

USCIRF: An Entity of Concern Misleading Congress and the American Public on India

Published September 26, 2026
Publication No. RP0745-26092026



India Continues to Violate International Religious Freedom Laws to Detain Religious Minorities

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Washington, DC – In light of the Indian government's continued violations of international religious freedom laws, the United States Commission on International Religious Freedom (USCIRF) urges the United States government to take action to protect the religion or belief (FoRB) prisoners, many of whom, it has added to its annual report, are on the FoRB Belief Victims List.

"We welcome the New Delhi High Court's decision to grant bail to the detained religious minority leader, but the uncertainty remains regarding his return to the United States. The Indian government's failure to release him required to surrender his passport, is banned from continuing his religious activities."

In 2017, authorities unjustly arrested Johal on false charges. United Nations special rapporteurs have characterized the arrest, Johal had blogged about human rights abuses in India. Johal's trial faced continuous delays through the Indian government's failure to provide evidence that he has been physically tortured by authorities and forced confession. USCIRF urges the United States government to take action to protect the religion or belief (FoRB) prisoners, many of whom, it has added to its annual report, are on the FoRB Belief Victims List. USCIRF also urged the U.S. government should hold perpetrators accountable for their actions under the International Religious Freedom Act.

"Johal's case is demonstrative of a larger pattern by the Indian government to target religious minorities, including Umar Khalid and Sharjeel Imam, for their peaceful protest. In recent years, the Indian government has even targeted the Indian diaspora in North America in clear acts of transnational repression meant to intimidate, coerce, and harass the diaspora."

USCIRF recommended in its 2026 Annual Report that the State Department designate India as a Country of Particular Concern (CPC) for engaging in systematic, ongoing violations of international religious freedom laws.

USCIRF: An Entity of Concern
Misleading Congress and the American Public on India

Centre for Integrated and Holistic Studies (CIHS) is a non-partisan, independent, research think tank headquartered in New Delhi, India. CIHS is dedicated to enriching individual decision making by presenting innovative ideas, fostering informed public debate, and advancing effective policy and programme development to advance humanity. Aspiring to positively shape the future of society, CIHS works to share knowledge on pressing global challenges and opportunities by fostering a ‘culture of scholarship’ and advancing informed public engagement.

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Table of Content

I. Summary	5
II. USCIRF Mandate versus conduct	5
III. Factual errors in the USCIRF September 24, 2026 release	6
IV. What the USCIRF release concealed	6
V. Allegations presented as fact by USCIRF	7
VI. RAW and RSS sanction recommendations by USCIRF	7
VII. Years of biased reporting: the official record	8
VIII. Independent and Expert Critiques	9
IX. General Double standards	12
X. Conclusion: An Entity of Concern	13
Bibliography	15

I. Summary

In March 2025, India's Ministry of External Affairs called for the United States Commission on International Religious Freedom (USCIRF) to be designated an "entity of concern".¹ USCIRF's release of 24 September 2026, "India Continues to Weaponize Terrorism Laws to Detain Religious Minorities", shows why.

USCIRF was created under the International Religious Freedom Act of 1998 to monitor and report on religious freedom abroad and to make recommendations to the US government.² The Johal release does not do that job. It reads as an advocacy statement, not a monitoring report. It misnames the court that granted bail and overstates the bail conditions. It declares the charges against Johal "false" while his trial is still under way. It leaves out the prosecution's case entirely and presents unproven allegations as established fact. It also misstates why Johal was granted bail. An Indian court released him on grounds of trial delay, over the objections of India's own investigating agency, yet the release treats this as evidence that India "weaponizes" its terrorism laws. The facts show the opposite: India's courts intervened, and the Supreme Court and the Delhi High Court corrected the course of the case.

The release is not an isolated lapse. It continues years of reporting on India that the Indian government has rejected as "motivated and biased", that 275 former judges, civil servants and military officers have called "completely off-the-mark", and that think tanks and diaspora organisations have described as selective and methodologically unsound. That record has culminated in recommendations to sanction the Rashtriya Swayamsevak Sangh and India's external intelligence agency without evidentiary findings to support them. The US State Department has never adopted USCIRF's recommendation to designate India a Country of Particular Concern.

