

DRAFTING NOTE

PUBLIC ORDER AND PEACEFUL ASSEMBLY ACT 2026

1. Status and purpose of this note

This drafting note is explanatory and is not part of the proposed Assembly Act. It identifies the legislative need, the relationship with earlier Eritrean law, the principal matters retained, the modernization choices made and the place of the draft within the emerging constitutional statute book. The instrument remains a consultation draft and should be finalized only after legal, institutional, fiscal and public review.

2. Legislative need and prior law

The supplied corpus does not contain a rights-compatible comprehensive law facilitating peaceful assembly and regulating only concrete public-safety risks.

3. What the draft retains

The draft retains advance communication for large events, traffic and safety planning, police protection and liability for independently unlawful conduct.

4. What the draft updates and modernizes

It replaces permission and suppression with notification and facilitation, narrow conditions, urgent court review, necessity and proportionality, protection of spontaneous and counter-assemblies, limits on dispersal and force, and individual rather than collective responsibility.

5. Constitutional, code and treaty fit

The draft is framed under the Constitution of Eritrea 1997 and must be read with the Civil Code, Penal Code, Civil Procedure Code and Criminal Procedure Code of Eritrea 2015 where those Codes govern. It is also coordinated with the other institutional, financial, commercial, land, labour, administrative and sectoral drafts in this collection. References to international or regional standards guide compatibility and implementation; they do not bypass the Treaty-Making Act or convert an unincorporated instrument into domestic law.

6. Scope and organization

The principal divisions address preliminary provisions; scope and protected conduct; notice and facilitation; restrictions; decision, review and remedies; policing assemblies; dispersal and force; duties of organizers and participants; offences and protection from abuse; administration and final provisions.

7. Transition, implementation and consultation

The draft preserves lawful accrued rights, completed transactions, pending proceedings and institutional continuity where appropriate, while preventing temporary savings from preserving unconstitutional coercion or indefinite executive discretion. Before enactment or issuance, authentic predecessor instruments and amendments should be verified, cross-references and fiscal capacity confirmed, implementing regulations and digital systems prepared, and affected institutions, professions, communities and the public given a practical opportunity to comment.

CONSULTATION DRAFT — NOT ENACTED LAW

ACT NO. ____ OF 2026

PUBLIC ORDER AND PEACEFUL ASSEMBLY ACT 2026

(ACT)

AN ACT TO GIVE EFFECT TO THE CONSTITUTIONAL FREEDOMS OF EXPRESSION, ASSEMBLY AND DEMONSTRATION; TO REQUIRE PUBLIC AUTHORITIES TO FACILITATE PEACEFUL ASSEMBLIES; TO REGULATE ONLY SUCH ASPECTS OF TIME, PLACE AND MANNER AS ARE NECESSARY IN A DEMOCRATIC SOCIETY; TO PROVIDE ACCOUNTABLE PUBLIC-ORDER POLICING AND PROMPT JUDICIAL REMEDIES; AND TO PROVIDE FOR RELATED MATTERS.

PREAMBLE

WHEREAS Articles 19 and 26 of the Constitution of Eritrea protect freedom of expression, assembly and demonstration and permit restriction only by law, for a legitimate constitutional purpose and to the extent justifiable in a free and democratic society;

WHEREAS peaceful assembly enables citizens to participate in public affairs, communicate grievances and hold public institutions accountable, and shall therefore be presumed lawful;

WHEREAS Eritrea's obligations under the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights require protection of peaceful assembly, equality, life, liberty, dignity and effective remedies;

WHEREAS a democratic State must replace permission-based and politically selective control with advance planning, transparent decisions, impartial policing and independent judicial review;

NOW, THEREFORE, be it enacted by the National Assembly of Eritrea, acting under Article 32 of the Constitution, as follows:

CHAPTER I
PRELIMINARY PROVISIONS

Article 1 — Short title

1. This Act may be cited as the "Public Order and Peaceful Assembly Act 2026".
2. This Act applies throughout Eritrea.

Article 2 — Purposes

1. to secure and facilitate peaceful assembly without discrimination;
2. to establish notice rather than permission as the ordinary procedure;
3. to confine restrictions to lawful, necessary and proportionate measures;
4. to govern public-order policing and use of force;
5. to protect participants, observers, journalists, residents and bystanders; and

6. to provide prompt reasons, review and remedies.

