

DRAFTING NOTE

FREEDOM OF RELIGION OR BELIEF ACT

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 draft replaces the restrictive religious-institutions framework associated with Proclamation 73/1995 and later administrative practice. Legal personality must not become permission to believe or worship.

3. What the draft retains

It retains voluntary registration for organizations wishing to hold property and transact, ordinary financial accountability and lawful protection against fraud and violence.

4. What the draft updates and modernizes

It expressly protects belief, non-belief, worship, teaching, association and religious autonomy; uses simple registration; prohibits compelled orthodoxy; and confines restrictions, suspension and dissolution to clear law, necessity, proportionality and court review.

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; individual freedom and manifestation; children, parents and education; communities and organizational autonomy; registration and legal personality; marriage, burial, institutions and public life; protection, investigation and remedies; administration and review; transitional 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

FREEDOM OF RELIGION OR BELIEF ACT

(ASSEMBLY ACT)

AN ACT TO PROTECT FREEDOM OF THOUGHT, CONSCIENCE, RELIGION AND BELIEF; TO GUARANTEE THE FREEDOM TO ADOPT, CHANGE, MANIFEST OR DECLINE A RELIGION OR BELIEF; TO PROVIDE EQUAL LEGAL PERSONALITY AND FAIR ADMINISTRATION FOR RELIGIOUS AND BELIEF ORGANIZATIONS; TO PROTECT CHILDREN, FAMILIES, PROPERTY AND RELIGIOUS COMMUNITIES; AND TO PROVIDE FOR RELATED MATTERS.

PREAMBLE

WHEREAS Article 19(1) of the Constitution of Eritrea guarantees every person freedom of thought, conscience and belief and is protected from limitation by Article 26(3);

WHEREAS Article 19(4) guarantees every person freedom to practice any religion and to manifest that practice, subject only to a limitation satisfying Articles 26 and 28 of the Constitution;

WHEREAS Articles 14, 16, 18, 22 and 24 require equality, dignity, privacy, family protection and fair administrative redress;

WHEREAS Eritrea's religious and philosophical diversity shall be governed through equal freedom and law rather than a hierarchy of recognized and unrecognized beliefs;

NOW, THEREFORE, the National Assembly of Eritrea, acting under Articles 19 and 32 of the Constitution, enacts as follows:

CHAPTER I
PRELIMINARY PROVISIONS

Article 1 — Short title

This Act may be cited as the “Freedom of Religion or Belief Act 2026.”

Article 2 — Purposes

1. to give full effect to freedom of thought, conscience, religion and belief;
2. to protect the freedom to adopt, change, manifest, teach or decline a belief;
3. to guarantee equality among religions, beliefs and non-belief;
4. to provide simple legal personality for religious and belief organizations;
5. to protect autonomy while ensuring proportionate financial, safety and rights accountability; and
6. to provide remedies against discrimination, coercion and unlawful interference.

Article 3 — Application

1. This Act applies to every person and to every religious, spiritual, philosophical, humanist, atheist and comparable belief community.
2. Protection does not depend on citizenship, registration, history, membership size, theology, government recognition or foreign origin.
3. The Associations, Charities and Civil Society Act applies to matters not specifically governed by this Act.
4. A religious rule binds a person civilly only to the extent permitted by the Constitution and laws of Eritrea.

Article 4 — Interpretation

In this Act, unless the context requires otherwise—

1. “belief” includes a religious, non-religious, philosophical, conscientious, spiritual, humanist or atheist conviction of comparable seriousness;
2. “community” means a group of persons associated for religious or belief purposes, whether registered or informal;
3. “manifestation” includes worship, observance, practice, teaching, dress, diet, assembly, ritual, publication, charity and community organization;
4. “minister of religion” includes clergy, teacher, leader and another person authorized by a community;
5. “religious organization” includes a church, mosque, monastery, congregation, temple, mission, religious charity and comparable body; and
6. “Registrar” means the Civil Society Registrar administering registration under Article 26.

Article 5 — Absolute inner freedom

1. Every person has the freedom to hold, adopt, change, retain or reject a religion or belief.
2. No person shall be compelled to reveal a belief, recant, convert, participate in worship or take a religious oath.
3. Inner freedom of thought, conscience and belief shall not be restricted, including during emergency.
4. A person may use an affirmation instead of an oath without disadvantage.

