

Rebuttal

USCIRF India Entry and Issue Update on Alleged Religious Persecution

Published March 18, 2026

Publication No. RP0745-18032026



UNITED STATES COMMISSION on INTERNATIONAL RELIGIOUS FREEDOM

ISSUE UPDATE

November 2025

Systematic Religious Persecution in India

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Introduction

As the world's most populous democracy, India contains complex political, geographic, and religious dynamics that have implications for freedom of religion or belief (FoRB). While India's constitution provides protections for religious minorities, the implementation of national and state-level laws create severe restrictions on religious freedom across the country. Since 2014, Prime Minister Narendra Modi's Bharatiya Janata Party (BJP) has enforced policies that closely align with Hindutva ideology, discriminating and disenfranchising members of India's religious minority communities.

This report provides an overview of India's social, political, and criminal justice systems as they relate to religious freedom issues. It describes the constitutional provisions that protect religious freedom as well as discriminatory laws impacting and targeting religious minority communities. It also examines the relationship between Hindu nationalist groups like the Rashtriya Swayamsevak Sangh (RSS) and the ruling BJP and the implications of this dynamic for FoRB.

USCIRF's Mission

To advance international freedom of religion or belief, by independently assessing and unflinchingly confronting threats to this fundamental right.

Population and Social Structure

India is composed of 28 states, containing over 1.4 billion people in total and numerous religious groups. This includes Hindus, Sikhs, Muslims, Buddhists, Christians, Parsis, Jains, Jews, and indigenous groups. Religious demography varies significantly by each state. While Hinduism is the majority religion in most states, Muslim-majority regions include the union territories of Lakshadweep and Jammu and Kashmir. According to 2011 census data, the largest concentrations of Muslims reside in Uttar Pradesh, West Bengal, Karnataka, Maharashtra, and Bihar. Sikhs make up a majority of Punjab State, and Christianity is the majority religion in the northern states of Nagaland and Mizoram. Large numbers of Christians are also concentrated in the southern states of Kerala, Goa, Tamil Nadu, and Meghalaya. Buddhists and Jains can be found in Maharashtra. Throughout the country, tribal groups often practice indigenous religious beliefs.

RECOMMENDATIONS TO THE U.S. GOVERNMENT

- Designate India as a "country of particular concern," or CPC, for engaging in and tolerating systematic, ongoing, and egregious religious freedom violations, as defined by the International Religious Freedom Act (IRFA);
- Press India to allow US government entities such as USCIRF and the U.S. Department of State to conduct in-country assessments of religious freedom conditions;
- Impose targeted sanctions on individuals and entities, such as India's Research and Analysis Wing and the Rashtriya Swayamsevak Sangh (RSS), for their responsibility and tolerance of severe violations of religious freedom by freezing those individuals' or entities' assets and/or barring their entry into the United States;
- Link future U.S. security assistance and bilateral trade policies with India to improvements in religious freedom; and
- Enforce Section 6 of the [Arms Export Control Act](#) to halt arms sales to India based on continued acts of intimidation and harassment against U.S. citizens and religious minorities.

The U.S. Congress should:

- Reinroduce and pass the [Transnational Repression Reporting Act of 2024](#) to require the annual reporting of acts of transnational repression by the Indian government targeting religious minorities in the United States.

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Rebuttal of the USCIRF India Entry and Issue Update on Alleged Religious Persecution