Article 3 — Interpretation

1. “assembly” means an intentional and temporary gathering in a public or publicly accessible place for an expressive, commemorative, religious, cultural, political, social, labour or other common purpose;
2. “Commission” means the Independent Police Conduct Commission established by the Police Service Act;
3. “organizer” means a person who assumes substantial responsibility for convening or coordinating an assembly and does not include a person merely attending, speaking, sharing information or providing support;
4. “peaceful” means non-violent in purpose and conduct, notwithstanding disruption, strong language, isolated misconduct or the presence of persons opposed to the assembly;
5. “public authority” includes a ministry, local government, police body and other person exercising public power; and
6. “spontaneous assembly” means an assembly responding to an event where prior notice cannot reasonably be given.

Article 4 — Constitutional presumption

1. Every assembly shall be presumed peaceful and lawful.
2. The State has a positive duty to facilitate assemblies and protect participants.
3. A restriction requires specific evidence and shall not rest on hostility to a message, identity or viewpoint.
4. The authority asserting a restriction bears the burden of justifying it.

Article 5 — Equal protection and political neutrality

1. This Act shall be administered impartially without discrimination prohibited by Article 14 of the Constitution.
2. Government supporters, opponents, minorities, unions, religious communities, women, youth, persons with disabilities and non-citizens lawfully present shall receive equal protection.
3. A public authority shall not direct, fund or tolerate obstruction by counter-demonstrators or unofficial groups.
4. The availability of protection shall not depend on political approval.

CHAPTER II SCOPE AND PROTECTED CONDUCT

Article 6 — Assemblies protected

1. This Act protects marches, demonstrations, meetings, vigils, pickets, processions, rallies, sit-ins, funerals, commemorations and comparable peaceful gatherings.

2. Protection extends to preparation, travel, communication, observation, recording, reporting and peaceful departure.
3. An assembly remains protected although it causes inconvenience, traffic delay, economic cost, noise or temporary disruption.
4. Commercial events lacking expressive purpose may be regulated under ordinary licensing law.

Article 7 — Conduct not requiring notice

1. No notice is required for an indoor meeting, private gathering, assembly of fewer than fifty persons not occupying a highway, or ordinary queue, worship, funeral movement or recreational gathering.
2. No notice is required where the competent authority already has reasonably sufficient information to facilitate the event.
3. Absence of notice does not make an assembly unlawful.
4. A person shall not be penalized merely for participating in an unnotified assembly.

Article 8 — Individual misconduct

1. Violence or offence by one person shall not be attributed automatically to an organizer or other participants.
2. Police shall address an offender individually where reasonably possible.
3. An assembly does not lose peaceful character because of isolated objects, protective equipment, angry language or unlawful acts that do not represent its general conduct.
4. Collective punishment and guilt by association are prohibited.

Article 9 — Counter-assemblies

1. Persons may peacefully express opposition within sight and sound of another assembly where practicable.
2. Police shall facilitate both assemblies and prevent violence without preferring either viewpoint.
3. A threat by opponents shall ordinarily require protection, separation or action against the threat, not cancellation of the targeted assembly.
4. Physical obstruction that extinguishes another assembly's ability to communicate may be reasonably managed.

Article 10 — Journalists, monitors and legal observers

1. Journalists, human-rights monitors, lawyers, medics and observers may attend, identify police, record events and communicate information.
2. They shall not be dispersed or arrested merely for remaining to observe after participants are directed to leave.
3. Seizure, search or deletion of journalistic or monitoring material requires specific lawful authority.
4. Credential status shall not be the exclusive basis for protection.