Article 6 — Equal protection

1. The State shall remain neutral among religions, beliefs and non-belief.
2. No religion or belief is official, prohibited, inferior or privileged except for a neutral accommodation authorized by law.
3. A public benefit, office, education, passport, service, license or remedy shall not depend on religious adherence.
4. Historical contribution may be recognized without creating unequal legal status.

CHAPTER II

INDIVIDUAL FREEDOM AND MANIFESTATION

Article 7 — Freedom to manifest

1. Every person may manifest religion or belief individually or with others, publicly or privately.
2. Manifestation includes worship, prayer, preaching, teaching, celebration, pilgrimage, burial, dietary practice, dress, symbols, publication and charitable service.
3. A person may establish and maintain places, institutions and communications necessary for manifestation.
4. Peaceful proselytism and invitation to change belief are protected.

Article 8 — Limitations

1. A limitation on manifestation is valid only if prescribed by clear law, directed to a purpose permitted by Article 26(1) of the Constitution, necessary in a democratic society and proportionate.
2. The limitation shall be of general application and shall not negate the essential content of the freedom.
3. A restriction shall identify Article 19(4) of the Constitution and the constitutional basis under Article 26(2)(c) of the Constitution.
4. Public dislike, theological disagreement, administrative convenience or desire for religious uniformity is insufficient.

Article 9 — Coercion and improper inducement

1. No person shall use violence, threat, detention, abuse of authority or exploitation of serious vulnerability to compel religious adherence or change.
2. A genuine charitable, educational or humanitarian service shall not be conditioned on involuntary worship or conversion.
3. Peaceful persuasion, teaching, parental guidance and voluntary benefit do not constitute coercion.
4. A remedy shall target coercive conduct and not suppress the community generally.

Article 10 — Religious dress and symbols

1. A person may wear religious or belief dress and symbols.
2. A neutral safety, identification or professional requirement may limit dress only to the minimum necessary and with reasonable accommodation.
3. A public institution shall not prohibit a symbol merely because it is unfamiliar, controversial or associated with a minority.
4. Face identification may be requested privately and respectfully for a specific lawful purpose.

Article 11 — Diet, observance and accommodation

1. A public institution, school, employer and detention facility shall provide reasonable accommodation for diet, worship, holy days and conscientious practice.
2. Accommodation is reasonable unless it creates disproportionate hardship, serious safety risk or violation of another person's rights.
3. The institution shall consult the person and consider alternatives.
4. Denial shall provide written reasons and review.

Article 12 — Conscientious objection

1. A person may claim conscientious accommodation from a specific legal duty where the claim is sincere and accommodation does not defeat a compelling constitutional purpose.
2. The National Service Act shall provide any conscientious alternative applicable to defence service.
3. A health or public professional shall not deny emergency care or impose belief on another person and shall arrange lawful referral where accommodation is permitted.
4. A claim shall be assessed individually without testing theological correctness.

Article 13 — Privacy of belief

1. Religious affiliation and belief are sensitive personal information.
2. A public body shall not create a general religious registry of individuals.
3. Collection is permitted only where voluntarily supplied or necessary for a specific lawful accommodation, statistic or service with safeguards.
4. Religious data shall not be shared for political control, discrimination or persecution.

CHAPTER III CHILDREN, PARENTS AND EDUCATION

Article 14 — Rights of the child

1. A child enjoys freedom of thought, conscience, religion and belief according to evolving capacities.
2. The best interests of the child are a primary consideration.
3. The child's views shall receive due weight according to age and maturity.
4. A child shall be protected from coercion, violence, degrading practice, forced marriage and denial of necessary care.

Article 15 — Parental guidance

1. Parents and guardians may guide a child's religious or belief upbringing consistently with evolving capacities and best interests.
2. Guidance shall not extinguish the child's right to identity, education, health, safety and expression.

3. A disagreement between parents shall be resolved under family law without favoring a religion or non-belief.
4. The State shall intervene only under general child-protection standards.

Article 16 — Public education

1. Public education shall be religiously neutral and shall not compel worship or doctrinal instruction.
2. Teaching about religions, beliefs, ethics and history shall be objective, pluralistic and age appropriate.
3. A school shall provide reasonable accommodation for observance without denying core education.
4. No child shall be stigmatized because of the child's or family's belief.

