

Civil Society Perspectives on Oversight and Reporting in CVE

A Survey of Section 40C of Kenya's Prevention of Terrorism Act, 2012



90%

**Percentage of Survey
Respondent Organizations
work in Peace Building
& P.C.V.E**

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**A Kenya
that is both
secure and
inclusive**

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Foreword

The challenge of violent extremism in Kenya continues to evolve, requiring solutions that are both effective in safeguarding national security and respectful of constitutional freedoms. While the state has a duty to protect its citizens, civil society organizations (CSOs) play an equally vital role in building community resilience, amplifying grassroots voices, and ensuring that prevention efforts remain people-centered and rights-based.

Since the introduction of Section 40C into the Prevention of Terrorism Act (POTA), 2012, the relationship between the government and civil society has entered a new phase marked by both opportunities and tensions. On one hand, the law aims to streamline coordination; on the other, it has raised concerns about transparency, overregulation, and the risk of shrinking civic space.

This report, produced by Human Rights Agenda (HURIA), captures the perspectives and lived experiences of CSOs across Kenya. It is neither a critique nor a defense of the law, but rather a contribution to dialogue. Our findings highlight both the progress made and the gaps that remain, pointing to an urgent need for collaborative frameworks that balance security objectives with civic freedoms.

We extend our appreciation to the organizations that participated in this survey and to our partners who continue to stand for a rights-based approach to counterterrorism. It is our hope that this report will inform constructive policy reforms, strengthen trust, and contribute to a Kenya that is both secure and inclusive.



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List of Acronyms and Abbreviations

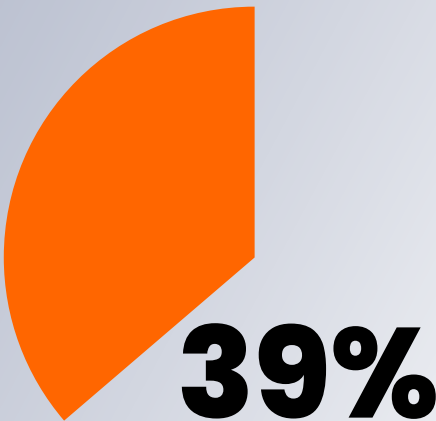
AML/CFT	Anti-Money Laundering / Countering the Financing of Terrorism
CAPs	County Action Plans
CEF	County Engagement Forum
CVE	Countering Violent Extremism
CSO	Civil Society Organization
CT	Counterterrorism
CTPK	Counter Terrorism Policing Kenya
FATF	Financial Action Task Force
FRC	Financial Reporting Centre
INGO	International Non-Governmental Organization
KNCHR	Kenya National Commission on Human Rights
NCTC	National Counter Terrorism Centre
NGO	Non-Governmental Organization
NSCVE	National Strategy to Counter Violent Extremism
ODPP	Office of the Director of Public Prosecutions
PBO	Public Benefit Organization
P/CVE	Preventing and Countering Violent Extremism
POCAMLA	Proceeds of Crime and Anti-Money Laundering Act
POTA	Prevention of Terrorism Act, 2012
UN	United Nations
UNOCT	United Nations Office of Counter-Terrorism

Aware of POTA



Executive Summary

Familiar with NCTC guidelines



This report presents findings from a 2025 national survey assessing civil society organizations' (CSOs) awareness, experiences, and perceptions of Kenya's Prevention of Terrorism Act (POTA), 2012, with particular focus on the controversial Section 40C, which mandates oversight of CSO activities in Countering Violent Extremism (CVE) by the National Counter Terrorism Centre (NCTC).

The survey engaged 86 organizations across 20 counties, with 46 valid responses from CSOs working in human rights, peacebuilding, governance, youth empowerment, and CVE.

Key Findings

- **High Awareness, Knowledge Gaps**
87% of respondents were aware of POTA, and 72% knew of Section 40C. However, only 39% were familiar with the official NCTC guidelines.
- **Mixed Experiences with Approval:**
37% had applied for NCTC approval, with 28% approved and 2% denied. Yet, 19% reported delays, cancellations, or changes to programming due to lack of approval.
- **Perceptions of Impact:** 52% believe POTA supports coordination and safety, while 41% report that it complicates or restricts their work.
- **Transparency Concerns:**
Only 18% found the approval process **"very clear,"** while 30% found it **"somewhat clear"** and 13% **"unclear."**
- **Strong Demand for Reform:**
Stakeholders emphasized the need for transparency, public participation, county-level engagement, human rights safeguards, and a shift from **"approval"** to more flexible notification models.



“ Transparency is critical for trust ”

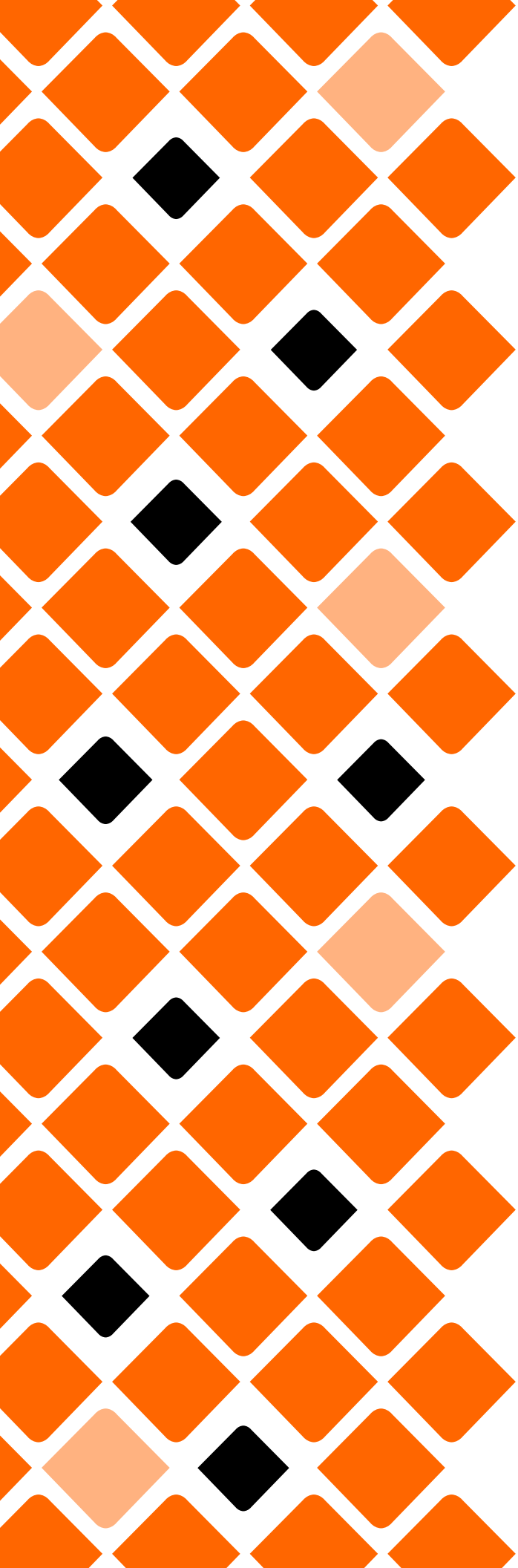
Implications

The findings suggest a sector navigating between cooperation and caution. While civil society acknowledges the value of coordination, inconsistent application of Section 40C, limited clarity, and perceptions of government overreach undermine trust. The result is a chilling effect on programming and advocacy. At the same time, nearly 9 in 10 CSOs expressed willingness to engage in further dialogue—highlighting an important window of opportunity for reform.

Key Recommendations

1. **Clarify Section 40C** by narrowing its scope, refining definitions, and exploring notification-based models.
2. **Enhance transparency and accountability** by publishing clear guidelines, timelines, and criteria for approvals.
3. **Safeguard civic space** by embedding human rights protections, judicial oversight, and safeguards against profiling.
4. **Build capacity and awareness** among both CSOs and state actors to strengthen compliance and trust.
5. **Promote inclusive engagement** through county-level forums and meaningful participation of youth, women, and marginalized groups.

Kenya's fight against violent extremism cannot succeed without civil society. A balanced, transparent, and rights-based implementation of POTA is essential for sustaining trust, protecting civic space, and ensuring that security measures do not undermine the very freedoms they are meant to protect.