A body that decides its conclusions first and fits the facts around them afterwards is not monitoring religious freedom. It is conducting a campaign. On the record set out in this brief, beginning with the Johal case, **USCIRF is itself an entity of concern.**

II. USCIRF Mandate versus conduct

USCIRF's findings shape US foreign policy, inform congressional debate and carry the authority of a US government body. That authority depends on its reporting being accurate, balanced and grounded in evidence. A monitoring body meeting that standard would set out the charges, the evidence the prosecution relies on, the defence's response and the reasoning of the courts. It would separate what has been proven from what has only been alleged, and it would not presume to decide a case still before a court.

The Johal release does none of this. While the trial is still under way, it says Johal was "unjustly arrested" on "false charges" and describes his detention as "unlawful suffering". No court has made any of these findings. It adopts Johal's own account of torture and a forced confession as fact, and it gives no hearing to the prosecution.

This is adjudication by press release. USCIRF has taken one party's account of a pending criminal case and issued it under the name of a US government commission, placing itself above the Indian

courts that are actually hearing the evidence. It is selective even about those courts. It welcomes the High Court when that court grants bail, and passes over the same court's 2024 finding that there were reasonable grounds to believe the accusations against Johal were *prima facie* true.⁴

Congress, the State Department and the American public rely on USCIRF for an honest account of conditions abroad. **A commission that pre-judges trials, omits evidence and presents advocacy as findings misinforms the very audience it exists to serve.**

III. Factual errors in the USCIRF September 24, 2026 release

- **Wrong court.** The release credits the "New Delhi High Court." Bail was granted by the Delhi High Court.¹
- **Overstated bail conditions.** The release says Johal is banned from communicating with the press. The court actually restricted contact with witnesses and public statements about the pending trial.²
- **Wrong case count.** The release cites "eight charges" carrying the death penalty. Court reporting refers to seven cases.³
- **"No credible evidence" is contradicted by the record.** The 2024 High Court ruling recorded the prosecution's *prima facie* material linking Johal to the Khalistan Liberation Force (KLF) conspiracy.⁴

IV. What the USCIRF release concealed

- **The prosecution's case.** The NIA states that Johal carried GBP 3,000 from the UK to France for KLF chief Harminder Singh Mintoo, partly to recruit a shooter for targeted killings in Punjab in 2016-17. These are allegations of terror financing and murder, not charges over religious identity or blogging.⁵
- **The actual ground for bail.** The court granted bail because of trial delay, weighing the right to a speedy trial after more than eight years in custody with 40 of over 160 witnesses examined. It made no finding of innocence.⁶

¹ Jagtar Singh Johal @ Jaggi v National Investigation Agency 2026:DHC:7994-DB (Delhi HC, 18 September 2026).

² 'Delhi HC grants bail to UK national Jagtar Singh Johal after 8 years in custody' (*Punjab Kesari*, 18 September 2026)

<https://english.punjabkesari.com/india/delhi-hc-grants-bail-to-uk-national-jagtar-singh-johal-after-8-years-in-custody> accessed 25 September 2026.

³ 'Delhi HC grants bail to Jagtar Singh Johal in seven NIA cases after over 8 years in custody, imposes stringent conditions' (*ANI News*, 18 September 2026) <https://aninews.in/news/national/general-news/delhi-hc-grants-bail-to-jagtar-singh-johal-in-seven-nia-cases-after-over-8-years-in-custody-imposes-stringent-conditions20260918174949/> accessed 25 September 2026.

⁴ *Jagtar Singh Johal @ Jaggi v National Investigation Agency* 2024:DHC:7110-DB; 'Delhi High Court grants bail to British national Jagtar Singh Johal in seven UAPA cases' (*India Legal*, September 2026) <https://indialegallive.com/constitutional-law-news/courts-news/delhi-high-court-grants-bail-to-british-national-jagtar-singh-johal-in-seven-uapa-cases/> accessed 25 September 2026.

⁵ *Johal* (n 1); 'Delhi HC grants bail to UK national Jagtar Singh Johal after 8 years in custody' (n 2); 'Delhi High Court grants bail to British national Jagtar Singh Johal in seven UAPA cases' (n 4).