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Key Takeaways

- 1 These documents are a direct threat to U.S.-India relations. The Quad, defence co-production, semiconductor supply chains, space and intelligence cooperation, the full architecture of the bilateral partnership, rests on mutual respect between two democracies. A CPC designation, sanctions on RSS, RAW, and arms export restrictions signal to New Delhi that Washington treats strategic partnership and public condemnation as compatible. They are not. Adversaries who benefit from U.S.-India friction will be the only beneficiaries of these recommendations.
- 2 Every legislative measure the report labels discriminatory, CAA, anti-conversion laws, cow slaughter laws, Article 370 amendment of the Indian constitution, Waqf Amendment, was enacted through Parliament, has constitutional grounding, and is subject to active Supreme Court scrutiny.
- 3 RSS is a voluntary socio-cultural movement, not a state actor. It fields no candidates, holds no office, and documents 1,52,003 service initiatives across India's communities of all faiths. It is not an instrument of state persecution.
- 4 Hindutva means 'Hinduness', a civilisational and cultural concept. The Supreme Court (Ramesh Prabhoo v. Kunte, 1996) held it cannot be equated with religious bigotry. It is not a state policy. The report treats it as a persecution engine without engaging this binding judicial authority.
- 5 The RSS's 'primary mission of exclusion' is asserted without a single citation to any primary RSS document, founding charter, or organisational resolution. Attributing an exclusionary mission to a body with 1,52,003 documented service initiatives is a material factual error.
- 6 'With impunity' is used throughout as a rhetorical device, not an evidential finding. No prosecution data, conviction rates, or accountability records are provided to establish that state-level failures reflect a central government policy of deliberate non-prosecution.
- 7 The guilt-by-association method, biographical links between BJP leaders and RSS, volunteer campaigning, ideological affinity, does not establish institutional command of state policy. The evidentiary standard the report applies to RSS it applies to no comparable civic organisation in any comparable democracy.
- 8 Babri Structure issue was resolved through three decades of Supreme Court litigation culminating in a structured remedy that included five acres of alternative land for a mosque (M. Siddiq, 2019). That is constitutional adjudication, not majoritarian triumph.
- 9 India is and remains the United States most important democratic partner in Asia. The two countries share values, interests, and a vision of a free and open Indo-Pacific that no other bilateral relationship replicates at this scale. Officially sanctioned commission reports that substitute advocacy for analysis, and predetermined conclusions for evidence, do not serve religious freedom. They damage the mutual respect that makes the partnership work, and that damage is not easily repaired.
- 10 The recommendation to sanction India's Research and Analysis Wing (RAW) is the definitive proof of advocacy over analysis. RAW appears nowhere in the Key Findings. No conduct is attributed to it anywhere in the document. Recommending asset freezes and travel bans against a foreign intelligence service on zero evidentiary findings is not human-rights monitoring. It is a predetermined political signal.

Executive Summary

The USCIRF Annual Report 2026 and its accompanying Issue Update on India are not what they present themselves to be. They are not a rigorous, evidence-based assessment of religious freedom conditions in the world's largest democracy. They are a prosecutorial brief, assembled from selectively curated incidents, analytically indefensible characterisations, and recommendations that bear no traceable relationship to the findings in the same document. The damage they threaten to inflict is not confined to India's international reputation. It falls squarely on one of the United States most important and most carefully cultivated strategic relationships at a moment when that relationship has never mattered more.

The United States and India have spent the better part of two decades building a partnership of genuine strategic depth. That partnership encompasses the Quad, which is the foundational architecture of the U.S. Indo-Pacific posture, as well as defence co-production, critical and emerging technology cooperation, semiconductor supply chain resilience, space collaboration, and counterterrorism intelligence sharing. It was cemented through summit-level engagement by successive American and Indian governments and reflects a shared recognition that a free, prosperous, and strategically aligned India is indispensable to the kind of Indo-Pacific order that serves American interests. A Country of Particular Concern designation does not exist in a diplomatic vacuum. It poisons that relationship, provides adversaries with a ready-made wedge, and signals to New Delhi that Washington is willing to weaponise the language of human rights against a partner that has built one of the world's most complex and resilient constitutional democracies.

The bilateral relationship rests on mutual respect. That means respect for India's democratic processes, its constitutional institutions, its rule of law, and its sovereign choices. Documents of this kind, issued under the authority of a U.S. government commission, corrode that respect. They tell India's elected government, its judiciary, its civil society, and its 1.4 billion citizens that American officialdom views their democracy through the lens of a predetermined persecution narrative, one that ignores binding Supreme Court precedent, omits 1,52,003 documented service initiatives by the organisation it vilifies, and recommends sanctioning a foreign intelligence service without a single evidentiary finding against it. That is not human-rights monitoring.

The analytical failures are as serious as the diplomatic ones. They run from the opening frame, which treats 'Hindutva' as a self-defining engine of persecution without engaging the Supreme Court's own binding definition of that term, to the final recommendations, where India's Research and Analysis Wing appears as a sanctions target having played no role whatsoever in the document's findings. What follows identifies ten core failures, developed in full in the sections that follow.

India is a constitutional democracy with enforceable religious freedom protections.

Articles 25-30 of the Constitution guarantee freedom of religion and minority rights as justiciable entitlements. Secularism is part of the Constitution's basic structure and exists as a salient feature of India's long standing and ancient Hindu values. An independent Supreme Court actively enforces these rights. None of this appears in the USCIRF analysis.

Every legislative measure labelled 'discriminatory' was enacted through democratic Parliament and is subject to judicial review.

The CAA, Article 370 amendment of the Indian constitution, anti-conversion laws, cow slaughter regulation, and the Waqf Amendment Act all have constitutional grounding and are

before or have been through the Supreme Court. Constitutional challenge is not evidence of persecution. It is evidence that institutional checks are working.

RSS is a voluntary socio-cultural movement with a documented record of service to all communities, not a state persecution apparatus.

The Akhil Bharatiya Pratinidhi Sabha Annual Report 2025-26 documents 1,52,003 service initiatives, social service, education, healthcare, self-reliance, serving communities of all faiths. The USCIRF report attributes to the RSS an exclusionary 'primary mission' without citing a single primary RSS document. That is not a finding; it is defamation.