Introduction and Background

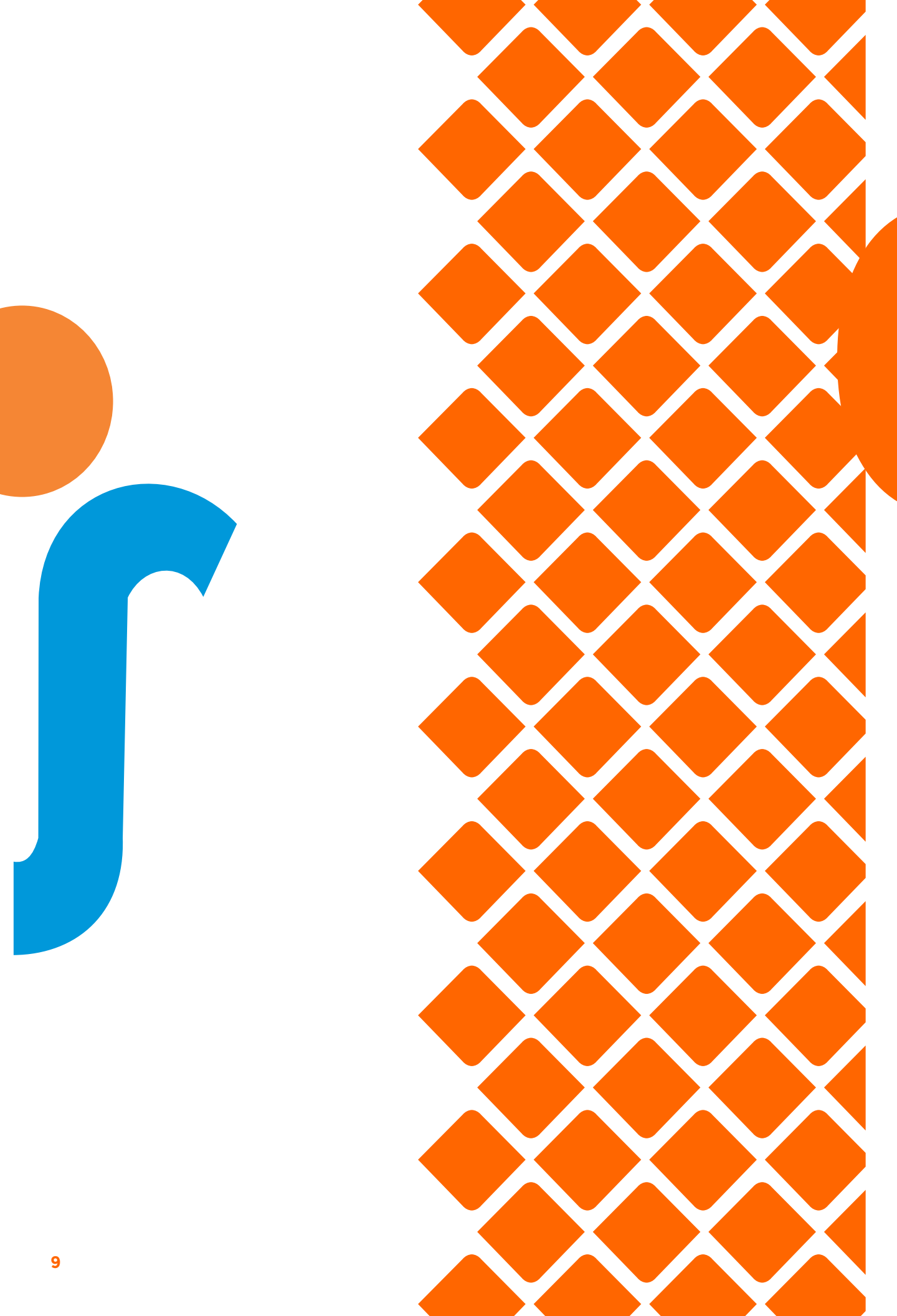
Collaborative partnerships between governments and civil society are a well-established practice in public policy development and implementation across many sectors. In complex areas such as preventing and countering violent extremism (P/CVE), civil society is increasingly recognized not only as a stakeholder but as a co-architect of solutions. Meaningful cooperation and dialogue between civil society and government agencies are therefore essential for designing, implementing, monitoring, and evaluating effective P/CVE and counterterrorism efforts.

International frameworks such as the UN Global Counter-Terrorism Strategy and the European Commission's approach to CVE emphasize that security and legislative measures alone cannot address the root causes of radicalisation and terrorism. Instead, a whole-of-society approach is required—one that is inclusive, rights-based, and community-centered. Civil society organizations (CSOs), with their proximity to communities, trusted relationships, and participatory structures, are uniquely placed to identify early warning signs, build resilience, and foster sustainable peace.

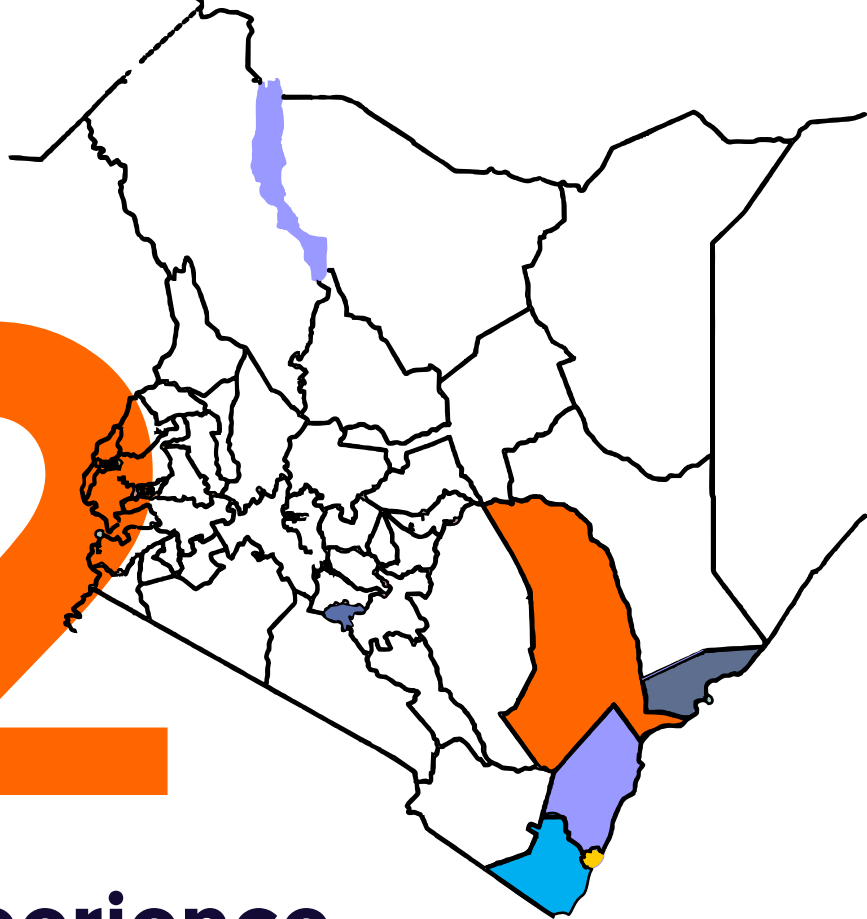
However, this recognition of civil society's role has often been undermined by global and national counterterrorism agendas, particularly since the post-9/11 “War on Terror.” In many contexts, states have sought to regulate, instrumentalize, or suppress CSOs through restrictive laws, surveillance, or stigmatization. Such measures are often justified on grounds of national security, sovereignty, or counterterrorism imperatives. Yet in practice, they erode the very legitimacy and trust that make civil society an effective partner in prevention. Increasingly, governments have tended to perceive civil society not as a guarantor of human security but as a potential threat—framing it as “uncivil,” porous, or complicit in insecurity rather than as a force for peace and resilience.

This securitized approach risks distorting the rule of law itself. Without being grounded in justice, human rights, and human dignity, the law can shift from serving as a shield for citizens to being wielded as a sword against civil society. The result has been a global trend of shrinking civic space. In recent years, more than forty countries have enacted legislation constraining civil society, intensifying state oversight and undermining public trust in the sector's ability to contribute meaningfully to security and peace.

While governments and civil society share a common interest in promoting security, overly securitized policy language and frameworks can stifle dialogue, restrict civic space, and damage cooperation. For civil society to engage meaningfully, the terms of collaboration must be transparent, inclusive, and respectful of CSOs' independence and mandates.



