CIVITAS
Conference on International Visions and Transformative Action for Society

CIVITAS Proceeding
Pancasila and Civic Education Program Study
Faculty of Education and Teacher Training
Universitas Nusantara PGRI Kediri, Indonesia
June 27th, 2026

Waqf as Sustainable Funding for Shelter Homes: Addressing Human Trafficking Victim Protection in Malaysia

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Abstract: *Human trafficking creates a continuing obligation to protect survivors after rescue yet shelter services in Malaysia remain vulnerable to staffing shortages, delayed disbursements, uneven regional capacity, and dependence on annual public expenditure. This article examines whether waqf, including cash waqf and waqf-linked sukuk, could complement, not replace the government responsibility for victim protection. It uses a qualitative doctrinal and comparative method. Primary materials comprise the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, constitutional provisions on federal and state powers, selected Malaysian waqf legislation, official anti-trafficking and waqf materials, and policy documents. Secondary materials include peer-reviewed scholarships, NGO documentation, and international reports. The analysis applies a documentary coding framework and compares funding mechanisms according to continuity, principal preservation, beneficiary flexibility, accountability, and vulnerability to fiscal interruption. The article distinguishes documented evidence of service and resource constraints from conceptual propositions about waqf. It proposes a National Anti-Trafficking Waqf Fund (NATWF) with ring-fenced capital, independent Shariah and financial oversight, survivor-informed safeguards, transparent grant-making, and a phased Selangor pilot. The proposal is legally feasible only through structured cooperation between federal anti-trafficking institutions and state Islamic religious authorities. Waqf is therefore presented as a testable institutional complement whose effectiveness must be evaluated empirically before national adoption.*

Keywords: *Human Trafficking; Victim Protection; Waqf; Cash Waqf; Malaysia*

INTRODUCTION

Human trafficking is a serious violation of liberty, dignity, bodily integrity, and economic security. It involves conduct such as recruitment, transportation, transfer, harbouring, or receipt of persons through coercive or deceptive means for exploitation. Exploitation may occur through forced labour, sexual exploitation, domestic servitude, or other forms of compelled service. The harm does not end when a person is removed from an exploitative workplace or rescued from a trafficking network. Survivors may require secure accommodation, healthcare, interpretation, psychological support, legal assistance, documentation, income recovery, and a safe transition into independent living. Protection is consequently not a single event but a continuing public function.

Malaysia occupies an important position in regional trafficking patterns because of its economy, migration flows, geography, and demand for labour. International reporting continues to identify forced-labour risks affecting migrant workers and shortcomings in victim identification and services. The 2024 Trafficking in Persons Report recorded increased investigation and conviction efforts and an increase in funding for victim shelters, but it also identified delays, insufficient coordination, inadequate services, and the need for stronger support for non-governmental organisations (U.S. Department of State, 2024). The 2025 report retained Malaysia at Tier 2 and similarly referred to significant service gaps, including shelter shortages in parts of the country, resource constraints, and the need for stronger trauma-informed and victim-centred services (U.S. Department of State, 2025). These reports are not a complete account of Malaysian practice, but they provide a current external indicator that legal and institutional progress has not eliminated protection challenges.

Malaysia's principal statutory response is the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM), as amended. The statute supplies the legal architecture for investigation, prosecution, victim identification, protection orders, and shelter arrangements. It therefore establishes an important protection mandate. The problem examined in this article is narrower: the legislation and related policy instruments do not appear to create a permanent, dedicated, and independently governed financial mechanism for the continuing operation and improvement of victim shelters. In practice, the availability of funding may depend on annual appropriations, administrative procedures, project grants, and donations. This article calls the resulting structural gap a "funding silence." The term does not mean that the state provides no funding. Rather, it means that the protection mandate is more clearly articulated than the long-term financial architecture needed to deliver it.

The funding question matters because resources shape the character of shelter care. Hamid (2023) notes concern that shelters can feel like restrictive environments when security and administrative control dominate rehabilitation. The article does not treat every government shelter as identical, nor does it assume that every restrictive practice is caused only by finance. Instead, it argues that insufficient and uncertain resources can make it more difficult to maintain professional social-work staffing, interpretation, legal support, mental-health services, family communication, and pathways to independent living. As a result, a place intended to provide safety may be perceived by survivors as another institution of confinement.