Hindutva is a civilisational and cultural concept, not a state persecution policy.

The Supreme Court in Ramesh Yeshwant Prabhoo v. Prabhakar K. Kunte (1996) held that Hindutva 'is indicative more of the way of life of the Indian people' and cannot be equated with religious bigotry. The USCIRF report treats this cultural concept as a deterministic engine of state discrimination, ignoring binding judicial authority entirely.

Private violence is not state policy, and 'with impunity' is not a finding.

Mob violence, however serious, becomes evidence of state persecution only when the state directs it, authorises it, or systematically fails to prosecute it at a scale reflecting institutional design. The report provides no prosecution data, conviction rates, or accountability records. It uses 'with impunity' as rhetorical shorthand for what would require systematic evidentiary demonstration.

Anti-conversion laws are constitutionally grounded and judicially upheld.

In Rev. Stainislaus v. State of Madhya Pradesh (1977), the Supreme Court held that the right to propagate religion does not include a right to convert another person, and upheld state anti-conversion laws on public order grounds. The report treats these laws as self-evidently persecutory while ignoring the binding precedent that validates them.

The report's framing of immigration enforcement as religious persecution misrepresents sovereign border control as a rights violation.

Unlawful presence is a legal category in every state, including the United States. The due process questions raised by Foreigners Tribunals are live before Indian courts. Placing 'illegal migration' in scare quotes throughout the document is a rhetorical device, not a rational legal argument.

The guilt-by-association method applied to the RSS-BJP relationship is analytically indefensible.

Biographical overlap between political leaders and civic organisations does not establish institutional command of state policy. To demonstrate that the RSS directs discriminatory legislation, a credible report would need formal channels of instruction, evidence of government compliance traceable to RSS direction, and judicial findings of organisational liability. None of these are grounded in fact therefore not provided.

The document is characterised by loaded language, asymmetric scepticism, and recommendations disconnected from findings.

Terms like 'wield,' 'illegal expulsion,' and 'Hindu nationalist mobs' are argumentative labels substituting for evidentiary description. Scepticism is applied to India's security narrative but withheld from persecution claims. The Arms Export Control Act is invoked without the required nexus between cited conduct and weapons transfers.

The recommendation to sanction India's Research and Analysis Wing (RAW) is the definitive proof that these documents are advocacy, not assessment.

RAW does not appear in the Key Findings. No conduct is attributed to it. No operation is described. No victim is identified. It appears in the recommendations section as a sanctions target on the basis of zero evidentiary findings in the same document. No credible human-rights body would recommend sanctioning a foreign intelligence service, with asset freezes and travel bans, on that basis. This single recommendation, more than anything else in either document, reveals that the conclusions were written before the analysis.

Bias, advocacy, and methodological failure in an official report from a U.S. sanctions commission do not serve the cause of religious freedom. They serve the cause of estrangement. India is the United States strongest democratic partner in Asia, a Quad ally, and a nation whose strategic alignment is indispensable to American interests in the Indo-Pacific. A report that recommends sanctioning the worlds largest socio-cultural volunteer service organisation. India's intelligence service without a single evidentiary finding, that vilifies a volunteer organisation of millions on the basis of an unattributed mission statement, and that ignores binding Supreme Court authority to sustain a persecution narrative, does not advance mutual understanding. It corrodes it. Official documents of this kind, issued under the authority of a U.S. government commission, do not evolve a fruitful bilateral relationship. They obstruct one. USCIRF should withdraw the CPC recommendation for India, rescind the sanctions proposals against RSS and the RAW, and return to the standards of rigour and fairness that the institution, the bilateral relationship, and the cause of religious freedom all deserve.

I. Evidentiary Standard a CPC Designation Demands, and Does Not Meet

Designating a nation, a Country of Particular Concern under the International Religious Freedom Act is not an academic exercise. It triggers a sanctions posture, shapes bilateral trade and security policy, and carries significant reputational weight in diplomatic relationships. When USCIRF applies that designation to a democracy of 1.4 billion people, a Quad partner, a major defence purchaser, and a country whose strategic alignment matters profoundly to American interests in the Indo-Pacific, the evidentiary and analytical standard must be correspondingly high. That standard requires, at minimum: a traceable baseline showing deterioration against measurable prior conditions; a clear distinction between state-directed policy and private conduct; evidence of prosecutorial failure at scale rather than anecdote; legal analysis that engages constitutional text and binding judicial precedent; and recommendations whose proportionality is justified by the severity and specificity of the findings. The USCIRF documents meet none of these requirements.