⁶ *Johal* (n 1) [20], [27]–[29]; Unlawful Activities (Prevention) Act 1967, s 43D(5); Constitution of India, art 21; see also *Jagtar Singh Johal @ Jaggi v National Investigation Agency* 2024:DHC:7110-DB (n 4).

- **India's courts corrected course.** The Supreme Court sent the case back in July 2026, and the High Court then granted bail over the NIA's objections. That is judicial oversight working, not a state "weaponizing" the law.⁷

V. Allegations presented as fact by USCIRF

- **Torture and forced confession.** These are Johal's allegations and have not been tested in any court.⁸
- **"Orchestrated assassinations" in North America.** These are allegations the Indian government denies, and no court has found it responsible.⁹
- **Umar Khalid and Sharjeel Imam.** Both are charged in the 2020 Delhi riots conspiracy case. Describing them as held for "simply engaging in peaceful protest" adopts the defence's position as fact.¹⁰

VI. RAW and RSS sanction recommendations by USCIRF

USCIRF's 2026 report proposed targeted sanctions on the Rashtriya Swayamsevak Sangh (RSS) and on the Research and Analysis Wing (RAW), India's external intelligence agency. It also proposed invoking the Arms Export Control Act to halt arms sales to India.¹¹

RAW

- RAW appears nowhere in the report's Key Findings. No conduct, operation or victim is attributed to it, yet the report recommends asset freezes and travel bans against it. The Centre for Integrated and Holistic Studies (CIHS) calls this proof that the conclusions were written before the analysis.¹²
- The Arms Export Control Act requires a showing that the weapons would be used in specific violations. The report establishes no such link.¹³

⁷ 'Delhi HC grants bail to UK national Jagtar Singh Johal after 8 years in custody' (n 2); 'Delhi HC grants bail to Jagtar Singh Johal in seven NIA cases after over 8 years in custody, imposes stringent conditions' (n 3); 'Delhi High Court grants bail to British national Jagtar Singh Johal in seven UAPA cases' (n 4); *Johal* (n 1) [27]–[29].

⁸ US Commission on International Religious Freedom, 'India Continues to Weaponize Terrorism Laws to Detain Religious Minorities' (Press Release, 24 September 2026) <https://www.uscifr.gov/news-room/releases-statements/india-continues-weaponize-terrorism-laws-detain-religious-minorities> accessed 25 September 2026.

⁹ USCIRF (n 8); for India's denial, see 'Absurd, motivated: MEA rubbishes Trudeau's allegations linking India to Hardeep Singh Nijjar's murder' (*The Week*, 19 September 2023) <https://www.theweek.in/news/india/2023/09/19/absurd-motivated-mea-rubbishes-trudeaus-allegations-linking-india-to-hardeep-singh-nijjar-murder.html> accessed 25 September 2026.

¹⁰ USCIRF (n 8); for the charges and the denial of bail, see Namrata Banerjee, 'Bail Applications in the Delhi Riots "Larger Conspiracy" Case: Judgement Summary' (*Supreme Court Observer*, 5 January 2026) <https://www.scobserver.in/reports/bail-applications-in-the-delhi-riots-larger-conspiracy-case-judgement-summary/> accessed 25 September 2026.

¹¹ US Commission on International Religious Freedom, *2026 Annual Report* (USCIRF, March 2026) 28–29 https://www.uscifr.gov/sites/default/files/2026-08/USCIRF_2026_AR.pdf accessed 25 September 2026.

¹² Centre for Integrated and Holistic Studies, *Rebuttal of the USCIRF India Entry and Issue Update on Alleged Religious Persecution* (CIHS, March 2026) 5, 7–9 https://www.cihs.org.in/wp-content/uploads/2026/03/USCIRF_Rebuttal-1.pdf accessed 25 September 2026.

¹³ Arms Export Control Act 1976, s 6, 22 USC § 2756; USCIRF, *2026 Annual Report* (n 11) 28–29; CIHS, *Rebuttal* (n 12) 9.