Civil-society providers face a related but distinct problem. Organisations such as Tenaganita and the North-South Initiative have developed victim-centred and migrant-rights services, including shelter, legal advocacy, case support, and community reintegration. Their public-facing work demonstrates the value of non-state expertise. At the same time, NGO reports and international assessments should not be treated as audited evidence of every organization's total funding position. This article therefore distinguishes documented evidence from conceptual inference. Documented evidence includes official statements about staffing, shelter availability, financial allocations, delays, and service recommendations. Conceptual inferences concern what a more stable endowment might enable, such as multi-year planning or more consistent access to professionals. The latter are hypotheses for evaluation, not established outcomes.

Existing research on Malaysian waqf has examined legal administration, governance, accountability, development, and the role of State Islamic Religious Councils. Modern Islamic social-finance scholarship has also discussed cash waqf, social investment, and waqf-linked sukuk. Indonesia's Cash Waqf Linked Sukuk (CWLS) demonstrates that governments and waqf institutions can combine charitable capital with sovereign or Shariah-compliant investment structures. However, three gaps remain. First, existing waqf studies do not generally address the specific institutional needs of trafficking shelters. Second, anti-trafficking research often discusses shelter quality and victim protection without developing a permanent Islamic social-finance mechanism. Third, proposals for a national fund often claim waqf is sustainable without outlining safeguards, funding assumptions, conflict-resolution procedures, or measurable indicators.

This article makes a limited but practical contribution. It does not claim that waqf will automatically solve Malaysia's shelter problems, and it does not propose transferring the state's legal responsibility to donors. Its contribution is to develop a testable institutional design that connects four elements: the continuing protection mandate under ATIPSOM; the constitutional and administrative position of state Islamic religious authorities; the preservation principle of waqf; and the operational requirements of victim-centred shelter care. It proposes the National Anti-Trafficking Waqf Fund (NATWF) as a complementary funding channel with a ring-fenced principal, transparent investment policy, structured cooperation, and survivor-informed accountability.

The article asks four questions. First, what funding and service constraints are documented in the current shelter landscape, and which claims remain assumptions? Second, what distinctive contribution can waqf make beyond ordinary government allocations, zakat, and short-term grants? Third, how could an NATWF be governed and risk-controlled in Malaysia? Fourth, how can federal and state authorities cooperate without confusing their respective legal powers? The urgency is practical and ethical. If protection depends on unstable funding, then the capacity to meet legal and international standards may vary according to budget cycles rather than survivor needs. A sustainable mechanism should therefore be examined now, but only through a phased and evidence-based process.

METHODS

This study uses qualitative doctrinal, documentary, and comparative methods. It is a conceptual legal-policy study rather than an impact evaluation. The study did not conduct interviews, surveys, administrative microdata analysis, or financial audits of shelters. The findings consequently establish legal and institutional propositions and identify testable design requirements; they do not prove that NATWF would improve survivor outcomes.

DOCUMENT SELECTION

The document set was selected through purposive sampling according to four relevance criteria. First, a document had to state or interpret a legal rule relevant to trafficking, shelter protection, waqf administration, public finance, or federal-state authority. Second, it had to be issued by an official institution, recognised intergovernmental body, peer-reviewed publication, established research outlet, or organisation with direct operational involvement. Third, it had to contain information another researcher could verify. Fourth, for comparative materials, it had to describe an identifiable Islamic social-finance mechanism rather than merely refer to waqf in general terms.

The primary legal and institutional materials comprised ATIPSOM 2007, relevant constitutional provisions, selected State Waqf enactments, official materials concerning the Department of Awqaf, Zakat and Hajj (JAWHAR), materials concerning the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO), and Malaysia's National Action Plan on Anti-Trafficking in Persons. The documentary set also included the 2024 and 2025 U.S. Department of State Trafficking in Persons reports, the ILO and UNODC reports cited in the manuscript, and relevant official pages on Malaysian waqf administration. Secondary materials included Hamid's (2023) analysis of shelter homes, scholarship on Malaysian waqf governance, and publicly available information from NGOs such as Tenaganita and the North-South Initiative.