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Kenya's Experience *and the* Evolution of State – Civil Society Relations in P/CVE

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Unclear
guidelines
fuel
mistrust
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Kenya has made notable progress in developing a national architecture for preventing violent extremism. Key milestones include the adoption of the National Strategy to Counter Violent Extremism (NSCVE) and the establishment of the National Counter Terrorism Centre (NCTC). Civil society has played a pivotal role in these efforts, particularly in the formulation and implementation of County Action Plans in hotspots such as Kwale, Lamu, Mombasa, Nairobi, and parts of North Eastern Kenya.

This collaborative trajectory was disrupted in 2019 following amendments to the Prevention of Terrorism Act (POTA). The introduction of Section 40C which mandates NCTC to “promote cooperation between the government and non-governmental entities” created a new legal framework for engagement. However, the absence of clear guidelines and operational clarity has generated uncertainty and, in some cases, mistrust.

Human Rights Agenda (HURIA) is conducting this survey to assess civil society organizations' awareness of and experiences with the Prevention of Terrorism Act, 2012 (including Section 40C), and how it affects their work in CVE, peacebuilding, and related fields. Your responses are confidential and will be used to inform advocacy for more enabling legal and policy frameworks.

Section 1 of 5

Survey: Civil Society Awareness and Impact of the Prevention of Terrorism Act, 2012

B I U  

SECTION A: General Information

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Context and Background of Survey

In recent years, Civil Society Organizations (CSOs) and International Non-Governmental Organizations (INGOs) have played an essential role in addressing the root causes of violent extremism, promoting community resilience, and supporting rehabilitation and reintegration of affected individuals. Effective collaboration between state institutions and civil society is critical in enhancing national security and ensuring community-centered approaches to peace-building and Countering Violent Extremism (CVE).

However, in 2019, the Government of Kenya amended the *Prevention of Terrorism Act (POTA)* through the *Statute Law (Miscellaneous Amendments) Act*, introducing **Section 40C(1)**. The provisions of this section were decried by civil society organizations to have expanded the mandate of the National Counter Terrorism Centre (NCTC) to include oversight and approval of CSO and INGO programmes. These changes raised serious concerns within the civil society sector regarding legality, duplication of regulatory authority, and infringement on constitutional freedoms. This statutory shift has raised critical concerns among human rights actors and peacebuilding stakeholders. In view of the concerns, HAKI Africa and 19 other petitioners challenged amendments to the Prevention of Terrorism Act (POTA), 2012 made via the Statute Law (Miscellaneous Amendments) Act, 2019 through Petition No. 134 of 2019).

Specifically, the petitioners challenged the constitutionality of amendments that expanded the National Counter Terrorism Centre's (NCTC) mandate, arguing that it encroached on the regulatory functions of the NGO Coordination Board and the Public Benefits Organizations Authority. They claimed the amendments violated fundamental rights, including the right to privacy (Article 31), freedom of expression (Article 33), and freedom of association (Article 36). Additionally, they argued that the amendments were enacted without adequate public participation, contrary to Articles 10 and 118 of the Constitution, and were too substantive to be passed through an omnibus "miscellaneous" bill.

In response, the Attorney General and the Ministry of Interior defended the amendments as necessary for national security, maintaining that reasonable efforts were made to facilitate public participation. The National Assembly asserted that it issued public notices and received submissions, including from civil society organizations at the Coast. The NCTC emphasized the need for tighter oversight of civil society organizations due to Kenya's history with terrorism. Supporting the petition, the Katiba Institute and the Kenya National Commission on Human Rights argued that the amendments improperly limited rights and circumvented proper legislative procedure. The NGO Coordination Board did not actively participate in the proceedings.

The Court ultimately dismissed the petition. It found that the public participation process, although brief and involving a complex bill, met the constitutional threshold. It also held that the limitation of rights was justifiable in light of national security needs and upheld the expanded mandate of the NCTC. The use of a miscellaneous amendment bill was not deemed unconstitutional in this instance. Each party was ordered to bear its own costs, with the Court recognizing the case as a matter of public interest. The ruling effectively affirms the government's authority to subject civil society organizations and international NGOs involved in countering violent extremism to NCTC oversight, despite civil society concerns over potential government overreach and threats to civic space.

**Need and
Rationale
for the
Survey**

While intended to streamline oversight and enhance coordination in the national security space, the change was anticipated to represent a fundamental shift in how CSOs operate within the P/CVE landscape. It was argued to place NCTC at the center of decision-making for civic interventions that are often community-driven, rights-based, and built on trust with vulnerable populations.

However, since the implementation of this amendment, little has been done to assess how well CSOs understand this added mandate, what it requires of them procedurally, and how it affects their programming, partnerships, and ability to serve at-risk communities. Without this understanding, organizations may unknowingly be in non-compliance, face operational delays, or self-censor their work to avoid confrontation undermining their effectiveness and reach.

Given the high stakes ranging from legal exposure to reduced access to affected communities, HURIA deemed it imperative to conduct a systematic assessment of:

- 1. **CSOs' knowledge and understanding** of Section 40C and NCTC's mandate,
- 2. **The practical impact** of this regulatory shift on their work,
- 3. **Gaps in coordination, communication, and compliance guidance**, and
- 4. **Recommendations for engagement frameworks** that protect both national security and civic space.

This assessment seeks to inform evidence-based advocacy, capacity-building, and policy dialogue ensuring that the implementation of counterterrorism laws does not erode constitutional freedoms or undermine the critical role of civil society in building resilient, peaceful communities.

Objectives of the Survey

The primary goal of this survey was to assess the awareness, experiences, and perceptions of civil society organizations (CSOs) in relation to the Prevention of Terrorism Act (POTA), 2012 specifically Section 40C, which mandates oversight of CVE activities by the National Counter Terrorism Centre (NCTC). Recognizing the vital role that CSOs play in peacebuilding and community resilience, the survey aimed to provide an evidence base for improving coordination and safeguarding civic space within the national counterterrorism framework.

The specific objectives of the survey were to:

1. Assess Civil Society Awareness

To determine the level of knowledge and understanding among CSOs regarding the Prevention of Terrorism Act, 2012, particularly the legal obligations under Section 40C.

2. Evaluate Implementation Experiences

To document CSOs' experiences in seeking or complying with NCTC approval processes for CVE-related activities, including challenges and successes.

3. Identify Gaps in Coordination and Compliance Guidance

To examine the clarity, accessibility, and transparency of NCTC procedures and guidelines, and how these affect compliance and operational decision-making.

4. Gauge the Perceived Impact of Section 40C

To understand how the expanded oversight role of NCTC under POTA has influenced CSOs' programming, partnerships, advocacy, and engagement with at-risk communities.

5. Collect Civil Society Recommendations

To gather actionable suggestions from civil society on how to improve the legal and policy framework governing their engagement in counterterrorism and P/CVE initiatives.

6. Promote Constructive Dialogue

To provide a platform for civil society voices to inform policy, and to foster improved communication and collaboration between CSOs and government actors, particularly the NCTC.

Methodology and Limitations

1 Survey Design

To assess civil society awareness and experiences with the Prevention of Terrorism Act (POTA), 2012, specifically Section 40C, Human Rights Agenda (HURIA) designed and implemented a mixed-methods survey targeting civil society organizations (CSOs) engaged in peacebuilding, human rights, governance, and Countering Violent Extremism (CVE) across Kenya.