Article 17 — Religious schools

1. A community may establish a school subject to general education, child-safety, labour and health standards.
2. A school may teach its religious character but shall provide the national core curriculum and respect child dignity and protection.
3. Admission and employment rules closely connected to religious mission may receive limited accommodation, subject to equality and the nature of the role.
4. Public funding, if provided, shall use transparent and non-discriminatory criteria.

CHAPTER IV COMMUNITIES AND ORGANIZATIONAL AUTONOMY

Article 18 — Freedom to organize

1. Persons may form and operate a religious or belief community without prior permission or registration.
2. A community may select leaders, determine doctrine, worship, membership, discipline and internal structure.
3. The State shall not appoint clergy, decide theology or resolve a doctrinal dispute.
4. Civil courts may decide property, contract, employment, crime and civil-rights issues using neutral legal principles.

Article 19 — Clergy and leadership

1. A community may train, appoint, recognize, transfer and remove ministers according to its rules.
2. A ministerial relationship may receive constitutionally appropriate autonomy concerning doctrine and spiritual function.
3. Employment protections apply to non-ministerial workers and to matters not requiring doctrinal judgment.
4. Abuse, violence, fraud and exploitation are subject to general law regardless of office.

Article 20 — Membership and discipline

1. A community may establish membership and internal discipline consistent with law.
2. No person shall be physically detained, threatened, deprived of civil property or exposed to violence for leaving or dissenting.
3. An internal decision affecting a substantial civil property or employment right is reviewable through neutral law.
4. Excommunication or doctrinal censure alone does not create State punishment.

Article 21 — Communication and publication

1. A community may publish, broadcast, import and distribute religious or belief material under media and customs laws of general application.
2. A public body shall not censor theology, scripture, criticism or interfaith disagreement.
3. Content directly inciting imminent violence may be restricted under the Media Freedom and Access to Information Act.
4. Access to communications services shall be non-discriminatory.

Article 22 — Domestic and international relations

1. A community may establish local, national and international affiliations and invite religious visitors.
2. It may receive lawful domestic and foreign donations and assistance under the Associations, Charities and Civil Society Act.
3. International affiliation does not create foreign-agent status or disloyalty.
4. Immigration and work authorization for foreign ministers shall be processed objectively and promptly.

Article 23 — Religious property

1. A registered community may own, lease, build, maintain and dispose of property.
2. Land allocation, planning, utilities and construction rules shall be applied without religious discrimination.
3. A place of worship may be taken only under Article 23 of the Constitution with due process, just compensation and serious consideration of replacement and community impact.
4. Sacred objects and burial sites shall receive respectful protection.

Article 24 — Places of worship

1. A community may establish a place of worship subject to neutral planning, building, safety, noise and environmental law.
2. A permit shall not examine doctrine or neighborhood hostility.
3. Conditions shall be proportionate and comparable to secular assembly venues.
4. Home worship shall not require a special permit merely because persons gather peaceably.

Article 25 — Charity and public service

1. A community may provide education, health, relief, burial, counselling and other services.
2. Public-service standards and beneficiary rights apply without controlling religious doctrine unrelated to service.
3. A publicly funded service shall be provided without coercion or unlawful discrimination.
4. Religious character may be disclosed and voluntary pastoral care offered.

CHAPTER V REGISTRATION AND LEGAL PERSONALITY

Article 26 — Registration by right

1. A community seeking legal personality may register under this Act through the Civil Society Registrar.
2. It shall submit its name, service address, governing document, purposes and responsible officers.
3. The Registrar shall decide within ten business days under the registration standards of the Associations, Charities and Civil Society Act.
4. Registration shall not require proof that doctrine is true, traditional, orthodox, popular or government-approved.

Article 27 — Effect of registration

1. Registration confers legal personality, perpetual succession and capacity to contract, own property, employ, sue and be sued.
2. It does not confer the freedom of religion or belief, which exists independently.
3. Failure or choice not to register does not make worship, teaching or assembly unlawful.
4. Members of an unregistered community may hold property and contract through lawful private arrangements.

Article 28 — Name and identity

1. A community may choose a name not fraudulently impersonating another legal person or public authority.
2. Use of “church,” “mosque,” “ministry,” “mission,” “religious,” “orthodox,” “evangelical,” “Islamic,” “traditional,” “humanist” or comparable description shall not require doctrinal approval.
3. A naming dispute shall be resolved through neutral trademark, fraud and priority principles.
4. A change of name does not affect rights and liabilities.