INTERPRETATION PROCEDURE

The documents were read in three stages. In the first stage, descriptive summaries were prepared, recording each document's author, institutional status, date, subject, and relevant passages. In the second stage, passages were coded under five analytical categories: legal mandate; funding and resource conditions; shelter practice and victim-centred care; waqf governance and financial instruments; and jurisdictional or accountability issues. In the third stage, the coded material was compared across sources. A proposition was classified as "documented" when it was directly stated or supported by a source. It was classified as "interpretive" when it represented the author's synthesis of several documents. It was classified as "prospective" when it described a possible effect of the proposed NATWF. This distinction is important because a conceptual paper should not present anticipated benefits as empirical findings.

The legal analysis followed a functional approach. Instead of assuming that a single amendment would establish the fund, it asked which institution has authority over each function: defining the protection obligation, collecting or receiving assets, holding waqf property, investing capital, approving beneficiaries, supervising shelters, and reporting results. This functional mapping allows the proposal to respect the difference between federal anti-trafficking competence and state authority over Islamic affairs and waqf.

COMPARATIVE CRITERIA

The funding mechanisms were compared using five criteria: continuity, principal preservation, beneficiary flexibility, accountability, and vulnerability to fiscal interruption. Continuity asks whether the mechanism can support multi-year commitments. Principal preservation asks whether the asset base can remain available after disbursement. Beneficiary flexibility asks whether funds can be directed to the specific needs of trafficking survivors, subject to applicable legal and Shariah rules. Accountability asks whether the mechanism can disclose its financial position and service results. Vulnerability to fiscal interruption asks whether a political or macroeconomic change can immediately stop the flow of funds.

Indonesia's CWLS served as a reference model, not proof of automatic transferability. The comparison focused on its institutional logic: cash waqf is collected and linked to an investment structure, while returns or designated benefits support social programmes. Malaysia differs in legal administration, institutional design, market conditions, and state-level waqf authority. The study therefore treats CWLS as a source of design lessons concerning governance, reporting, and investment, not as a ready-made legal template.

LIMITATIONS AND ETHICAL POSITION

The study has three important limitations. First, evidence concerning shelter finance remains largely secondary and publicly reported figures may not capture each shelter's actual cost structure. Second, the proposed NATWF is untested; its returns, administrative costs, and capacity to support national operations cannot be guaranteed without feasibility studies and pilot data. Third, the paper does not include survivor interviews or participatory research. Claims about dignity, safety, freedom of movement, and rehabilitation are therefore normative and documentary rather than direct accounts of survivor experience. Before implementation, consultation must be conducted with survivors through ethical, trauma-informed, confidential, and adequately compensated processes. Survivors should participate not merely as subjects but, where appropriate, as paid advisers in service design and monitoring.

RESULTS AND DISCUSSION

The protection mandate and the documented funding problem

The documentary evidence supports a distinction between legal responsibility and financial permanence. ATIPSOM provides the statutory foundation for victim protection and shelter arrangements. International reporting also records government efforts, including increased investigations, prosecutions, shelter funding, and cooperation with NGOs. These findings should be acknowledged because the argument is not that Malaysia has no protection system. The documented concern is that service capacity is uneven and that funding, staffing, coordination, and shelter availability remain insufficient in particular contexts.

The 2024 TIP report stated that the government allocated RM845,000 for two NGO-operated shelters, an increase from RM806,000 in 2022, while also identifying the need for stronger services and cooperation with NGOs (U.S. Department of State, 2024). This figure is useful evidence of public support, but it should not be described as proof of a nationwide funding shortage by itself. It covers two shelters and one reporting period. Its analytical value is that it illustrates the project-based and limited nature of some support. The 2025 report further noted staffing and resource difficulties and significant gaps in shelter services in parts of the country (U.S. Department of State, 2025). Together, the reports support the proposition that increased funding does not necessarily equal stable, comprehensive, or evenly distributed funding.

The evidence regarding NGOs must be handled with similar care. NGOs often work at the boundary between emergency protection and long-term recovery. Their costs can include accommodation, utilities, food, transport, interpretation, medical referrals, counselling, legal representation, documentation, and staff training. A short grant may cover immediate accommodation but not the longer legal process required to recover wages or regularise a survivor's status. This is the operational meaning of a funding gap: not simply the absence of money, but the mismatch between annual or short-term funding and the time required for recovery. The proposition that stable funding would improve planning is reasonable, but it remains a prospective hypothesis that should be tested through pilot indicators such as staff retention, continuity of case management, service waiting time, and survivor-defined outcomes.

