code Washington § 9.68A.100 Commercial Sexual Abuse of a Minor
Revised Code Washington § 9.68A.101 Promoting Commercial Sexual Abuse of a Minor
Revised Code Washington § 9A.40.100 Trafficking in the first and second degrees
Wyoming Code § 6-4-103 Promoting Prostitution
Guam Code Annotated § 28.30 Compelling Prostitution
American Samoa § 46.3705 Promoting prostitution in the first degree
American Samoa § 46.3706 Promoting prostitution in the second degree
American Samoa § 2422 Coercion and enticement
American Samoa § 2423 Transportation of minors
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