RSS

- **Not a state actor.** The RSS is a voluntary socio-cultural organisation that contests no elections and holds no office. The report itself concedes it fields no candidates.¹⁴
- **No primary source.** The report attributes an exclusionary "primary mission" to the RSS without citing a single RSS document, charter or resolution.¹⁵
- **Guilt by association.** The report links the RSS to government policy through leaders' personal RSS backgrounds, without showing any institutional chain of command.¹⁶
- **Service record omitted.** The report leaves out the RSS's 152,003 documented service initiatives in education, healthcare and relief, which serve communities of all faiths.¹⁷
- **Supreme Court ignored.** The report does not engage with *Ramesh Prabhoo v. Kunte* (1996), in which the Supreme Court described Hindutva as a way of life rather than religious bigotry.¹⁸
- **Former officials objected.** The 275 former officials said USCIRF repeatedly portrays the RSS negatively without macro-level evidence, and called the sanctions proposals "highly motivated".¹⁹

VII. Years of biased reporting: the official record

The Johal release fits a pattern. For well over a decade, USCIRF's reporting on India has drawn the same objections, and they have come from the Indian government, from Indian-American organisations and from independent commentators. The Ministry of External Affairs has rejected successive reports as "biased", "motivated" and "malicious" under different spokespersons and across different years, and in 2025 it called for USCIRF itself to be designated an entity of concern. The consistency of that response points to a consistent problem. USCIRF has repeated the same method year after year: it builds a persecution narrative from selected incidents, advocacy sources and allegations it treats as findings, while leaving out the constitutional framework, judicial remedies and official data that would complicate that narrative. Washington's response has been equally consistent. Every year since 2020, USCIRF has recommended that India be designated a Country of Particular Concern, and every year the State Department has declined to act on that recommendation. The record below traces that history.

¹⁴ US Commission on International Religious Freedom, 'Systematic Religious Persecution in India' (Issue Update, November 2025) 1–3; CIHS, *Rebuttal* (n 12) 10.

¹⁵ USCIRF, 'Systematic Religious Persecution in India' (n 14) 1–3; CIHS, *Rebuttal* (n 12) 10.

¹⁶ USCIRF, 'Systematic Religious Persecution in India' (n 14); USCIRF, *2026 Annual Report* (n 11) 28–29; CIHS, *Rebuttal* (n 12) 10–11.

¹⁷ Akhil Bharatiya Pratinidhi Sabha, *Annual Report 2025-26* (Rashtriya Swayamsevak Sangh 2026); CIHS, *Rebuttal* (n 12) 10.

¹⁸ *Ramesh Yeshwant Prabhoo v Prabhakar Kashinath Kunte* (1996) 1 SCC 130; CIHS, *Rebuttal* (n 12) 10.

¹⁹ '275 former judges, officials slam US international religious freedom report' (*ThePrint*, 21 March 2026) <https://theprint.in/india/275-former-judges-officials-slam-us-international-religious-freedom-report/2885387/> accessed 25 September 2026.

- **Visa dispute.** India denied USCIRF visas for a "fact-finding" visit. The Hindu American Foundation asked whether a subsequent designation was a *quid pro quo*.²⁰
- **2020.** Swarajya documented what it called five lies and biases in USCIRF's 2020 report. These included treating routine policing and foreign-funding enforcement as state-sponsored persecution.²¹
- **2022.** MEA spokesperson Arindam Bagchi said USCIRF repeatedly misrepresents facts "in pursuance of its motivated agenda".²²
- **2024.** MEA spokesperson Randhir Jaiswal called USCIRF a biased organisation with a political agenda and its report "malicious".²³
- **2025.** The MEA said USCIRF itself should be designated an "entity of concern" and described its assessments as politically motivated.²⁴
- **2026.** The MEA rejected the report's "motivated and biased characterisation of India." It said USCIRF relies on questionable sources and ideological narratives, and should instead examine attacks on Hindu temples in the US.²⁵
- **Every year since 2020.** USCIRF has recommended India as a Country of Particular Concern, and the US State Department has never adopted the recommendation.²⁶

VIII. Independent and Expert Critiques

Criticism of USCIRF's India reporting is not confined to the Indian government. Think tanks, retired members of India's judiciary, civil service and armed forces, and Indian-American organisations have reached the same conclusion independently: USCIRF's findings on India are selective, poorly sourced and politically driven.