From shelter security to victim-centred care

Shelter security is legitimate. Survivors may face retaliation, intimidation, immigration vulnerability, health risks, or pressure from traffickers. Nevertheless, security should serve recovery rather than become its organising principle. Hamid (2023) shows why the distinction matters: where movement is heavily restricted, communication is limited, and services are not sufficiently trauma-informed, survivors may experience the shelter as another form of confinement. The policy implication is not that all rules should be removed, but that restrictions should be necessary, proportionate, reviewable, and explained in a language the survivor understands.

Stable funding can support the institutional conditions needed for a rights-based model. It can enable shelters to engage qualified social workers, interpreters, counsellors, and legal practitioners; create private spaces; maintain family contact; provide transport; and develop individual case plans. It can also support training for security personnel so that safety procedures are consistent with trauma-informed practice. However, funding cannot by itself change institutional culture. The NATWF must therefore make the receipt of grants conditional on standards such as a written freedom-of-movement policy, individual risk assessment, complaints channels, referral protocols, and periodic review by an independent body.

What waqf contributes beyond existing mechanisms

Government allocations remain indispensable because victim protection is a public and legal responsibility. Zakat can also assist eligible beneficiaries, but its distribution is governed by the recognised asnaf categories and cannot be assumed to finance every institutional cost of a shelter. Ordinary donations are flexible but often volatile. Grants may support innovation but commonly operate for defined periods. Waqf contributes a different institutional logic: the preservation of an asset and the use of its benefits for an identified charitable purpose.

This distinction can be expressed through the five comparison criteria. Annual government funding may have high beneficiary flexibility, but its continuity is exposed to the budget cycle. Zakat may offer recurring distribution, but beneficiary eligibility and expenditure rules can narrow its application. Short-term grants may be useful for pilots but do not guarantee continuation. A properly constituted waqf may preserve principal and produce a continuing flow of benefits, while still requiring professional management, investment risk controls, and compliance with the relevant state waqf authority.

The claim that waqf has "zero vulnerability" to budget cuts must be corrected. Waqf principal may be legally protected from ordinary expenditure, but returns can fall, investment values can fluctuate, inflation can erode purchasing power, and administrative costs can reduce distributions. A waqf is therefore less directly dependent on annual government budgets, not immune from financial risk. This distinction strengthens rather than weakens the proposal because it leads to a more credible design: a reserve policy, diversified permissible investments, conservative spending rules, liquidity requirements, and a continuing public role during periods of low returns.

The NATWF institutional design

The NATWF should be established as a dedicated waqf programme or fund under the authority recognised by the relevant State Islamic Religious Council, with a national coordinating arrangement rather than an assumption of federal ownership over state waqf assets. JAWHAR can contribute technical coordination, standard setting, and capacity development. MAPO can contribute anti-trafficking expertise, referral information, and performance priorities. State Islamic Religious Councils or their authorised waqf agencies must retain the legal authority required for the creation, acceptance, holding, and administration of waqf assets within their jurisdictions.

The fund should have four layers. The first is capital formation. Contributions may include government seed capital, unrestricted cash waqf, corporate contributions, philanthropic gifts, and permissible investment instruments. Corporate contributions should not be presented as a substitute for liability or due diligence in high-risk supply chains. They should be additional social-finance contributions, accompanied where appropriate by labour-rights commitments and public disclosure.

The second layer is principal protection. The fund's charter should define the principal, the permitted investment universe, liquidity requirements, and the circumstances under which principal may be used. As a default rule, operational expenditure should come from realised returns and designated non-waqf grants, not from the principal. Any exceptional use of principal should require approval by the state waqf authority, an independent Shariah committee, and a publicly recorded justification.

The third layer is grant-making. Grants should be allocated according to transparent criteria, including the number and vulnerability of survivors served, geographic need, service quality, safeguarding systems, cost reasonableness, and the organisation's ability to report outcomes. Government shelters and NGOs should not be treated as identical recipients. Government facilities may need support for specialised services, while NGOs may require baseline operating grants to maintain independent and community-based options. Multi-year grants should be used where a service is essential and performance can be monitored.