Article 29 — Financial accountability

1. A registered community shall maintain accounts and file reports proportionate to its size and public fundraising.
2. Donations and offerings may be anonymous within reasonable anti-money-laundering thresholds.
3. Doctrine, pastoral communication, member identity and beneficiary information are not subject to financial inspection unless specifically relevant to lawful inquiry.
4. Public-benefit tax treatment is governed by tax and civil-society law.

Article 30 — Internal religious funds

1. A dedicated religious or charitable fund shall be used according to its lawful purpose.
2. An officer shall disclose conflicts and shall not divert community assets privately.
3. A donor restriction shall be respected subject to law and impossibility.
4. A court may order restitution or protective administration for serious misuse without directing doctrine.

CHAPTER VI MARRIAGE, BURIAL, INSTITUTIONS AND PUBLIC LIFE

Article 31 — Religious marriage ceremonies

1. A religious marriage ceremony may be celebrated according to belief.
2. Civil validity, age, consent, registration, equality and prohibited relationships are governed by the Civil Code and family law.
3. A minister authorized by law may register a civil marriage after satisfying statutory requirements.
4. No minister shall be compelled to perform a religious ceremony contrary to doctrine, but refusal does not determine civil access to marriage.

Article 32 — Burial and cemeteries

1. Every person is entitled to dignified burial or other lawful disposition consistent with belief and public health.
2. Local government shall provide fair access to cemeteries and may recognize community burial grounds.
3. A burial practice may be restricted only for a specific serious health, environmental or rights reason.
4. Desecration and discriminatory denial of burial are subject to law.

Article 33 — Pastoral care in institutions

1. A person in hospital, military service, detention or public care may receive reasonable pastoral or belief-based support.

2. Institutions shall provide fair access among qualified representatives and respect a request for no religious contact.
3. Security restrictions shall be specific and proportionate.
4. Confidential pastoral communication receives legal protection according to law.

Article 34 — Religious holidays

1. Public holidays are determined by law and do not establish religious superiority.
2. An employee or student may request reasonable accommodation for a significant holy day.
3. Alternative scheduling or leave may be used where it does not create disproportionate hardship.
4. A public body shall publish a fair accommodation policy.

Article 35 — Public ceremonies and symbols

1. Participation in a government religious ceremony is voluntary.
2. A public ceremony may acknowledge Eritrea's diversity without compelling belief or excluding non-belief.
3. Permanent public symbols and displays shall be administered consistently with neutrality, history, culture and equal citizenship.
4. A person may not be required to swear a religious oath for office or service.

CHAPTER VII PROTECTION, INVESTIGATION AND REMEDIES

Article 36 — Protection from violence and hatred

1. The State shall protect persons and communities from violence, threats, vandalism and targeted serious harassment based on religion or belief.
2. Police shall investigate impartially whether the victim belongs to a majority, minority or no religion.
3. Protection shall not be conditioned on registration.
4. Security measures shall be developed with the community and shall not create surveillance of lawful worship.

Article 37 — Complaints of discrimination

1. A person may complain to the equality body, competent court or responsible public institution.
2. A complaint procedure shall be accessible, confidential where needed and protected from retaliation.
3. Remedies may include cessation, accommodation, correction, restoration, damages and institutional reform.
4. A community may act for affected members with consent or in an appropriate public-interest case.

Article 38 — Inspection and search

1. A place of worship or religious office may be inspected under neutral safety and financial laws.
2. Non-consensual entry or search requires a warrant under Article 18 of the Constitution except for an immediate threat to life.
3. The warrant shall describe place, purpose and items and shall protect sacred, privileged and unrelated material.
4. A general raid or search intended to intimidate worship is prohibited.

Article 39 — Suspension of particular activity

1. The competent regional court may restrain a specific activity causing an imminent serious violation of law where no lesser measure is sufficient.
2. The order shall not suspend unrelated worship, doctrine, publication or charity.
3. An urgent temporary order expires after seven days unless confirmed after hearing.
4. The State bears the burden of necessity and proportionality.