The most immediate illustration is the RAW sanction. The recommendation to freeze assets and bar entry of individuals from India's Research and Analysis Wing appears in the Recommendations to the U.S. Government section of the Annual Report entry. RAW does not appear anywhere in the Key Findings. No conduct is attributed to it, no operation described, no victim identified. An intelligence agency is proposed for international sanctions on the basis of zero evidentiary findings in the same document. That is not an omission. It is proof that the recommendations were written independently of the analysis, which is the defining characteristic of advocacy literature rather than rigorous assessment.

The treatment of the RSS suffers from the same methodological defect. The report invokes the organisation as a politically charged symbol, but does not establish, within the same analytical frame, a clear evidentiary basis tying the RSS as an institution to the specific violations the document seeks to condemn. No serious distinction is drawn between ideological allegation, political association, individual misconduct, and organisational responsibility. That collapse of categories is not a minor drafting flaw; it is the mechanism through which insinuation is made to do the work of proof. Once an organisation can be rhetorically positioned as suspect without precise findings, verified acts, or demonstrated chains of responsibility, the document ceases to read as a disciplined assessment and begins to function as narrative advocacy dressed in the language of rights reporting.

The same logic infects the Arms Export Control Act recommendation. Section 6 of that Act requires a showing that defence articles would be used to commit specific human rights violations. The report proposes invoking it as a response to 'continued acts of intimidation and harassment against U.S. citizens and religious minorities', without demonstrating any connection between those acts and U.S. arms transfers. The instrument is invoked as a punitive signal, not a legally grounded response. Throughout the report, the phrase 'systematic, ongoing, and egregious' (the statutory language that triggers CPC designation) is used as a label rather than earned as a conclusion. 'Systematic' implies state-designed and state-directed operation. The documents show no such system. They show incidents, some serious, some ambiguous, some contested, that are then attributed to a state programme through insinuation and association rather than evidence.

II. Mischaracterisation of RSS, Hindutva, and the Sangh

The Issue Update's central analytical move, from which everything else in the persecution narrative flows, is the treatment of the RSS as an exclusionary political command structure whose 'primary mission' drives discriminatory state policy through its 'interconnected relationship' with the BJP. This theory is wrong on the facts, wrong on the law, and internally contradicted by the document's own admissions.

Rashtriya Swayamsevak Sangh (RSS) is a voluntary socio-cultural movement and organisation founded in 1925. It is not a political party. It does not contest elections. It holds no public office and exercises no coercive public power. The Sangh is the broader network of independently constituted and run RSS inspired organisations in education, healthcare, disaster relief, labour welfare, and tribal development, that share a philosophical orientation with the RSS but are organisationally autonomous. The report itself acknowledges, in a subordinate clause it immediately ignores, that the RSS 'does not field political candidates' and is 'often characterised as a social or volunteer organization.' These are not minor concessions; they are foundational facts that dismantle the institutional command theory the report is trying to build.

What the report omits entirely is the empirical record of what the RSS and Sangh organisations actually do. **The Akhil Bharatiya Pratinidhi Sabha Annual Report 2025-26 documents 152,003 service initiatives across India: 17,888 social service programmes, 45,931 educational efforts, 16,594 self-reliance projects, 15,632 healthcare services, and 55,958 initiatives in cultural, labour, and civic sectors.** These services reach communities of all faiths, tribal populations, coastal fishing communities, slum settlements, flood and earthquake victims, without religious precondition. An organisation with this documented footprint cannot be accurately described as one whose primary mission is the exclusion of minorities. That omission is not incidental; it is a deliberate editorial choice that converts a human-rights report into propaganda.

The report asserts that RSS's 'primary mission is to build a Hindu Rastra or Hindu state' and that it 'promotes the notion that India is a Hindu nation, excluding Muslims, Christians, Jews, Buddhists, Parsis and other religious minorities.' This is stated as established fact. There is no citation to any primary RSS document, no quotation from a founding charter or resolution, no engagement with the contested and variably defined nature of 'Hindu Rashtra' as a political concept. The report simply declares a mission statement for an organisation of millions of volunteers without a single primary source. That is not analysis; it is defamation dressed as finding.

The judicial record the report ignores is decisive. In *Ramesh Yeshwant Prabhu v. Prabhakar K. Kunte* (1996) 1 SCC 130, the Supreme Court of India held that Hindutva is '*indicative more of the way of life of the Indian people*' and that it cannot be equated with narrow religious bigotry or a programme of suppressing other faiths. Hindutva, literally 'Hinduness', is a civilisational and cultural concept whose meaning is contested across a century of political philosophy. It is not a state policy. No provision of Indian law declares it the official ideology of the state, and no state agency is empowered to impose it on citizens. The Constitution, Articles 14, 15, and 25-30, guarantees equality, prohibits religious discrimination, and protects minority rights as enforceable, justiciable entitlements before an independent judiciary.