- **Centre for Integrated and Holistic Studies (CIHS), 2025-26.** CIHS argues that USCIRF relies on politically driven NGOs, lobby groups and media reports rather than official

²⁰ 'American Hindus slam US report' (*Deccan Herald*) <https://www.deccanherald.com/india/karnataka/bengaluru/american-hindus-slam-us-report-2557445> accessed 25 September 2026.

²¹ Siddharaja Jayasimha, 'Five Lies And Biases Against India In US "Religious Freedom" Body's 2020 Report' (*Swarajya*, 29 April 2020) <https://swarajyamag.com/politics/five-lies-and-biases-against-india-in-us-religious-freedom-bodys-2020-report> accessed 25 September 2026.

²² 'India slams USCIRF for "inaccurate" comments on country' (*Deccan Herald*, 26 November 2022) <https://www.deccanherald.com/india/india-slams-uscirf-for-inaccurate-comments-on-country-1123303.html> accessed 25 September 2026.

²³ 'India trashes US panel report; describes it as "malicious"' (*The Tribune*, 3 October 2024) <https://www.tribuneindia.com/news/india/india-trashes-us-religious-freedom-panel-report> accessed 25 September 2026.

²⁴ "USCIRF should be designated as entity of concern": MEA slams US panel's religious freedom report' (*The Tribune*, 26 March 2025) <https://www.tribuneindia.com/news/world/uscirf-should-be-designated-as-entity-of-concern-mea-slams-us-panels-religious-freedom-report/amp> accessed 25 September 2026.

²⁵ ANI (@ANI), 'In response to media queries regarding the 2026 Annual Report of the United States Commission on International Religious Freedom ...' (X, 16 March 2026) <https://x.com/ANI/status/2033546090189107475> accessed 25 September 2026; 'USCIRF has persisted in presenting distorted & selective picture of India: MEA spokesperson Randhir Jaiswal' (*News on AIR*, 16 March 2026) <https://www.newsonair.gov.in/uscirf-has-persisted-in-presenting-distorted-selective-picture-of-india-mea-spokesperson-randhir-jaiswal> accessed 25 September 2026.

²⁶ USCIRF, *2026 Annual Report* (n 11) 28-29; 'India slams USCIRF report as biased, rejects allegations on religious freedom' (*WION*, 16 March 2026) <https://www.wionews.com/india-news/india-slams-uscirf-report-as-biased-rejects-allegations-on-religious-freedom-1773691146838> accessed 25 September 2026.

statistics, police records or court findings. It also says USCIRF reports incidents in isolation, leaving out legal proceedings, counter-reports and government action.²⁷ CIHS points to a double standard: USCIRF condemns India's Citizenship (Amendment) Act but says nothing about the United States own Lautenberg and Specter Amendments, which give persecuted religious minorities from the former Soviet Union and Iran a comparable path to refuge.²⁸ It notes that USCIRF's commissioners are political appointees.²⁹ In its 2026 rebuttal, CIHS found that USCIRF asserts violations occur "with impunity" without supplying prosecution data, conviction rates or accountability records.³⁰ It also found that the report ignores binding Supreme Court authority on anti-conversion laws, section 295A, cow protection and Article 370, and that it applies scepticism unevenly, doubting India's security claims while accepting persecution claims uncritically.³¹

- **Hindu American Foundation (HAF).** After India denied USCIRF visas for a "fact-finding" visit, HAF questioned the commission's credibility and asked whether its subsequent designation of India was a *quid pro quo*.³²
- **Foundation for India and Indian Diaspora Studies (FIIDS), 2022.** FIIDS describes USCIRF's assessments as reflecting a "compulsive anti-India bias" disconnected from "ground realities". It argues that the reports misrepresent the CAA as removing citizenship rather than granting refuge, and that they ignore violence against Kashmiri Hindus.³³
- **275 former judges, civil servants and military officers, March 2026.** In a joint statement, 275 retired officials called the 2026 report "very disturbing and completely off-the-mark".³⁴ The signatories included former Supreme Court judges Adarsh Kumar Goel and Hemant Gupta, former Chief Election Commissioners OP Rawat and Sunil Arora, and former Foreign Secretary Kanwal Sibal. They argued that religious freedom should be measured by long-term demographic trends rather than episodic incidents, citing census data that shows India's Muslim population share rising from 9.8% in 1951 to 14.2% in 2011 while Hindu populations fell sharply in Pakistan and Bangladesh. They urged the US government to run background checks on the report's contributors, alleging vested interests.³⁵