CHAPTER III

NOTICE AND FACILITATION

Article 11 — Notice, not permission

1. An organizer should give notice when an assembly is expected to involve fifty or more persons or materially affect traffic or access.
2. Notice informs planning and is not an application for permission.
3. An assembly may proceed unless lawfully restricted under this Act.
4. A fee, bond, insurance requirement or indemnity shall not be imposed as a condition of assembly.

Article 12 — Time and form of notice

1. Notice should be given at least forty-eight hours before the assembly where reasonably practicable.
2. Notice may be oral, written or electronic and shall be accepted by police, local government or a designated online service.
3. It shall state available information about time, route or place, estimated attendance, organizer contact and requested assistance.
4. Technical error or incomplete information shall be corrected cooperatively and shall not invalidate notice.

Article 13 — Acknowledgment and single contact

1. The receiving authority shall acknowledge notice promptly and transmit it to every relevant body.
2. One liaison officer shall coordinate the public response.
3. The organizer shall not be required to visit multiple offices or obtain multiple approvals.
4. Public contact details, procedures, maps and standards shall be available online and at local offices.

Article 14 — Facilitation meeting

1. Where planning is useful, the liaison officer shall invite the organizer to a timely and accessible meeting.
2. The parties may discuss route, traffic, accessibility, safety, medical support, communication and competing uses.
3. Participation is voluntary and refusal does not establish unlawful intent.
4. An agreement shall be recorded and provided to the organizer.

Article 15 — Spontaneous and urgent assemblies

1. A spontaneous assembly is protected without prior notice.

2. An organizer or participant should communicate available information when reasonably possible after gathering begins.
3. Police shall facilitate the assembly and adjust traffic or deployment.
4. Urgency shall not be defeated by insisting on the ordinary notice period.

Article 16 — Simultaneous assemblies and scarce space

1. Where events genuinely cannot share a place safely, the authority shall seek agreement through impartial dialogue.
2. Priority may consider prior notice, regular scheduled use and practical alternatives but never viewpoint.
3. An alternative shall permit substantially equivalent visibility, audience, timing and symbolic meaning.
4. The written allocation and reasons shall be publicly available.

CHAPTER IV RESTRICTIONS

Article 17 — Exclusive grounds

1. A restriction may be imposed only to protect national security, public safety, public order, public health or morals, or the rights and freedoms of others, as recognized by Article 26 of the Constitution.
2. A ground shall be interpreted narrowly and consistently with a free and democratic society.
3. Government embarrassment, political criticism, administrative convenience, anticipated offence or economic loss alone is not a legitimate ground.
4. A restriction shall not conceal discrimination or suppression of dissent.

Article 18 — Necessity and proportionality

1. A restriction shall respond to a specific, credible and reasonably imminent risk.
2. It shall be suitable, the least restrictive reasonably effective measure and proportionate in overall impact.
3. The authority shall consider facilitation, additional policing, route management, temporary barriers and targeted action before restricting the assembly.
4. A blanket, indefinite or nationwide restriction requires correspondingly exceptional proof.

Article 19 — Time, place and manner conditions

1. A condition may regulate route, duration, sound, structures, vehicle movement or access only under Articles 17 and 18.
2. It shall preserve meaningful opportunity to reach the intended audience.
3. A condition shall be precise, written, time-limited and no broader than necessary.
4. The organizer shall receive reasons and information on review.

Article 20 — Prohibition as last resort

1. An assembly may be prohibited only where compelling evidence shows a grave risk that cannot reasonably be prevented by a less restrictive measure.
2. The decision requires approval by a senior official designated by published regulation.
3. The decision shall identify evidence, alternatives considered, duration and geographic scope.
4. The authority shall apply to the competent regional court for confirmation within twenty-four hours.