The report's theory of how RSS ideology becomes state policy relies entirely on biographical association and ideological affinity. Prime Minister Modi was an RSS pracharak. Amit Shah was involved with RSS in his youth. Several chief ministers have RSS ties. This is the structure of guilt-by-association reasoning. Political leaders in every democracy have civil-society backgrounds. The question is whether those backgrounds create institutional channels of

command, whether the RSS formally transmits policy instructions to government, whether compliance is traceable to RSS direction rather than to electoral mandate or parliamentary process, and whether judicial findings exist of RSS institutional responsibility for specific state acts. The report provides none of this. It treats political biography as proof of institutional control, which is analytically indefensible.

The Babri structure reference illustrates the same pattern. The report uses the formulation RSS volunteers themselves participated in the Babri movement, a formulation elastic enough to encompass both organised institutional direction and the coincidence that individuals who were RSS volunteers also joined a broader popular movement for the Ram Mandir. These have entirely different implications for organisational guilt, and the text deliberately avoids clarifying which is meant. More fundamentally, the Babri Structure issue was resolved through three decades of litigation. In *M. Siddiq (D) Thr Lrs v. Mahant Suresh Das* (2019) 18 SCC 1, not by proscribing organisations but by due legal process which lasted over 27 Years and throughly examining a Mosque narrative which has been challenged initially by Nihangh Sikhs and hindus since 1858. A five-judge Constitution bench of India's supreme court ruled that the site (inner and outer courtyards) belongs to the deity Ram Lalla. The Supreme Court delivered a full title judgment, found on the evidence, and structured a remedy that included the allocation of five acres of alternative land for a mosque. That is constitutional adjudication with a remedial structure, the opposite of the majoritarian impunity the report implies.

III. Legislative Measures the Report Labels Discriminatory

The Issue Update presents a cluster of legislative measures, anti-conversion laws, the CAA, Article 370 abrogation, cow slaughter laws, the Waqf Amendment Act, the USAME Act, and the UCC, as an 'interconnected' programme of Hindutva-driven persecution. The framing is seductive in its simplicity: one ideology, one organisation, one government, one programme. It is also wrong, because it requires the reader to ignore constitutional text, binding Supreme Court precedent, and democratic parliamentary process in every case.

Anti-Conversion Laws

Twelve of India's twenty-eight states maintain anti-conversion laws. The report treats their existence, and the 2025 strengthening of provisions in Uttarakhand, Rajasthan, and other states, as self-evidently persecutory. The constitutional and judicial record says otherwise. In *Rev. Stainislaus v. State of Madhya Pradesh* (1977) 1 SCC 677, the Supreme Court held that the constitutional right to 'propagate' religion does not include a fundamental right to convert another person, and upheld state laws targeting coercive or fraudulent conversion on public order grounds. This is settled, binding Indian constitutional law. A rigorous report would ask whether these laws are drafted and enforced to prevent coercion and fraud, a legitimate objective, or whether they sweep so broadly as to criminalise free religious choice and are applied discriminatorily. The USCIRF report asks neither question. It presents the arrest of individuals accused of conducting conversions by 'luring' through promises of miracle cures as evidence of religious persecution without examining the underlying conduct at all. That is not analysis; it is predetermined conclusion.

Citizenship (Amendment) Act 2019

The CAA provides an expedited citizenship pathway for Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians fleeing persecution from Pakistan, Afghanistan, and Bangladesh. The report characterises this as 'explicitly exclude/ing Muslim migrants and treats the differentiation as discriminatory on its face. The context the report omits is that all three named states have constitutionally entrenched Islam as the state religion, and documented patterns of persecution of non-Muslim minorities in those states are the stated legislative rationale for the Act's targeted scope. The Act does not strip any existing Indian citizen, Muslim or otherwise, of any status or right. Regular immigration and naturalisation routes remain fully available to all including Muslims in these cases. Constitutional challenges to the Act are currently at the stage of final Supreme Court hearings, which is itself evidence that India's institutional checks are functioning, not that they are absent. Similar to the Lautenberg Amendment (1990), which simplifies the refugee process for specific religious minorities from the former Soviet Union and Iran, such as Jews and Christians, by lowering the legal burden of proof required for asylum. Instead of having to prove individual persecution, applicants only need to show they belong to a protected group that has been historically targeted.

Article 370 and Jammu and Kashmir

The report describes the 2019 amendment of Article 370 of the Indian constitution as primarily through the religious demography of Jammu and Kashmir, 'majority Muslim, making it a Union territory under direct rule of New Delhi', and presents this as a discriminatory act. Article 370 was a transitional provision inserted at accession of the entire erstwhile state of Jammu and Kashmir; its amendment was a parliamentary constitutional amendment passed by both Houses of Parliament, including opposition votes, on grounds of national integration and security. The Supreme Court upheld the amendment constitutional in December 2023. Characterising a

judicially upheld parliamentary constitutional amendment as a religious persecution measure, on the sole basis of the religious demography of the territory, is not legal analysis.