²⁷ Pummy M Pandita, 'USCIRF 2025: Distorting India's Reality' (CIHS, 4 April 2025) <https://www.cihs.org.in/uscirf-2025-distorting-indias-reality/> accessed 25 September 2026.

²⁸ *ibid*; Foreign Operations, Export Financing, and Related Programs Appropriations Act 1990, Pub L No 101-167, § 599D, 103 Stat 1195; Consolidated Appropriations Act 2004, Pub L No 108-199, § 213, 118 Stat 3.

²⁹ Pandita (n 27).

³⁰ CIHS, *Rebuttal* (n 12) 14.

³¹ *ibid* 12–16.

³² 'American Hindus slam US report' (n 20).

³³ Foundation for India and Indian Diaspora Studies, 'Disappointed with USCIRF biased report on India' (FIIDS, 26 April 2022) <https://fiids-usa.org/uscirf-biased-india-report/> accessed 25 September 2026.

³⁴ '275 former judges, retired officers slam US religious freedom report' (*The Tribune*, 21 March 2026) <https://www.tribuneindia.com/news/india/275-former-judges-retired-officers-slam-us-religious-freedom-report/> accessed 25 September 2026.

³⁵ *ibid*; '275 former judges, officials slam US international religious freedom report' (n 19).

- **The State Department's stance, March 2026.** State Department itself has functionally rejected USCIRF on India, because it has never acted on the commission's recommendation to designate India a Country of Particular Concern.³⁶
- **Legal Rights Protection Forum (LRPF), August 2026.** Drawing on LRPF's work, AS Santhosh argues that USCIRF functions as a lobbying instrument. In his account, advocacy networks give routine criminal incidents, including murders and suicides, a communal colour, and these then flow into international reporting. He stresses that USCIRF is a US policy advisory body, not an international court or UN body.³⁷
- **FCRA and evangelical networks.** Commentators argue that USCIRF's hostility to India tracks its FCRA enforcement. After India cancelled the foreign-funding licences of more than 13,500 NGOs for irregularities, USCIRF escalated its criticism, advancing an agenda shaped by evangelical lobbying groups whose interests are hurt when India regulates foreign funding and curbs fraudulent conversions.³⁸
- **HinduPACT.** HinduPACT condemns USCIRF's findings as propaganda driven by an ideological agenda.³⁹
- **Chanakya Forum.** Chanakya Forum argues that USCIRF operates as part of a "regime change" ecosystem, relying on fringe anti-India lobbying groups in Washington while ignoring state data.⁴⁰
- **Pakistani lobbying links.** Diaspora analysts point to individuals with links to Pakistani-American lobbying networks in USCIRF leadership and advisory roles, and say this compromises the commission's neutrality on India.⁴¹
- **Neighbourhood double standard.** Strategic analysts argue that USCIRF censures India, a secular democracy with a growing minority population, while framing the institutional destruction of Hindu, Sikh and Christian communities in Pakistan and Bangladesh far more gently.⁴²

³⁶ 'India slams USCIRF report as biased, rejects allegations on religious freedom' (n 26); AS Santhosh, 'USCIRF a lobbying instrument using selective NGOs and media to defame India while Washington looks the other way' (*Organiser*, 27 August 2026)

<https://organiser.org/2026/08/27/377145/bharat/uscirf-a-lobbying-instrument-using-selective-ngos-and-media-to-defame-india-while-washington-looks-the-other-way/> accessed 25 September 2026.

³⁷ Santhosh (n 36).