Article 21 — Emergency and health restrictions

1. A declared emergency does not suspend this Act except to the extent lawfully permitted by Articles 27 and 28 of the Constitution.
2. A health restriction shall rely on competent evidence and treat comparable gatherings consistently.
3. Digital expression is not an adequate substitute where physical presence carries distinct meaning.
4. Every emergency restriction shall expire, be reviewed and remain subject to court challenge.

Article 22 — Restrictions on weapons and dangerous items

1. Law may prohibit firearms, explosives and items carried with demonstrable intent to cause serious injury.
2. Ordinary tools, cultural objects, signs, helmets, masks, umbrellas and protective items are not weapons merely because they could be misused.
3. A search or seizure requires individualized lawful grounds except for a narrowly tailored safety screening authorized by law.
4. A prohibited item held by one person does not authorize dispersal of others.

CHAPTER V DECISION, REVIEW AND REMEDIES

Article 23 — Notice of proposed restriction

1. Before restricting an assembly, the authority shall give the organizer proposed terms, evidence and reasonable opportunity to respond.
2. Urgency may shorten but shall not eliminate fair consideration where contact is possible.
3. The authority shall record the response and alternatives proposed.
4. Failure to consult weighs against validity.

Article 24 — Written decision and publication

1. A restriction shall be signed, dated and delivered promptly by the fastest available means.
2. It shall state legal authority, material facts, constitutional analysis and review procedure.

3. A restriction affecting the public shall be published immediately.
4. Classified information may be protected only through procedures preserving meaningful review and fairness.

Article 25 — Expedited administrative reconsideration

1. An organizer may request immediate reconsideration by an official not involved in the original decision.
2. The reviewer shall decide within twelve hours or sooner where the event requires.
3. Reconsideration does not delay access to court.
4. Silence constitutes refusal for purposes of judicial review.

Article 26 — Urgent judicial review

1. The competent regional court has jurisdiction to review any restriction, failure to facilitate, dispersal direction or anticipated rights violation.
2. The Court shall provide accessible filing, including electronic and after-hours procedure, and decide before the event where practicable.
3. The public authority bears the burden of proving compliance with this Act.
4. The Court may suspend, vary or set aside a decision and order facilitation.

Article 27 — Standing and assistance

1. An organizer, participant, affected resident, journalist, monitor or public-interest body may apply where directly or seriously affected.
2. A child may apply through a representative or with court assistance.
3. Lack of legal representation shall not defeat urgent relief.
4. The Court may receive expert, amicus and comparative human-rights submissions.

Article 28 — Remedies

1. A court may grant declaration, injunction, mandamus, compensation, return or preservation of property, correction of records and another effective remedy.
2. It may order publication of reasons, policy revision, training or independent investigation.
3. Good-faith participation shall not be entered in a criminal or intelligence record.
4. A remedy against an official does not exclude State liability.

CHAPTER VI POLICING ASSEMBLIES

Article 29 — Facilitation plan

1. Police shall prepare a proportionate plan emphasizing communication, de-escalation, traffic management, medical access and protection.
2. The plan shall identify command, liaison, equipment, arrest teams and reporting.
3. Deployment shall not be intimidating or militarized beyond demonstrated need.

4. Relevant non-operational portions shall be shared with organizers.

Article 30 — Identification and communication

1. Uniformed officers shall display visible identification.
2. A liaison officer shall maintain communication before, during and after the assembly.
3. Directions shall be audible, understandable and, where practicable, given in relevant languages and accessible forms.
4. An organizer is not an agent of police and has no duty to enforce criminal law.

Article 31 — Surveillance and recording

1. Police recording shall serve a defined safety, evidence or accountability purpose.
2. Facial recognition, indiscriminate biometric identification and creation of political-participation databases are prohibited unless specifically authorized by an Assembly Act with strict safeguards.
3. Covert surveillance requires independent lawful authorization.
4. Records shall have access, retention, correction and deletion rules.