A structured questionnaire was developed, comprising both closed and open-ended questions. The survey tool captured data on:

- Organizational profiles and areas of focus
- Awareness of POTA and Section 40C
- Experiences with the NCTC approval process
- Perceived impact of the law on programming and civic space
- Recommendations for legal, policy, and procedural reform

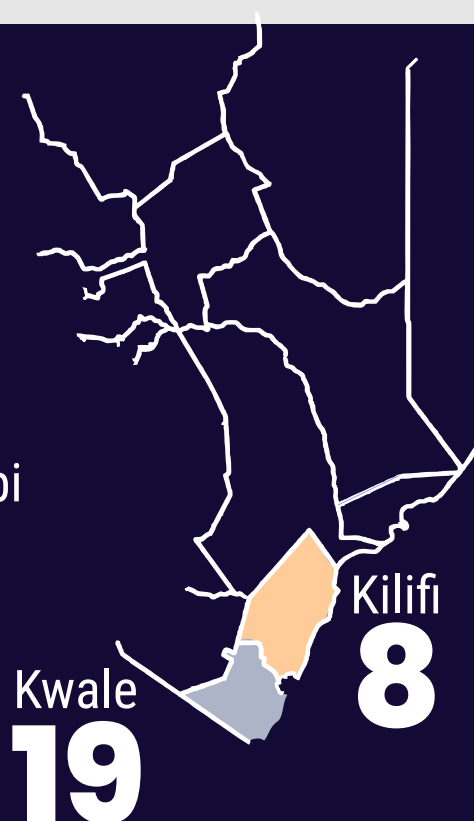
2 Data Collection

72 CSOs

10 Counties

Nairobi, Kwale,
Kilifi lead in P/CVE survey

22 Nairobi



The survey was administered between May and August 2025 through both digital platforms and direct outreach. Targeted follow-up was conducted to ensure broader regional and thematic representation. The survey engaged a total of **72 civil society organizations (CSOs)** actively working across Kenya. Participation was spread across **10 counties**, capturing diverse regional perspectives.

The largest representation came from **Nairobi County with 22 organizations**, followed closely by **Kwale County with 19 organizations** and **Kilifi County with 8 organizations**. Other counties with significant participation included **Garissa (5 organizations)**, **Tana River (4 organizations)**, and **Kiambu (2 organizations)**. Smaller but important contributions were also recorded from **Isiolo County (1 organization)**, **all 47 counties represented through one national-level organization**, and **the Coast region collectively (5 organizations)**. In addition, **one response covered both Nairobi and other counties**, while **two organizations represented the wider North Eastern region**.



- Thematic focus areas included: Human Rights, Peacebuilding, CVE, Youth Empowerment, and Governance

Quantitative data was analyzed using descriptive statistics to identify trends in awareness, compliance, and perceptions. Qualitative data from open-ended responses were thematically coded to extract deeper insights into the practical implications of Section 40C.

Limitations

While the findings offer valuable insights into civil society's interaction with POTA and NCTC oversight, the survey encountered several limitations:

1. Limited Sample Size

Although efforts were made to reach diverse CSOs, the number of complete responses 90 may not fully reflect the entire spectrum of civil society actors engaged in CVE across Kenya.

2. Regional and Sectoral Imbalances

Some counties and thematic areas may have been underrepresented due to accessibility constraints or lower levels of engagement with POTA-related policy discourse.

3. Self-Reported Data

The survey relied on self-reported responses, which may be subject to bias, inaccuracies, or gaps in organizational memory.

4. Sensitivity of the Topic

Given the politically sensitive nature of counterterrorism and state oversight, some respondents may have opted for cautious or non-critical responses, limiting the depth of disclosure.

5. Lack of Comparative Benchmarking

There is limited publicly available baseline data on CSO engagement with POTA prior to 2019, which makes it difficult to measure change over time with precision.

Despite these limitations, the survey provides a critical foundation for dialogue, policy reform, and the strengthening of collaborative mechanisms between NCTC and civil society. The findings highlight real-world implications of legal reforms and underscore the need for more participatory, transparent, and rights-based approaches to national security governance.

Legal, Institutional, and Policy Framework Governing Civil Society in Counterterrorism and CVE Work in Kenya

1. Legal Framework

The regulation of civil society organizations (CSOs) involved in counterterrorism (CT) and preventing or countering violent extremism (P/CVE) in Kenya is grounded in a combination of constitutional provisions, statutory laws, and sector-specific regulations.

At the constitutional level, the **Constitution of Kenya (2010)** guarantees fundamental freedoms of association, expression, privacy, and due process, forming the baseline for all civil society regulation. The **Prevention of Terrorism Act (POTA), 2012**, as amended in 2019, is the principal legislation guiding counterterrorism in Kenya. Notably, Section 40C of POTA designates the **National Counter Terrorism Centre (NCTC)** as the authority responsible for approving and monitoring CSO and INGO activities in counter-messaging, disengagement, reintegration, and related P/CVE programs.

Further, POTA is complemented by **implementing regulations** designed to align Kenya with United Nations Security Council obligations, particularly on terrorism financing, asset freezing, and the designation of entities. These regulations have direct implications for CSO funding and partnerships.

The **Public Benefit Organizations (PBO) Act, 2013**, which replaced the NGO Coordination Act and commenced in 2024, establishes the **PBO Authority** as the primary regulator of nonprofit registration, governance, and compliance. Transitional regulations extend full implementation timelines to May 2026.

Financial integrity requirements are reinforced through the **Proceeds of Crime and Anti-Money Laundering Act (POCAMLA)** and subsequent AML/CFT amendments. CSOs are monitored by the **Financial Reporting Centre (FRC)** under FATF Recommendation 8, ensuring that nonprofits deemed vulnerable to terrorist financing abuse maintain robust financial controls.

Other laws affecting CSO operations include the **Public Order Act, Data Protection Act (2019)**, and **Computer Misuse and Cybercrimes Act (2018)**, which regulate assemblies, data handling, and online counter-messaging initiatives.

2. Institutional Framework

Kenya's institutional architecture for CT and P/CVE is multi-layered, with clear oversight of civil society participation:

- The **National Counter Terrorism Centre (NCTC)** serves as the central approval and reporting authority for CSOs under Section 40C of POTA. It also coordinates the **National Strategy to Counter Violent Extremism (NSCVE)** and oversees the development of **County Action Plans (CAPs)**.
- The **PBO Authority** regulates the nonprofit sector, overseeing registration, governance, and compliance of CSOs under the PBO Act.
- The **Financial Reporting Centre (FRC)** monitors adherence to anti-money laundering and counter-terrorism financing obligations, issuing guidelines for at-risk nonprofits.

- Other justice and security actors including the **Office of the Director of Public Prosecutions (ODPP)**, **National Police Service**, and **Attorney General's Office** play supporting roles in investigation, prosecution, and policy oversight that intersect with CSO activities.
- **County Governments** collaborate with CSOs to implement CAPs, providing critical sub-national platforms for engagement in P/CVE initiatives.

3. Policy Framework

Kenya has adopted a range of policies and strategies guiding CT and P/CVE interventions, explicitly recognizing the role of civil society:

- The **National Counter Terrorism Strategy (NCTS)** provides a comprehensive framework for government-led counterterrorism coordination.
- The **National Strategy to Counter Violent Extremism (NSCVE)**, launched in 2016 and updated in 2019, outlines a whole-of-society approach and positions CSOs as essential partners. The NSCVE is operationalized at the county level through CAPs across all 47 counties.
- Kenya also aligns its national frameworks with **international norms and standards**, including United Nations Security Council resolutions on counterterrorism and FATF guidance on nonprofit regulation (Recommendation 8), emphasizing risk-based and proportionate oversight.

4. Implications for Civil Society

The current regulatory environment creates dual compliance responsibilities for CSOs engaged in CT and P/CVE:

- Organizations must be properly registered with the PBO Authority while also obtaining NCTC approval and reporting under Section 40C of POTA.
- Compliance with financial integrity measures requires adherence to AML/CFT obligations, transparent governance, and thorough due diligence with donors and partners.
- Programmatic alignment with the NSCVE and county-level CAPs is increasingly necessary for approval and collaboration.
- Rights-based safeguards remain critical, ensuring constitutional compliance, especially in sensitive programming involving communities, online engagement, and data protection.

Overall, while the legal, institutional, and policy frameworks establish robust oversight, they also create complex compliance obligations that CSOs must navigate to effectively contribute to counterterrorism and P/CVE efforts in Kenya.