³⁸ Vijendra Agarwal, '2023 USCIRF Report and Bharat (A Country of Profound Confidence) Part 4: USCIRF, FCRA, and NGOs' (*PGurus*, 12 January 2024) <https://www.pgurus.com/2023-uscirf-report-and-bharat-a-country-of-profound-confidence-part-4-uscirf-fcra-and-ngos/> accessed 25 September 2026; Mayank Chaturvedi, 'USCIRF's Anti-India Campaign Intensifies Ahead of Dr. Mohan Bhagwat's US Visit' (*Hindusthan Samachar*, 20 August 2026) <https://english.hindusthansamachar.in/Encyc/2026/8/20/USCIRF-rss-mohan-bhagwat-india.php> accessed 25 September 2026.

³⁹ The CSR Journal, 'HinduPACT, a US-based advocacy organisation, has publicly condemned the US Commission ...' (*Facebook*) <https://www.facebook.com/TheCSRJournal/posts/hindupact-a-us-based-advocacy-organisation-has-publicly-condemned-the-us-commiss/1384642033757181/> accessed 25 September 2026.

⁴⁰ Chanakya Forum discussion (*YouTube*) 9:15 <https://www.youtube.com/watch?v=bLgrxOtoRW0&t=555> accessed 25 September 2026.

⁴¹ DisInfo Lab, 'Saga of The Longest Info-War Against India – Part I' (16 August 2022) <https://thedisinfo.org/saga-of-the-longest-info-war-against-india/> accessed 25 September 2026.

⁴² Pandita (n 27); '275 former judges, retired officers' (n 34).

IX. General Double standards

USCIRF's mandate covers only other countries, so the United States is never measured against the standard it applies to India. That omission misleads the American public. Americans are told that India uses counter-terrorism law to detain religious minorities without trial. They are not told that their own courts have spent two decades hearing the same complaints about their own government.

Detention without charge. After 11 September 2001, the United States held hundreds of men at Guantánamo Bay without charge. It took three Supreme Court rulings to establish that they could challenge their detention in US courts at all.⁴³ The Court held that the executive could not hold detainees beyond the reach of habeas corpus. Even so, some detainees have now been held for more than two decades, and many have never been tried. A US citizen, Yaser Hamdi, was held incommunicado as an "enemy combatant" until the Supreme Court ruled that he was entitled to due process.⁴⁴

Pre-trial detention at home. The Supreme Court has upheld pre-trial detention without bail on grounds of dangerousness.⁴⁵ It has also declined to set any fixed time limit on the right to a speedy trial, leaving delay to be weighed case by case.⁴⁶ That is the same balancing the Delhi High Court carried out in Johal's case, when it granted him bail because his trial had been delayed.

Muslims and counter-terrorism powers. After 9/11, Muslim and Arab men in the United States were detained on immigration charges and held under harsh conditions. The Supreme Court declined to give them a damages remedy against senior officials.⁴⁷ The FBI was accused of monitoring mosques in California through an informant,⁴⁸ and the New York Police Department was accused of surveilling Muslim communities on the basis of religion alone.⁴⁹ Muslim men alleged that FBI agents placed them on the No Fly List for refusing to become informants.⁵⁰ A presidential proclamation restricting entry from several Muslim-majority countries was upheld by the Supreme Court.⁵¹

Religious liberty in American prisons. It took the Supreme Court to establish that a Muslim prisoner in Arkansas could grow a half-inch beard in accordance with his faith.⁵²

None of this makes the United States a persecutor state, and India does not claim it is. American courts heard these claims, ruled on them, and in several cases vindicated the complainants. That is the point. When the same process happens in India, where courts hear the claims, weigh the evidence and grant relief, USCIRF reads it as persecution. When it happens at home, USCIRF does not report it at all. **A commission that holds India to a standard its own country has struggled to meet, and hides that record from the Americans it reports to, is not informing US policy. It is distorting it.**

⁴³ *Rasul v Bush* 542 US 466 (2004); *Hamdan v Rumsfeld* 548 US 557 (2006); *Boumediene v Bush* 553 US 723 (2008).

⁴⁴ *Hamdi v Rumsfeld* 542 US 507 (2004).