Cow Slaughter Laws and Private Violence

Violent attacks on Muslims under cover of cow protection are prosecutable offences under Indian criminal law, and they are prosecuted. What the report omits is that cow protection is not a BJP invention or a Hindutva imposition. Article 48 of the Constitution of India, adopted in 1950, directs the state to take steps for preserving and improving cattle breeds and prohibiting slaughter of cows, calves, and other milch and draught cattle. In *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat* (2005) 8 SCC 534, the Supreme Court upheld a total ban on cow slaughter, engaging detailed economic and moral rationale. Cow slaughter laws are constitutionally grounded, judicially upheld, and applied by state governments of varying political compositions. Attributing them to Hindutva persecution, while ignoring both their constitutional foundation and the active prosecution of mob violence associated with them, is selective presentation.

Waqf Amendment Act and the USAME Act

The report presents the addition of non-Muslim members to Waqf endowment boards as targeting 'houses of worship.' Endowment boards are public law bodies in every major jurisdiction, and mixed-composition governance is routinely defended on grounds of transparency, fiduciary accountability, and prevention of maladministration. The Supreme Court has itself suspended certain provisions of the Waqf Amendment Act pending constitutional challenge, demonstrating active judicial oversight, not the absence of institutional checks. The Uttarakhand USAME Act, which the report frames as targeting Muslim educational institutions, applies equally to madrasas and to institutions serving Sikhs, Buddhists, Jains, Parsis, and Christians. The constitutional framework, established in *TMA Pai Foundation v. State of Karnataka* (2002) and *P.A. Inamdar v. State of Maharashtra* (2005), permits reasonable regulatory oversight of minority educational institutions while protecting the core right to establish and administer them. Regulatory oversight is not persecution.

Section 295A and the 'Blasphemy Law' Mislabelling

The report describes Article 295A of the Indian Penal Code as 'functioning as a blasphemy law by criminalising actions deemed to outrage religious feelings.' This is a category error. Section 295A is explicitly limited to *deliberate and malicious* acts intended to outrage religious feelings, a provision of far narrower scope than a general blasphemy law, which prohibits criticism or mockery of religion broadly. The Supreme Court upheld its constitutionality in *Ramji Lal Modi v. State of Uttar Pradesh* AIR 1957 SC 620, expressly tied to public order rationale and carefully distinguished from any ban on religious criticism. Enforcement may be over-broad in individual cases, a legitimate concern for case-specific representation, but relabelling the provision as a blasphemy law collapses judicial interpretation into political shorthand.

IV. Private Violence, State Accountability, and the Limits of 'Impunity'

One of the report's most consequential rhetorical moves is the repeated use of 'with impunity' to describe mob attacks and communal violence, the VHP-led protests in Maharashtra, the attack on Christian families in Odisha, the alleged killings following the Kashmir attack. 'With impunity' is not a description of an event. It is a conclusion about state conduct, about policing, prosecution, and accountability, and it requires evidentiary support that the report entirely fails to provide.

The documents contain no prosecution data, no conviction rates, no disciplinary outcomes, no records of cases charged or declined, no analysis of First Information Reports filed versus prosecutions pursued. Without that data, 'with impunity' is a rhetorical device, not a finding. India is a federal constitutional system in which policing and public order are primarily state subjects under the Seventh Schedule. Patterns of accountability or non-accountability vary significantly across twenty-eight states with different governments, police forces, and local conditions. Converting that federal complexity into a single national impunity finding, attributed implicitly to a central government policy, requires precisely the systematic evidence the report does not assemble.

The Supreme Court has itself been active on this front. In *Tehseen Poonawalla v. Union of India* (2018), the Court directed state governments to take preventive, remedial, and punitive measures against mob violence and lynching, and warned police officials of consequences for failure to act. The Justice Verma Committee (2013) produced detailed recommendations on fast-tracking hate crime prosecutions. These are not window-dressing; they are evidence of a constitutional system in which accountability is contested, demanded, and, imperfectly but genuinely, enforced.

The conflation of private violence with state policy is the report's deepest structural problem. Individual criminal acts by private persons, however serious, and deserving of prosecution, are not state policy unless the state directs them, authorises them, or systematically fails to prosecute them at a scale and in a pattern that reflects institutional design rather than local capacity failure. The report never establishes that threshold. It lists incidents and adds 'with impunity', and that combination, repeated often enough, creates the impression of a persecution programme that the evidence does not support.