Article 32 — Search and checkpoints

1. A participant may be stopped or searched only under the Police Service Act and other applicable law.
2. An assembly shall not be enclosed or subjected to general search without a specific necessary safety basis.
3. A checkpoint shall not collect political affiliation or deter attendance.
4. Discriminatory or arbitrary searches are prohibited.

Article 33 — Arrest

1. Police shall prefer targeted arrest of a person reasonably suspected of an offence over interference with the assembly.
2. An arrest shall comply with constitutional and criminal-procedure safeguards.
3. Mass arrest, preventive detention and arbitrary containment for arrest are prohibited.
4. Transport, legal access, records and release shall be planned where arrests are reasonably anticipated.

Article 34 — Containment

1. Police shall not confine an assembly or crowd so that peaceful persons cannot leave, except temporarily to address an imminent serious threat.
2. A containment decision requires senior authorization, continuous review and safe exit for vulnerable persons, observers and persons uninvolved.
3. Water, medical assistance and information shall be provided.
4. The decision and duration shall be recorded and reviewed by the Commission.

CHAPTER VII DISPERSAL AND FORCE

Article 35 — Grounds for dispersal

1. Dispersal is permitted only where an assembly as a whole is no longer peaceful or presents an imminent grave threat that targeted measures cannot control.
2. Failure to give notice, breach of a minor condition, traffic disruption or isolated misconduct is insufficient.
3. The commander shall assess consequences and preserve safe routes.
4. A dispersal order shall not be used to punish a viewpoint.

Article 36 — Warning and opportunity to comply

1. Before dispersal, police shall communicate the reason, lawful route to leave and reasonable time to comply.
2. At least two clear warnings shall ordinarily be given and recorded.
3. Warning may be omitted only where delay presents an imminent threat of death or serious injury.
4. Journalists, monitors and medics shall receive safe opportunity to continue their functions.

Article 37 — Use of force

1. Force is governed by the Police Service Act and may be used only where lawful, strictly necessary and proportionate.
2. Force shall be directed against persons presenting the threat, not indiscriminately against a crowd.
3. Firearms shall not be used to disperse an assembly and lethal force is permitted only to protect life from an imminent threat.
4. Medical aid, reporting and independent investigation duties apply.

Article 38 — Prohibited tactics and weapons

1. Torture, cruel treatment, collective beating, punitive force, intentional vehicle attack and denial of escape are prohibited.
2. Weapons with indiscriminate or uncontrollable effects shall not be used.
3. Chemical irritants and kinetic projectiles require specific law, training, range, medical and reporting controls and shall not be fired indiscriminately.
4. Acquisition and policy for public-order weapons shall be transparent and independently reviewed.

Article 39 — After-action review

1. Police shall complete an after-action report where force, arrest, injury, dispersal or serious complaint occurred.

2. The report shall assess legality, command, communications, equipment, medical response and lessons.
3. The Commission may investigate and require records.
4. A public summary shall be issued subject to privacy and fair-trial protection.

CHAPTER VIII DUTIES OF ORGANIZERS AND PARTICIPANTS

Article 40 — Peaceful cooperation

1. An organizer should communicate plans honestly, encourage peaceful conduct and cooperate reasonably on safety.
2. The organizer is not liable for conduct beyond the organizer's direction or reasonable control.
3. No organizer shall be required to provide private membership, donor or participant lists.
4. Volunteer stewards have no coercive authority beyond ordinary lawful self-protection.

Article 41 — Protection of access and essential services

1. Participants shall not intentionally block urgent medical, fire or rescue response.
2. Temporary interference with ordinary traffic or business shall be managed proportionately.
3. Access to hospitals and other genuinely essential facilities may be protected through the least restrictive arrangement.
4. Discomfort, delay or reduced commercial activity alone does not extinguish assembly rights.

Article 42 — Unprotected violent conduct

1. A person shall not intentionally commit or incite imminent violence, serious property destruction or forcible entry.
2. Criminal responsibility is individual and requires proof under general law.
3. Non-violent civil disobedience may be subject only to the ordinary law and proportionate enforcement.
4. Political motive shall neither immunize violence nor aggravate peaceful conduct.