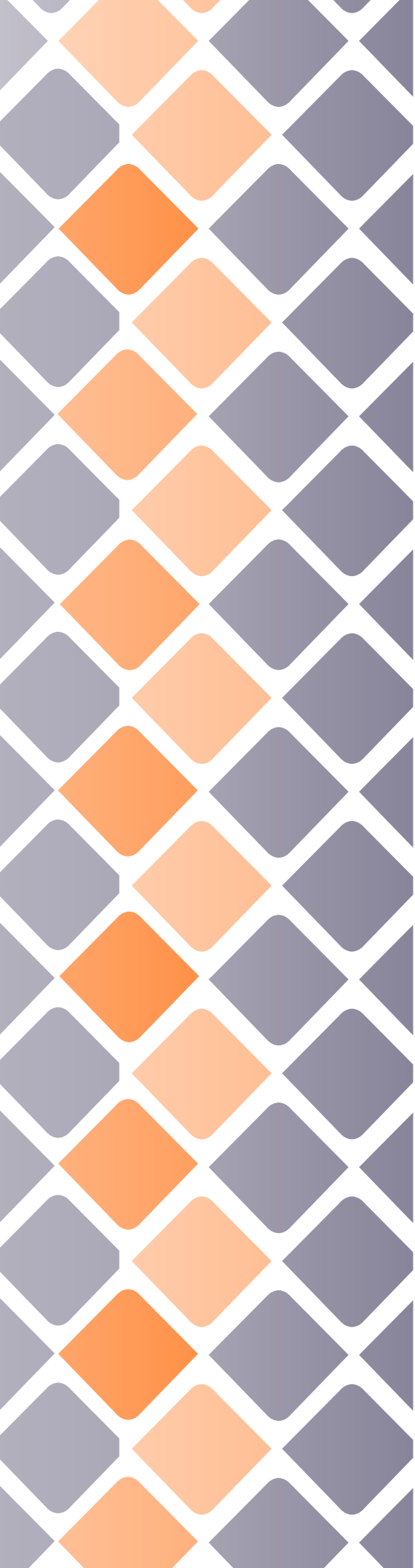
Literature Review

Civil Society Engagement in Countering Violent Extremism

The emergence of Countering Violent Extremism (CVE) policies and related regulatory frameworks has generated extensive debate in both scholarly and policy literature. Central to this debate is the definitional ambiguity surrounding “violent extremism.” For example, the 2011 White House CVE strategy broadly described violent extremists as “individuals who support or commit ideologically-motivated violence to further political goals.” Scholars argue that such imprecision creates space for selective or politicized application, potentially securitizing legitimate political or religious expression (Kundnani & Hayes, 2018). The lack of conceptual clarity, combined with limited transparency in implementation, has often undermined the credibility and autonomy of civil society actors.

Implementation patterns across different national contexts reflect these challenges. Empirical studies document how CVE measures disproportionately target Muslim populations, channeling resources toward surveillance, early intervention, and ideological reshaping of Muslim identities, often at the expense of local trust and legitimacy (Kundnani & Hayes, 2018). Comparative experiences in Europe exemplify these dynamics: the Netherlands’ “Information House” model and the United Kingdom’s Prevent strategy institutionalized mechanisms to identify so-called “pre-criminals,” blending social services with surveillance. Critics argue these approaches eroded trust between communities and public institutions and fostered compliance-driven behavior among civil society organisations (Heath-Kelly, 2013; Thomas, 2016). At the international level, fragmented engagement across more than 30 UN counterterrorism agencies has further complicated coherent policy development and civil society participation (Kundnani & Hayes, 2018).

The regulatory environment for CSOs working on prevention and countering violent



extremism (P/CVE) varies globally, reflecting national security priorities, governance philosophies, and political contexts. States adopt a spectrum of approaches, from restrictive licensing and pre-approval models to enabling frameworks that emphasize partnership and self-governance. For instance, Kenya's Section 40C of the Prevention of Terrorism Act (POTA) requires prior approval from the National Counter Terrorism Centre (NCTC) for CVE-related work (HURIA, 2024), reflecting a licensing model. Similarly restrictive approaches exist in Egypt, the United Arab Emirates, Bangladesh, and Tajikistan, where state authorization is required for security-related NGO activities (Lesch, 2021; Aarts & Cavatorta, 2013).

Other states employ registration and reporting mechanisms without prior activity approvals, allowing some operational flexibility while maintaining oversight. Indonesia, Nigeria, Jordan, and Somalia illustrate such hybrid models, requiring CSOs to align programming with national security agencies and report activities periodically (ICG, 2016). In contrast, partnership-based frameworks in Tunisia, Morocco, Kyrgyzstan, and Bosnia & Herzegovina promote voluntary collaboration, trust-building, and structured avenues for civil society to contribute to policy and program design (Zeidan, 2020). Minimal regulation and self-governance approaches, as seen in Sweden, Canada, South Africa, and Ghana, enable CSOs to design and implement CVE initiatives independently while fostering innovation and community ownership (Dalgaard-Nielsen, 2016). At the extreme end of the spectrum, state-led models in Russia, China, and Saudi Arabia effectively exclude independent civil society from CVE programming, demonstrating how heavy-handed control can shrink civic space and limit prevention strategies (Boucek, 2008).

Beyond regulation, best practices for civil society engagement with national counterterrorism agencies emphasize legitimacy, human rights, and inclusivity. Institutionalizing participation through formal mechanisms ensures CSOs can meaningfully contribute to policy development and program delivery (UNOCT Civil Society Engagement Strategy). Transparency and clear communication strengthen trust between government agencies and civil society, while safeguarding civic space is essential to prevent misuse of counterterrorism laws against independent actors (Special Rapporteur, UN Human Rights).



Capacity-building initiatives, such as joint training programs and community-level resilience projects, enhance mutual understanding and effectiveness (GCERF; OSCE). Inclusive engagement—particularly with women's groups, youth organizations, and marginalized communities—ensures that strategies are comprehensive, locally informed, and rights-based (Marrakech Platform, UN-Morocco). Additionally, monitoring, evaluation, and independent oversight help align CVE interventions with human rights and accountability standards (Global Center on Cooperative Security, 2017). Sustained long-term partnerships and international coordination further reinforce legitimacy, trust, and the adaptability of counterterrorism strategies (Global Counterterrorism Forum).

Kenya provides a noteworthy counterpoint within this global literature. The country scores highly on civic activism and consultative policymaking, according to the 2024 Civil Society Participation Index, with widespread citizen engagement in associations and decentralized political processes (Herre, Rodés-Guirao, & Ortiz-Ospina, 2013; V-Dem dataset, 2025). Kenyan CSOs have actively resisted restrictive interventions in the CVE domain, often through litigation and advocacy, thereby preserving civic space and demonstrating the potential of an engaged, resilient civil society to shape rights-based counterterrorism strategies.

In sum, the literature underscores a critical tension: while CVE policies are framed as preventive and inclusive, definitional ambiguity, institutional fragmentation, and state-centric regulatory approaches often undermine civil society autonomy and credibility. Comparative evidence highlights the consequences of securitization for trust and participation, while best practices emphasize structured engagement, transparency, capacity building, inclusivity, and adherence to human rights norms. Kenya exemplifies both the risks posed by securitized CVE and the protective role of a vibrant civil society capable of advocating for rights-based approaches, illustrating lessons relevant for policymakers and practitioners worldwide.



CSO Approval and Reporting Architecture under Kenya's POTA

Introduction

Kenya's Prevention of Terrorism Act (POTA), initially enacted in 2012 and revised in 2023, provides the foundational legal framework for the country's counterterrorism efforts. A notable feature of the Act is its regulation of civil society organizations (CSOs) and individuals involved in preventing and countering violent extremism (P/CVE). Section 40C of POTA establishes a formal approval and reporting system that integrates CSO activities into state oversight, primarily through the National Counter Terrorism Centre (NCTC). This framework positions civil society actors within a structured mechanism that emphasizes coordination, accountability, and alignment with national counterterrorism priorities.



Approval Architecture

Section 40C mandates that any person or CSO intending to carry out P/CVE interventions must first obtain formal authorization from the NCTC. The approval system applies to activities such as counter-messaging, community outreach, disengagement, deradicalisation, and the rehabilitation and reintegration of radicalized individuals. To secure approval, applicants are required to demonstrate that their proposed interventions align with national counterterrorism objectives and adhere to NCTC guidelines.

The NCTC plays a central role not only as the approving authority but also as a regulator. It issues operational guidelines, codes of conduct, and criteria that govern the work of approved CSOs and practitioners. Through this architecture, the NCTC ensures that P/CVE initiatives are coordinated within a nationally consistent strategy and mitigates the risk of unaligned or potentially counterproductive activities.