The fourth layer is accountability. The NATWF should publish annual audited financial statements, an investment report, a grant allocation report, and a non-identifying outcomes report. The outcomes report should not disclose survivor identities or sensitive case details. It should present indicators such as continuity of accommodation, waiting time for medical or counselling referrals, legal-aid access, interpretation availability, staff training, complaints resolved, and survivor-defined measures of safety and preparedness for transition.

Projected funding scenarios and risk controls

Because the fund is untested, the proposal should use scenarios rather than promises. The following illustrative scenarios are not forecasts; they show how feasibility could be assessed. A pilot feasibility study should replace the assumptions with verified cost data from participating shelters.

Table 1. Illustrative NATWF funding scenarios (planning assumptions, not forecasts).

Scenario	Illustrative principal	Assumed distributable annual return	Annual programme envelope before costs	Interpretation
Pilot	RM5 million	3%	RM150,000	Suitable for evaluation, limited grants, and one-state service support
Intermediate	RM20 million	3%	RM600,000	Could support multi-year NGO grants and selected specialist services
Expansion	RM50 million	3%	RM1.5 million	Could support a broader network, subject to verified national costs

These figures are simple planning illustrations, not promised returns or investment advice. If returns are lower than assumed, the fund should not automatically increase risk. Instead, the charter should establish a reserve equal to a defined period of essential expenditure, for example twelve months of approved core grants, subject to professional advice and the state authority's approval. Investment should be diversified across permissible low- and moderate-risk assets, with limits on concentration, clear liquidity requirements, and an independent investment committee. Shariah screening should be continuous rather than a one-time approval.

Operational risks also require controls. Conflict-of-interest rules should require trustees, investment managers, grant assessors, and related persons to disclose interests and recuse themselves. Procurement should use documented thresholds and competitive procedures. Grants should be released in tranches linked to reporting, but emergency support should remain available when delay would expose a survivor to harm. An independent complaints channel should be accessible to survivors, staff, and community partners. Whistle-blowers should receive protection. These safeguards are not administrative additions; they are necessary to ensure that the moral purpose of waqf is reflected in its institutional conduct.

Resolving federal-state jurisdictional conflicts

The constitutional challenge is real. Human trafficking, criminal law, internal security, immigration, and national policy involve federal institutions. Waqf and Islamic religious administration are generally situated within state authority, subject to the constitutional framework and the particular law of each jurisdiction. A national fund cannot simply assume that a federal agency may own or administer every waqf asset. Nor should state authorities be treated as merely operational partners without legal authority.

The proposed solution is functional cooperation. Federal institutions would define protection priorities, coordinate referrals, provide anti-trafficking expertise, and remain responsible for the public obligations created by federal law. State Islamic Religious Councils would approve the waqf structure, act as trustee or appoint an authorised manager, supervise Shariah and waqf compliance, and ensure that assets are administered according to the relevant state enactment. JAWHAR would facilitate common standards and technical coordination, while each participating state would enter a written agreement specifying authority, reporting, asset ownership, investment responsibility, and dispute procedures.

A model memorandum of understanding should address five potential conflicts. First, if a state waqf purpose is narrower than the proposed programme, the state authority should approve a compatible purpose before funds are accepted. Second, if federal service standards conflict with a waqf deed, the parties should refer the issue to the state waqf authority and an agreed legal committee rather than allowing an operational agency to reinterpret the deed. Third, if an investment decision raises a Shariah concern, the independent Shariah committee should issue a documented ruling and require liquidation or remediation where necessary. Fourth, if a grant recipient breaches safeguarding requirements, the fund should suspend disbursement while ensuring that survivors are transferred safely. Fifth, disputes concerning reporting or costs should proceed through negotiation, mediation, and, where appropriate, the forum provided by the applicable state law.

A Selangor pilot could provide a practical starting point because it would allow the model to operate within one known state waqf framework while maintaining federal coordination. The pilot should not be described as proof of national feasibility. Its purpose should be to test the legal instruments, cost assumptions, investment policy, grant process, survivor safeguards, and outcome indicators. Expansion to other states should occur only after an independent evaluation and adaptation to each state's law.