CHAPTER IX OFFENCES AND PROTECTION FROM ABUSE

Article 43 — Official obstruction and retaliation

1. An official who knowingly and without lawful justification suppresses an assembly, fabricates grounds, conceals a decision or retaliates commits misconduct and is subject to law.
2. A superior shall not order political discrimination or unlawful force.
3. An officer shall refuse a manifestly unlawful order and report serious abuse.
4. Disciplinary action does not displace criminal or civil responsibility.

Article 44 — Impersonation and dangerous deception

1. A person shall not impersonate police or emergency personnel to direct or end an assembly.
2. A person shall not knowingly issue a false emergency warning intended and likely to cause dangerous panic.
3. Satire, criticism and mistaken good-faith communication are not offences.
4. Any penalty shall be prescribed by an Assembly Act and proportionate.

Article 45 — No assembly-specific status offences

1. There is no offence of organizing or attending an assembly without permission.
2. Notice failure alone is not punishable by imprisonment.
3. A regulation shall not create an offence, arrest power or custodial penalty.
4. General criminal law applies equally and shall not be selectively enforced against assembly activity.

CHAPTER X ADMINISTRATION AND FINAL PROVISIONS

Article 46 — Training and public guidance

1. Police, local government and prosecutors shall receive recurring constitutional and operational training.
2. Public guidance, notice forms, decisions and emergency contacts shall be available without charge in accessible formats and Eritrean working languages.
3. Training shall include gender, disability, children, media, de-escalation and international standards.
4. Authorities shall consult civil society and affected communities.

Article 47 — Data and annual reporting

1. Police and local governments shall publish anonymized data on notices, restrictions, prohibitions, arrests, force, injuries and complaints.
2. Data shall be disaggregated sufficiently to test equality without exposing participants.
3. The Commission shall report patterns and recommendations annually to the National Assembly.
4. Unpublished operational detail may be withheld only where disclosure creates a specific lawful risk.

Article 48 — Regulations

1. The President may issue regulations for notice administration, liaison, traffic coordination, accessibility, records and implementation.

2. Regulations shall not introduce permission, expand restriction grounds, create coercive powers or reduce judicial review.
3. Draft regulations shall be published for consultation.
4. Public authorities may issue subordinate procedures consistent with this Act.

Article 49 — Relationship with other laws

1. This Act prevails over inconsistent administrative, local, security and public-order instruments to the extent of inconsistency.
2. The Police Service Act and Criminal Procedure Code apply consistently with the greater protection in this Act.
3. A local bylaw may manage ordinary use of space but shall not regulate assembly viewpoint or impose permission.
4. Treaty and constitutional protections more favorable to peaceful assembly remain applicable according to law.

Article 50 — Review of existing restrictions

1. Every ministry and local government shall identify existing instruments affecting assembly within ninety days.
2. The Advocate General shall recommend repeal or amendment of inconsistent provisions.
3. An unpublished directive restricting assembly has no legal effect.
4. Pending applications and cases shall receive the benefit of this Act where constitutionally required.

Article 51 — Repeal and savings

1. Prior public-order and assembly instruments are repealed only when identified by verified number, year and title in the statute-law revision schedule.
2. A lawful event agreement, court order and pending remedy remain effective subject to this Act.
3. Permission requirements, political approval, collective liability and unreviewable executive prohibition are not preserved.
4. A transitional form or procedure expires within twelve months unless lawfully remade.

Article 52 — Commencement

1. This Act enters into force thirty days after publication in the Gazette.
2. Articles 4, 5, 15, 26, 35 to 38 and 45 apply immediately.
3. The President, Police Service, courts and local governments shall complete implementation arrangements within six months.

Made at Asmara, this ____ day of _____ 2026.

THE NATIONAL ASSEMBLY OF ERITREA