Reporting Architecture

Kenya's Prevention of Terrorism Act (POTA), initially enacted in 2012 and revised in 2023, provides the foundational legal framework for the country's counterterrorism efforts. A notable feature of the Act is its regulation of civil society organizations (CSOs) and individuals involved in preventing and countering violent extremism (P/CVE). Section 40C of POTA establishes a formal approval and reporting system that integrates CSO activities into state oversight, primarily through the National Counter Terrorism Centre (NCTC). This framework positions civil society actors within a structured mechanism that emphasizes coordination, accountability, and alignment with national counterterrorism priorities.

Approval Architecture

Section 40C mandates that any person or CSO intending to carry out P/CVE interventions must first obtain formal authorization from the NCTC. The approval system applies to activities such as counter-messaging, community outreach, disengagement, deradicalisation, and the rehabilitation and reintegration of radicalized individuals. To secure approval, applicants are required to demonstrate that their proposed interventions align with national counterterrorism objectives and adhere to NCTC guidelines.


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Reporting Architecture

Once approved, CSOs and individuals are subject to a mandatory reporting system designed to enhance oversight and programmatic accountability. Reports submitted to the NCTC typically include details on activities conducted, beneficiaries reached, methodologies applied, outcomes achieved, and challenges encountered. While POTA does not specify fixed reporting intervals, the NCTC determines the frequency and format of submissions through its operational guidelines.

In practice, several platforms and forums exist in Kenya to facilitate awareness, engagement, and information sharing, although their effectiveness and legal alignment vary significantly.

One of the most visible initiatives is the **Jasiri Observatory Portal**, launched in April 2024. This public information portal was designed primarily to raise awareness about violent extremism and encourage resilience among communities. Its slogan, "See Something, Say Something," promotes dialogue and vigilance. However, the portal does not function as a secure or anonymous reporting channel, limiting its utility for real-time submission of intelligence regarding radicalisation.



At the local level, **County Engagement Forums (CEFs)** and **community policing workshops** serve as interactive spaces under the National Strategy for Countering Violent Extremism (NSCVE) and county action plans. These forums aim to educate the public and gather community input. Yet, they lack formalized pathways for channeling alerts, and there is no systematic follow-up mechanism that connects community reports to the National Counter Terrorism Centre (NCTC).

Civil society coordination is another critical component under Section 40C, which designates the NCTC as the approving authority for all civil society organisations (CSOs), non-governmental organisations (NGOs), and grassroots groups involved in prevention and countering violent extremism (P/CVE). While registration ensures oversight, there is no legal guarantee that these entities can submit citizen-generated intelligence into a centralized system for action.

In contrast, the **Counter Terrorism Policing Kenya (CTPK) platform** provides a secure, confidential channel—including a toll-free number and email—for reporting information. Despite its apparent user-orientation and functionality for community reporting, CTPK operates independently and is not formally linked to NCTC's Section 40C framework. Its legal authority under POTA is therefore unclear, raising questions about the admissibility and processing of information submitted through this channel.

Collectively, these mechanisms exhibit several key deficiencies. First, there is **no secure or anonymous platform** for whistleblowers or community members to report suspected radicalisation safely. Second, **civil society and community forums lack a formalized intake path** into NCTC's intelligence system, limiting the translation of community alerts into actionable intelligence. Third, reporting processes provide **little assurance of feedback, confidentiality, or legal protection**, which undermines public trust. Finally, there is **weak alignment between awareness platforms and legal obligations**, leaving gaps between outreach initiatives like Jasiri and the statutory mandate under Section 40C.

To strengthen community reporting under Section 40C, several measures are recommended. These include establishing **encrypted, multi-channel reporting mechanisms** (hotline, app, SMS, online portal) integrated with NCTC data systems; **formalizing civil society intake points** for community-generated alerts; **embedding legal protections** for reporters, including whistleblower status; and implementing **public feedback loops** to inform reporters about the status and outcomes of their submissions. Such measures would enhance the effectiveness of Kenya's preventive counterterrorism framework and improve the trust and engagement of communities in reporting suspected radicalisation.

This reporting system establishes a feedback loop between civil society and the state, supporting monitoring of compliance, assessment of program effectiveness, and identification of potential risks. By providing the NCTC with timely data, the reporting mechanism strengthens early warning capabilities and reinforces the accountability of P/CVE programs.

Enforcement and Compliance

Although POTA does not explicitly prescribe penalties for non-compliance with Section 40C, the law's architecture suggests several enforcement pathways. These include revocation of approval to operate in the P/CVE space, restrictions on organizational activities, and potential legal sanctions under broader provisions of the Act. This enforcement approach reflects the securitized nature of Kenya's counterterrorism framework, emphasizing both control and accountability over civil society interventions.

Implications for Civil Society

The approval and reporting requirements under POTA have both positive and challenging implications for CSOs. On the positive side, the framework promotes coordination with national security objectives, enhances standardization and accountability in P/CVE programming, and creates a formal channel for collaboration between civil society and the state. Conversely, it also introduces bureaucratic barriers that may constrain civic space, carries the risk of politicized approvals, and can limit organizational independence and innovation.

Conclusion

Overall, the CSO approval and reporting architecture under POTA represents a licensing and oversight regime embedded within Kenya's counterterrorism legislation. While it strengthens state coordination of P/CVE efforts, it raises legitimate concerns regarding the narrowing of civic space. To balance security imperatives with robust civic participation, the system requires safeguards that protect CSO autonomy while ensuring accountability and alignment with national objectives.