V. The Constitutional and Judicial Framework the Report Omits

The single most significant analytical failure in the USCIRF documents is the near-total omission of India's constitutional and judicial machinery for religious freedom protection. A report that catalogues alleged violations without examining the remedial framework produces a systematically distorted picture, one in which persecution is alleged but institutional recourse is invisible.

India's Constitution protects freedom of religion and conscience (Art. 25-28), minority educational rights (Arts. 29-30), equality before law and prohibition of religious discrimination (Arts. 14-15), and due process (Art. 21) as justiciable rights enforceable before the High Courts (Art. 226) and the Supreme Court (Art. 32). Secularism is part of the Constitution's basic structure, unamendable by Parliament, a holding of *S.R. Bommai v. Union of India* (1994) 3 SCC 1 that predates the entire period of the report's concern. The right to administer minority educational institutions is explicitly protected, subject only to the anti-maladministration limit the Supreme Court articulated in *TMA Pai Foundation and P.A. Inamdar*.

Against this framework, consider what India's constitutional institutions have actually done in recent years: the Supreme Court struck down triple talaq as unconstitutional in *Shayara Bano* (2017), protecting Muslim women against arbitrary divorce; it adjudicated the Babri Structure title issue over three decades and structured a remedy that included alternative land for a mosque; it has suspended key provisions of the Waqf Amendment Act pending challenge; upheld the amendment of Article 370 of the Indian constitution and it is at the stage of final hearings on constitutional challenges to the CAA. These are not rhetorical protections. They are active judicial processes in a constitutional order that is contested, plural, and alive.

The report acknowledges India's constitution 'provides protections for religious minorities' but treats this as a threshold formality before returning to the persecution narrative. A rigorous assessment would examine how those protections operate, how many petitions are filed, how courts respond, what remedies are ordered, and where the system genuinely fails. That examination is entirely absent. By omitting it, the report presents India's legal landscape as one-dimensional, discriminatory laws with no effective counter, when the reality is a constitutional order in which the very measures the report calls persecution are being actively litigated before independent courts.

VI. Language, Methodology, and Analytical Integrity

Beyond the specific substantive failures, the USCIRF documents exhibit systematic methodological patterns that compromise their analytical integrity as a whole.

Loaded language substitutes for evidentiary description throughout. 'Wield antiterrorism laws', the verb 'wield' implies deliberate misuse and bad faith; demonstrating misuse requires evidence of discriminatory charging patterns that the report does not provide. 'Illegal expulsion of citizens' is stated as settled fact without identity-determination records, hearing transcripts, or appellate outcomes. 'Hindu nationalist mobs' and 'with impunity' are applied as descriptors rather than earned as conclusions. These word choices are not neutral; they are doing argumentative work that the evidence cannot sustain.

Scare quotes are deployed asymmetrically. 'Illegal migration' appears in quotation marks throughout, instructing the reader to distrust the legal category itself, while descriptions of mob violence and government complicity appear without hedging. The Kashmir attack, meanwhile, is described as one 'which India alleged was carried out by those from Pakistan', applying scepticism precisely where it supports India's security narrative and withholding it where it would complicate the persecution thesis. That is not methodological caution; it is selective crediting.

The report's structure performs rhetoric. The Background section of the Issue Update ends with the sentence 'Since 2014, however, the ruling BJP has implemented strict legislation and policies targeting religious minority communities', placing the report's contested thesis in a section whose heading signals factual background. The conclusion's 'interconnected relationship' between RSS and BJP is invoked as established architecture without the causal demonstration that architecture requires. These are the techniques of persuasion, not the methods of analysis.

The consequence for the bilateral relationship is serious. A report that designates India a country of particular concern on the basis of these methods, loaded language, asymmetric scepticism, unsourced mission attributions, recommendations disconnected from findings, does not serve the cause of religious freedom. It provides ammunition to those in both countries who wish to obstruct the deeper partnership that serves both democracies' interests. It undermines the credibility of the human-rights monitoring function that USCIRF exists to perform. And it does so at a moment when the United States needs India as a partner, not as an adversary.

VII. Concluding Observations

The United States Commission on International Religious Freedom was established to shine an independent, principled light on the condition of religious freedom across the world. That is a function worth performing, and performing well. When it is performed poorly, when bias substitutes for balance, advocacy substitutes for analysis, and predetermined conclusions are dressed in the language of human rights, the institution damages not only the bilateral relationships it affects but its own credibility as a monitor. This rebuttal has documented, section by section, the ways in which the 2026 India entry and November 2025 Issue Update fail that standard.