Survivor-centred implementation and evaluation

The absence of survivor perspectives is a significant limitation in the current article and a central issue for implementation. A fund designed for survivors should not measure success only by the number of beds occupied or ringgit disbursed. Survivors should be consulted about safety, privacy, movement, family contact, language access, legal information, counselling, work opportunities, and readiness to leave. Consultation must be voluntary and must not affect immigration status, legal proceedings, shelter access, or benefits. Interpreters and independent advocates should be available. Researchers and fund managers must avoid collecting identifying information that is unnecessary for evaluation.

The pilot should use mixed indicators. Financial indicators could include principal preserved, realised return, investment concentration, administrative cost, reserve coverage, grant timeliness, and the proportion of funds reaching approved services. Operational indicators could include staff retention, case-management continuity, time to referral, interpretation availability, and legal-aid access. Rights-based indicators could include complaints resolved, review of restrictions, informed consent records, and survivor-reported safety. Longer-term indicators could include safe employment, recovery of wages, stable housing, and absence of re-trafficking where ethically and practically measurable. No single indicator can capture recovery, and the evaluation must avoid treating survivors as successful only when they achieve a predetermined economic outcome.

Distinct contribution of the proposal

The NATWF's contribution beyond existing Islamic social-finance models is therefore institutional specificity. Cash waqf and CWLS already demonstrate mechanisms for collecting and investing charitable capital. The NATWF adapts that logic to a legally defined protection problem with a specialised grant architecture and safeguards. Its distinctive features are the ring-fencing of returns for trafficking-victim services; the division of federal, state, and civil-society functions; the use of multi-year grants; the integration of legal, medical, psychosocial, and livelihood services; and the requirement that survivor experience inform accountability.

This contribution should not be overstated. The NATWF is not a replacement for public budgets, an automatic remedy for shelter restrictions, or a guarantee of investment income. It is a governance proposal that can be tested. Its success would depend on the quality of the waqf deed, state approval, investment management, grant monitoring, inter-agency cooperation, professional staffing, and survivor participation. Presenting these conditions openly makes the proposal more academically defensible and more useful to policymakers.

CONCLUSION

This article examined the possibility of using waqf to complement the funding of human-trafficking shelters in Malaysia. The documentary evidence indicates that Malaysia has a legal protection framework and has made efforts to increase enforcement and shelter support. It also indicates continuing gaps in victim identification, shelter availability, staffing, coordination, and trauma-informed services. The central problem is not the total absence of public action. It is the absence of a clearly permanent and independently governed financial mechanism that can support the continuing nature of recovery. Waqf offers a potentially valuable institutional complement because it can preserve a principal asset while directing its benefits to a defined charitable purpose. Cash waqf can widen participation, while waqf-linked sukuk or other permissible investment arrangements may support larger capital formation. Nevertheless, waqf is not risk-free. Returns may decline, investment values may fluctuate, and governance may fail. Claims of complete immunity from budget cuts should therefore be replaced by a more accurate claim: a well-governed waqf can reduce direct dependence on annual appropriations while retaining the need for public oversight and contingency support.

The proposed NATWF responds to this issue through five design principles: protected principal; diversified and Shariah-compliant investment; transparent multi-year grant-making; independent financial, Shariah, and safeguarding oversight; and survivor-informed evaluation. Its legal feasibility depends on cooperation rather than institutional substitution. Federal agencies would retain responsibility for anti-trafficking policy and victim protection, while State Islamic Religious Councils would exercise the authority required for waqf administration. JAWHAR and MAPO could support national coordination without erasing the constitutional role of state authorities.

The recommended next step is a carefully governed Selangor pilot preceded by a cost study, legal review, Shariah opinion, investment feasibility assessment, and ethical survivor consultation. The pilot should publish its assumptions and measure both financial and rights-based outcomes. Only after independent evaluation should the model be considered for adaptation in other states. In this form, NATWF is not merely a fundraising idea. It is a testable proposal for connecting Islamic social finance with a public human-rights obligation while preserving the state's responsibility to protect survivors.

ACKNOWLEDGMENT

The author gratefully acknowledges the guidance of academic mentors and colleagues at the Ahmad Ibrahim Kulliyyah of Laws, International Islamic University Malaysia. The author also recognises the work of civil-society organisations and survivor advocates whose public contributions continue to inform discussions of trafficking protection and shelter reform.

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