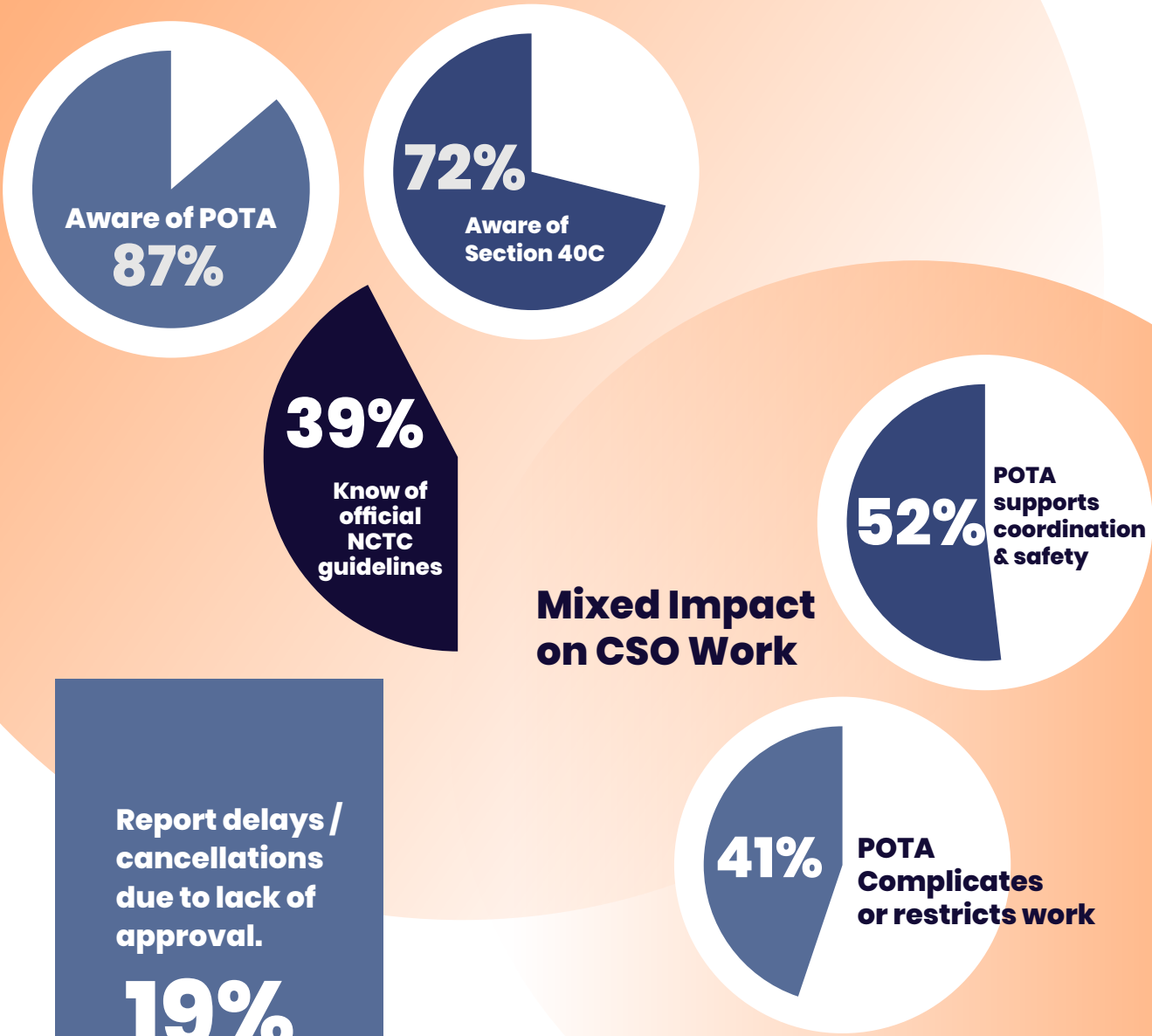
Key Findings and Analysis

Civil Society and Section 40C: Between Security and Civic Space

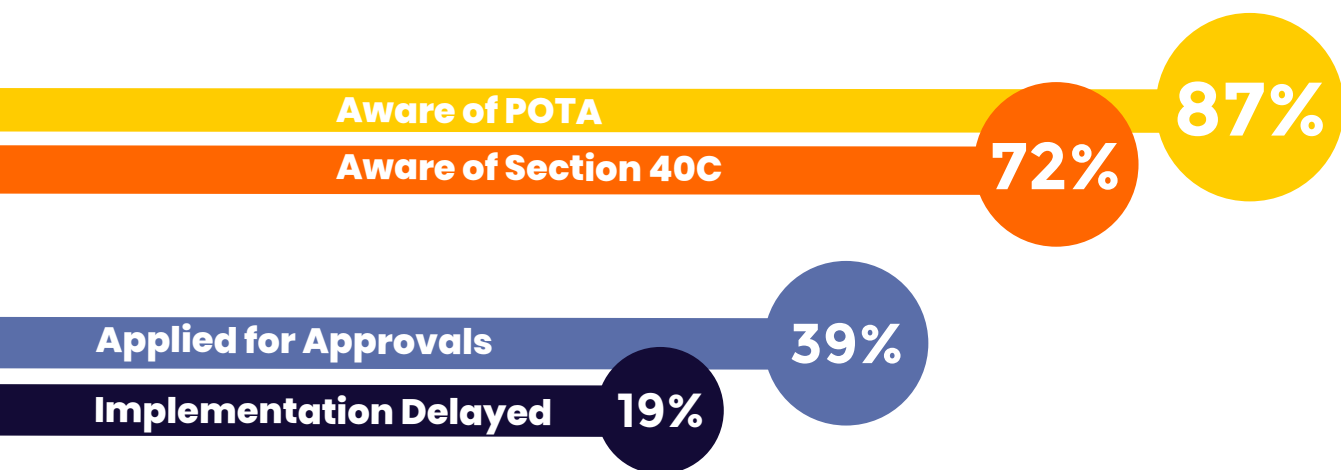
The findings reveal a sector caught in tension: while some view the law as a helpful tool for coordination and safety, many others experience it as an obstacle that complicates their work in peacebuilding, human rights, and Countering Violent Extremism (CVE).

“
High
Awareness,
Low Clarity
”

High Levels of Awareness, Gaps in Understanding



Mixed Impact on CSO Work



Civil society demonstrates strong general awareness of POTA, with **87%** of respondents confirming familiarity with the law and **72%** specifically aware of Section 40C. Most also know about the National Counter Terrorism Centre's (NCTC) prior-approval requirement (**71%**). However, awareness drops sharply when it comes to the detailed guidelines, with only **39%** indicating familiarity. This knowledge gap highlights a lack of clear communication between the state and CSOs on how the law is to be operationalized.

While more than one-third (**37%**) of CSOs have applied for NCTC approval, almost one in five (**19%**) report having to delay, change, or cancel activities because approval was not granted. Despite these frustrations, an overwhelming 89% of respondents expressed willingness to participate in consultations on how the law could be improved—signaling openness to engagement rather than rejection.



Experiences of Approval: A Fragmented Picture

Among CSOs that interacted directly with the NCTC approval process, 28% had their applications approved, while only 2% reported outright denial. For almost half of the respondents, the question of approval was not applicable, suggesting that many organizations avoid activities that might trigger the requirement.

Perceptions of the process itself are mixed: about a quarter (23%) describe it as very clear, nearly a third (30%) as somewhat clear, and 13% as outright unclear. These inconsistencies point to uneven application of the law, which leaves organizations uncertain about how best to proceed.



Civil Society Voices: Calls for Reform

When asked to reflect openly, respondents repeatedly raised the need for public participation and co-creation of guidelines, with 23 separate mentions. Transparency and clarity of procedures followed closely (19 mentions), while concerns about coordination, data protection, and capacity building also surfaced. Several emphasized the importance of safeguards both legal and institutional to ensure the law does not become a tool for shrinking civic space.

Though rare, some voices went further, calling for Section 40C to be repealed or substantially amended, or aligned more closely with international standards. These outlier views underline the degree of mistrust that persists in parts of the sector.

Implications for Civil Society

The findings carry important implications for civil society in Kenya. First, the high awareness but low clarity around guidelines shows that organizations are alert to the law's requirements but lack consistent, reliable information on how to comply. This creates vulnerability: CSOs risk being penalized not because of defiance, but because of uncertainty.

Second, the fragmented approval experiences and inconsistent perceptions of transparency suggest that Section 40C is being applied unevenly across contexts. This unevenness undermines trust between civil society and government, creating suspicion that the law can be selectively used to control or silence critical voices.

Third, the split perceptions of impact with just over half viewing POTA as supportive and four in ten seeing it as restrictive reflect the diversity of civil society itself. Organizations closer to peace and security actors may benefit from coordination, while human rights defenders and grassroots groups may experience more obstacles. This divergence risks fragmenting civil society advocacy, weakening its collective ability to push for reform.

Finally, the strong willingness to engage in consultations signals a window of opportunity. Civil society is not closing the door on POTA but is instead seeking to shape its implementation in ways that safeguard rights while maintaining security. If government actors seize this opening and involve CSOs in revising guidelines and oversight mechanisms, the result could be a more balanced framework that strengthens both civic space and counterterrorism outcomes.

Stakeholder Perspectives on Improving Implementation of the Prevention of Terrorism Act (POTA) and Section 40C

As part of the survey, stakeholders were asked what changes they would propose to improve the implementation of the Prevention of Terrorism Act (POTA), including Section 40C. A broad range of recommendations were received from civil society organizations, community-based actors, religious leaders, and other stakeholders, reflecting both practical challenges and strategic reforms required to enhance the effectiveness, inclusivity, and legitimacy of the law.

1

Transparency and Accountability in the Approval Process

A significant number of stakeholders emphasized the **need for greater transparency and clarity in the National Counter Terrorism Centre (NCTC) approval process**. Respondents noted that organizations often face lengthy delays and inadequate feedback, leading to uncertainty and mistrust. Recommendations included:

- Clear timelines for accreditation and approvals.
- NCTC providing structured feedback to CSOs.
- Transparency in vetting and decision-making processes.
- Publication of data on approvals, rejections, and criteria used.
- Establishing two-way communication channels between CSOs and NCTC.

2

Protection of Rights, Safeguards, and Oversight

Stakeholders raised strong concerns about **privacy, safeguarding of data, and human rights protections**. Many argued that Section 40C is too broad and open to misuse, with risks of profiling or harassment of communities. Proposals included:

- Limiting the scope of data collected and ensuring secure storage and deletion when no longer necessary.
- Stronger judicial oversight in detention and designation processes.
- Independent civilian oversight of counterterrorism operations.
- Safeguards against ethnic and religious profiling.
- Alignment of POTA with international human rights and counterterrorism standards.

3

Awareness Creation and Capacity Building

Across all respondent categories, there was agreement that **low awareness and weak capacity** hinder effective implementation of POTA and Section 40C. Stakeholders recommended:

- Broad **awareness campaigns** to explain the provisions and obligations of Section 40C.
- Capacity building for **CSOs on rule of law, human rights, gender sensitivity, and policy engagement**.
- Training for **security personnel on professionalism, digital forensics, lawful surveillance, and rights-based approaches**.
- Regular **workshops and sensitization forums** at the grassroots level.