The failures are not minor or technical. The report attributes an exclusionary mission to a voluntary organisation of millions of members without citing a primary source. It recommends sanctioning a foreign intelligence service without a single evidentiary finding against it. It labels as persecution a series of constitutional laws that have been upheld or are under active review by an independent Supreme Court. It omits the entire remedial framework, the constitutional architecture, the judicial enforcement record, the active litigation, that defines how India actually handles the very concerns the report raises. And it does all of this against the backdrop of a bilateral relationship whose importance to American interests in the Indo-Pacific is, at this moment in history, difficult to overstate.

India is not above scrutiny. No democracy is. Genuine concerns about pre-trial detention periods, the scope of anti-conversion enforcement in particular states, or the treatment of specific individuals merit careful, evidence-grounded, case-specific engagement through the diplomatic and legal channels that exist for precisely that purpose. What they do not merit, and what they cannot survive, is the transformation of live constitutional debates and contested judicial questions into a single atrocity narrative attributed to a government programme of systematic religious persecution. That transformation does not illuminate; it distorts.

India remains the United States' strongest democratic partner in Asia and one of its most consequential relationships anywhere in the world. That partnership has been built with care, over years, by governments of both parties in both countries. It rests on shared values, shared interests, and a shared commitment to a rules-based order in which both nations have deep stakes. Official documents that undermine mutual respect, that treat a partner democracy as a persecutor state on the basis of methods no serious legal analyst would endorse, do not advance religious freedom. They advance estrangement. And at a moment when the United States needs India's trust, its cooperation, and its partnership in managing the defining strategic challenges of the coming decades, estrangement is a cost neither country can afford.

This rebuttal calls on USCIRF to withdraw the CPC recommendation for India, rescind the sanctions proposals against RAW and the RSS, and recommit to the evidentiary and methodological standards that a government-mandated human rights body owes to the countries it assesses, the communities it claims to protect, and the bilateral relationships its conclusions will affect. Rigorous, fair, and evidence-grounded assessment of religious freedom conditions in India is both possible and necessary. The documents under review are neither.

References

Documents under Rebuttal

1. USCIRF Annual Report 2026, India (CPC entry), pp. 28-29.
2. USCIRF Issue Update: Systematic Religious Persecution in India, November 2025, pp. 1-3.

Constitutional Provisions

3. Constitution of India (1950), arts. 14-15 (equality; non-discrimination); arts. 19, 25-30 (freedom of religion; minority rights); art. 21 (due process); art. 32 and art. 226 (judicial review); art. 44 (UCC as Directive Principle); art. 48 (cattle preservation as Directive Principle); art. 246 and Seventh Schedule List II (police and public order as state subjects).

Supreme Court Authorities

4. Rev. Stanislaus v. State of Madhya Pradesh (1977) 1 SCC 677, right to propagate does not include right to convert; state anti-conversion laws upheld on public order grounds.
5. S.R. Bommai v. Union of India (1994) 3 SCC 1, secularism as unamendable basic structure of the Constitution.
6. Ramesh Yeshwant Prabhoo v. Prabhakar K. Kunte (1996) 1 SCC 130, Hindutva as 'way of life of the Indian people'; not per se religious bigotry or programme of minority suppression.
7. TMA Pai Foundation v. State of Karnataka (2002) 8 SCC 481, minority educational rights; reasonable regulation permitted to prevent maladministration.
8. P.A. Inamdar v. State of Maharashtra (2005) 6 SCC 537, minority institutions subject to state regulatory oversight of academic standards.
9. State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat (2005) 8 SCC 534, total cow slaughter ban upheld; economic and moral rationale.
10. Ramji Lal Modi v. State of Uttar Pradesh AIR 1957 SC 620, s. 295A IPC constitutionality upheld; tied to public order, not general prohibition on criticism of religion.
11. M. Siddiq (D) Thr Lrs v. Mahant Suresh Das (2019) 18 SCC 1, Babri Masjid title adjudication; structured remedy including five acres of alternative land for mosque.
12. Shayara Bano v. Union of India (2017) 9 SCC 1, triple talaq unconstitutional; gender-justice basis.
13. Tehseen Poonawalla v. Union of India (2018) 9 SCC 501, state governments directed to take preventive, remedial, and punitive action against mob violence and lynching.

Statutes

14. Foreigners Act 1946, statutory basis for identification of foreign nationals and Foreigners Tribunals.
15. Indian Penal Code 1860, s. 295A, deliberate and malicious acts intended to outrage religious feelings.
16. Citizenship Act 1955 as amended by Citizenship (Amendment) Act 2019, expedited citizenship for persecuted non-Muslim minorities from Pakistan, Afghanistan, and Bangladesh.

Primary Organisational Source

17. Akhil Bharatiya Pratinidhi Sabha (ABPS), Annual Report 2025-26, 152,003 documented RSS-network service initiatives: 17,888 social service programmes; 45,931 educational efforts; 16,594 self-reliance projects; 15,632 healthcare services; 55,958 cultural, labour, and civic sector initiatives



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