Article 40 — Dissolution

1. Only the competent regional court may dissolve a registered religious organization.
2. Dissolution is a last resort requiring clear and convincing evidence of persistent organizational authorization of serious violent or criminal conduct that lesser remedies cannot address.
3. Conduct of a member or leader is not attributed automatically to the organization.
4. Belief, peaceful proselytism, foreign connection, unpopularity or regulatory error is never a ground.

Article 41 — Property upon dissolution

1. After liabilities, remaining property shall be transferred according to the governing document to a comparable lawful religious or charitable purpose.
2. Property shall not vest in Government merely because the organization is dissolved.
3. Restricted sacred and donated assets shall be respected.
4. The Court shall appoint a neutral liquidator and protect beneficiaries and employees.

CHAPTER VIII ADMINISTRATION AND REVIEW

Article 42 — Religious Freedom Office

1. A small Religious Freedom Office is established within the national human-rights or equality institution designated by law.
2. The Office shall monitor freedom, receive complaints, advise public bodies, promote accommodation and publish annual reports.
3. It shall not register communities, decide theology or direct worship.

4. Its staff shall reflect legal competence and religious and belief diversity.

Article 43 — Advisory forum

1. The Office may convene a voluntary forum of religious, belief, civil-society and public representatives.
2. Participation shall be open and shall not confer recognized status.
3. The forum may advise on accommodation, peace, education, emergencies and intercommunity concerns.
4. Government shall not use the forum to supervise doctrine or select religious leadership.

Article 44 — Administrative decisions

1. A decision under this Act shall be written, based on law, supported by evidence and accompanied by reasons and review information.
2. The decision-maker shall disclose and manage conflicts.
3. Religious terminology shall be understood from the community's sincere usage unless civil legal effect requires neutral determination.
4. Delay beyond a statutory period is reviewable.

Article 45 — Appeal and judicial review

1. A person or community may appeal a registration decision under the Associations, Charities and Civil Society Act.
2. A limitation, discrimination, search, property, dissolution or accommodation dispute may be brought before the competent regional court.
3. The Court shall examine legality, evidence, necessity, proportionality and constitutional compliance.
4. The Supreme Court retains final constitutional review according to law.

CHAPTER IX TRANSITIONAL AND FINAL PROVISIONS

Article 46 — Equal recognition of existing communities

1. Every community lawfully operating at commencement may continue without reapproval.
2. A prior recognized community and a prior unrecognized community have equal constitutional freedom.
3. A community seeking legal personality shall use simplified registration and shall not prove historical recognition.
4. A prior limitation based solely on unrecognized status ceases immediately.

Article 47 — Review of prisoners and closures

1. A person detained or convicted solely for peaceful religious or belief activity protected by this Act shall receive immediate judicial review.

2. A closed place of worship shall reopen unless the competent regional court confirms a specific restriction under this Act within thirty days.
3. Seized property not required under a valid criminal order shall be returned.
4. Compensation and expungement remain available under applicable law.

Article 48 — Records and privacy transition

1. A former religious-affairs office shall transfer necessary corporate and property records to the Registrar.
2. Individual belief lists, political assessments and intelligence annotations shall not enter the civil register.
3. A person or community may inspect and correct transferred records.
4. Unlawfully collected personal religious data shall be destroyed under independent supervision unless preserved as evidence of abuse.

Article 49 — Regulations

1. The President may issue regulations concerning registration coordination, reasonable accommodation procedures, chaplaincy administration, public-health standards and implementation.
2. Regulations shall not recognize only specified religions, require doctrinal approval, license worship, prohibit peaceful proselytism or expand dissolution grounds.
3. Draft regulations shall be published for consultation with diverse communities and non-believers.
4. Non-binding guidance shall be identified clearly.

Article 50 — Repeal

1. Proclamation 73/1995 concerning religious affairs and its implementing measures are repealed.
2. Any related recognition, registration or control instrument is repealed only when identified by verified number, year and title in the statute-law revision schedule.
3. Lawful property, contracts, marriages, employment and charitable obligations are preserved.
4. A prior ban, forced closure, political recognition list or unpublished restriction is not preserved.

Article 51 — Commencement

1. This Act enters into force thirty days after publication in the Gazette.
2. Articles 5 to 13 and equal protection apply immediately upon commencement.
3. The Religious Freedom Office shall become operational within six months, and existing courts and equality institutions shall provide remedies in the interim.

Made at Asmara, this ____ day of _____ 2026.

THE NATIONAL ASSEMBLY OF ERITREA