⁴⁵ *United States v Salerno* 481 US 739 (1987).

⁴⁶ *Barker v Wingo* 407 US 514 (1972).

⁴⁷ *Ziglar v Abbasi* 582 US 120 (2017).

⁴⁸ *FBI v Fazaga* 595 US 344 (2022).

⁴⁹ *Hassan v City of New York* 804 F 3d 277 (3d Cir 2015).

⁵⁰ *Tanzin v Tanvir* 592 US 43 (2020).

⁵¹ *Trump v Hawaii* 585 US 667 (2018).

⁵² *Holt v Hobbs* 574 US 352 (2015).

X. Conclusion: An Entity of Concern

The Johal release takes a bail order that Indian courts granted over the government's opposition and presents it as evidence of state persecution. To do that, it misstates the facts, leaves out the prosecution's case entirely, and treats one party's allegations as findings. It declares charges "false" that no court has ruled on, and it calls a detention "unlawful" that no court has found unlawful. Its headline says India "weaponizes" its laws. Yet the story underneath shows India's Supreme Court sending the case back and its High Court releasing the accused because the trial had taken too long. That is how a functioning judiciary behaves, not how a persecuting state behaves.

The Johal case is not an aberration. It shows USCIRF's method in miniature. For years, USCIRF's reporting on India has worked the same way: it chooses incidents selectively, relies on advocacy sources, ignores India's constitutional safeguards and judicial remedies, and reaches conclusions that were settled before the evidence was gathered. The results have escalated from annual Country of Particular Concern recommendations, which the State Department has never adopted, to proposals to sanction a voluntary social organisation of millions and the intelligence service of a strategic partner. Neither proposal rests on any evidentiary finding in USCIRF's own report. India's government, 275 of its former judges, civil servants and military officers, independent analysts and Indian-American organisations have all identified the same pattern.

The main harm falls on the United States. USCIRF exists to give the President, Congress and the American public an accurate account of religious freedom abroad. On India, it provides the opposite: a narrative that pre-judges foreign trials, condemns in India what American courts have wrestled with at home, and presents lobbying as analysis. American policymakers who rely on that account are being misinformed about one of the most important partners the United States has.

A commission that works out its conclusions first and fits the facts to them afterwards cannot be trusted with the authority of the US government. USCIRF's India reporting should be read for what it is, which is advocacy, not monitoring. Until USCIRF engages with court records, prosecution evidence and official data, and holds India to a standard it would accept for the United States, it does not merit the credibility its name implies. On the record set out in this brief, the entity of concern is USCIRF itself.

XI. Recommendations

In March 2025, the Ministry of External Affairs said that USCIRF "should be designated as an entity of concern".¹ The record in this brief supports making that position formal and consistent. India should:

1. **Formally designate USCIRF an entity of concern.** Indian law has no statutory "entity of concern" category, so the designation should be a declared policy of the Ministry of External Affairs. It would put on record that India does not recognise USCIRF as a credible monitor of religious freedom and does not treat its reports, recommendations or releases as a basis for engagement.

2. **Maintain non-engagement.** India should continue its long-standing practice of declining USCIRF visas for "fact-finding" visits. It should not take part in USCIRF hearings or processes, and it should decline to respond to USCIRF on individual cases before Indian courts.
3. **Take the case to USCIRF's actual audience.** USCIRF advises the President, the State Department and Congress, so India's response should go there too. Through diplomatic channels, India should give the State Department and members of Congress point-by-point factual rebuttals based on court records. The Johal judgment is a ready example.
4. **Answer every release with the record.** Each USCIRF statement on an Indian case should be met promptly with the relevant judgment, charge sheet and procedural history, published in full. USCIRF's method depends on omission, and primary documents are the most effective answer to it.
5. **Press for transparency in the lobbying pipeline.** India should ask the US government to scrutinise whether groups that lobby USCIRF on India comply with the Foreign Agents Registration Act. It should also press for disclosure of the sources USCIRF relies on in its India reporting.
6. **Seek a parliamentary resolution.** A resolution of Parliament endorsing the designation would show that India's rejection of USCIRF reflects a national position and is not just the view of the government of the day.

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