4

Inclusive and Participatory Approaches

Several stakeholders felt that the **Act currently concentrates too much power at the NCTC**, with limited structured engagement at the community level. They proposed:

- Institutionalizing **County CVE Committees and Community Engagement Forums (CEFs)** as advisory and implementing arms under NCTC.
- Establishing **community-based counter-messaging networks** with youth, women, religious leaders, and returnees.
- Enhancing **public participation in the development of guidelines** and reforms.
- Promoting **continuous community engagement** to adapt to emerging threats and contexts.

5

Rethinking the Role of NCTC

Many respondents argued that NCTC is perceived more as a regulator than a collaborator. They recommended:

- Reframing NCTC's role to be **supportive and collaborative rather than restrictive**.
- Strengthening collaborative forums such as **County Technical Working Groups**.
- Allowing CSOs to **notify rather than seek approval** for certain activities.
- Establishing **local NCTC offices in counties** to ease access and coordination.

6

Legislative and Policy Reforms

A number of stakeholders called for deeper **legal and policy reforms**, ranging from amendment to outright repeal of Section 40C. Key proposals included:

- Clarifying vague terms such as “*radicalization*” and “*violent extremism*.”
- Narrowing the scope of Section 40C to directly cover P/CVE activities only.
- Introducing clear safeguards for **advocacy, journalism, peaceful protest, and human rights work**.
- Periodic review of the Act with **CSO involvement**.
- In some cases, stakeholders recommended the **removal of Section 40C altogether**, citing its chilling effect on civil society.

7

Strengthening Grassroots and Community-Level Engagement

Stakeholders working at the community level stressed that POTA implementation often bypasses local actors. Recommendations included:

- **Grassroots participation** in decision-making and reporting mechanisms.
- Financial support to **County Action Plans** for P/CVE activities.
- Inclusion of **youth and women-led community-based organizations** in implementation.
- Supporting rehabilitation and reintegration programs for victims and returnees.

8

Enhancing Collaboration and Partnerships

Finally, many respondents underscored that **counterterrorism is a shared responsibility** and cannot be left to government agencies alone. They recommended:

- More collaborative engagement across **government, civil society, religious leaders, academia, and the private sector**.
- Strengthening coordination among donors and ensuring smooth alignment of projects under NCTC without duplication.
- Creating spaces for **joint strategy development** and co-creation of models that balance security with civic freedoms.

In summary, stakeholders proposed wide-ranging reforms, from procedural improvements (timely approvals, transparency) to structural reforms (county-level engagement, independent oversight) and legal safeguards (judicial review, clearer definitions, human rights protections). The recurring themes highlighted the need for greater inclusivity, transparency, accountability, and collaboration in order to ensure that POTA, and particularly Section 40C, is both effective in counterterrorism and respectful of civic space.

Recommendations

on Developing National Guidelines for Government–Civil Society Engagement

Based on HURIA's analysis, there is an urgent need to establish clear, inclusive, and principled national guidelines to govern engagement between the National Counter Terrorism Centre (NCTC) and civil society actors under Section 40C of the Prevention of Terrorism Act (POTA). The following recommendations are proposed:

1

Adopt a Structured Engagement Framework

- o Government should move away from ad hoc and securitized approaches to collaboration.
- o A structured framework will reduce uncertainty, minimize mistrust, and foster long-term cooperation.

2

Ensure Guidelines are Grounded in Core Principles

1. Engagement must be guided by the following principles:
 - o **Do No Harm:** Avoid strategies that stigmatize or marginalize communities.
 - o **Transparency:** Establish clear communication on roles, processes, funding, and accountability.
 - o **Inclusivity:** Proactively involve women, youth, religious leaders, and other underrepresented groups.
 - o **Mutual Accountability:** Build mechanisms for shared responsibility, trust, and impact evaluation.

3

Recognize and Address CSO Constraints

- o Acknowledge the limited staffing, funding, and policy influence that constrain CSOs.
- o Provide targeted state support—financial, technical, and institutional—to strengthen their capacity for meaningful national-level engagement.

4

Avoid Over-Securitization of Policy Language and Practice

- o Policies and frameworks should not portray CSOs as extensions of state authority.
- o This is critical to maintaining CSO independence, protecting their credibility with communities, and preventing reputational damage in politically sensitive environments.

HURIA's Initiative and Next Steps

To advance these recommendations, Human Rights Agenda (HURIA) proposes to lead a **national consultative and research-driven process** to develop formal guidelines for government–civil society engagement under Section 40C of POTA.

This initiative builds on HURIA's collaboration with the Global Centre for Cooperative Security, which promotes meaningful CSO engagement within the UN Counterterrorism Architecture. HURIA's preliminary online study on the impact of Section 40C revealed a pressing demand from CSOs for standardized engagement protocols. Despite limitations in sample size and the sensitivity of self-reporting, the findings point to a shared priority: **legal clarity, institutional protection, and collaborative processes that safeguard civil society's independence while enhancing its contribution to national PVE efforts.**

HURIA recommends that this proposed process culminate in the adoption of **formal national guidelines** that are co-created with civil society and government stakeholders, and that can serve as a benchmark for inclusive, effective, and accountable P/CVE engagement in Kenya.

“

**Clarify
Section
40C**

”

ANNEXES

Survey Tool

<https://docs.google.com/forms/d/e/1FAIpQLScp1h0pHutkzZ-A9dfVCn7hmuViNkSA4Wl1ucdy-VmrCgESg/viewform?usp=header>



Survey: Civil Society Awareness and Impact of the Prevention of Terrorism Act, 2012

SECTION A: Personal Information

Full Name (Last, First, Middle):

Organization (Optional):

Country of Residence:

Primary Threats (Check all that apply):

- ☐ Terrorism
- ☐ Human Rights
- ☐ Corruption
- ☐ Gender-Based Violence (GBV)
- ☐ Child Labour
- ☐ Human Trafficking

SECTION B

Statement of the Prevention of Terrorism Act, 2012

Before this survey, were provisions of the Prevention of Terrorism Act, 2012:

- ☐ Yes
- ☐ No

Before this survey, were provisions of the Prevention of Terrorism Act, 2012:

- ☐ Yes
- ☐ No

If yes, how did you learn about it (Select all that apply):

- ☐ Government website
- ☐ Civil society website
- ☐ Media coverage

Are you aware that the law requires your written approval from the HCT to law enforcement agencies?

- ☐ Yes
- ☐ No

Are you aware of any official guidelines developed by the HCT to facilitate law enforcement agencies?

- ☐ Yes
- ☐ No
- ☐ Not sure

SECTION C

Experience with Section 40

Have you or your organization ever applied for approval from HCT to implement CVE or related activities?

- ☐ Yes
- ☐ No

If yes, after what the outcome?

- ☐ Approved
- ☐ Denied
- ☐ Not known

If your written request is approved, how would you rate the clarity and transparency of the process?

- ☐ Most clear and transparent
- ☐ Somewhat clear
- ☐ Unclear
- ☐ Not applicable
- ☐ Other

Have you ever had to change, delay or cancel a CVE-related activity due to lack of HCT approval?

- ☐ Yes
- ☐ No

SECTION D

Recommendation

What changes would you propose to improve the implementation of the Prevention of Terrorism Act (including Section 40)?

How would you rate your willingness to participate in further consultations on this topic?

- ☐ Yes
- ☐ No

If Yes or Maybe, please share your contact information (name, email, phone):

Full Name:

Email:

Phone:

SECTION E

Perceptions and Impact

In your opinion, how does the Prevention of Terrorism Act affect the work of civil society in CVE and terrorism-related issues?

- ☐ Promotes civil society participation
- ☐ Encourages civil society participation
- ☐ Discourages civil society participation
- ☐ Other

To what extent do you agree with the following statement?

Section 40 restricts civil society's work

1 = Strongly Disagree 2 = Disagree 3 = Neutral 4 = Agree 5 = Strongly Agree

To what extent do you agree with the following statement?

There is a need for participatory development of engagement guidelines

1 = Strongly Disagree 2 = Disagree 3 = Neutral 4 = Agree 5 = Strongly Agree

To what extent do you agree with the following statement?

HCT approval process is unclear and complex

1 = Strongly Disagree 2 = Disagree 3 = Neutral 4 = Agree 5 = Strongly Agree

To what extent do you agree with the following statement?

My organization has concerns about government surveillance in general

1 = Strongly Disagree 2 = Disagree 3 = Neutral 4 = Agree 5 = Strongly Agree



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