INDIA

USCIRF–RECOMMENDED FOR COUNTRIES OF PARTICULAR CONCERN (CPC)

KEY FINDINGS

In 2019, religious freedom conditions in India experienced a drastic turn downward, with religious minorities under increasing assault. Following the Bharatiya Janata Party's (BJP) re-election in May, the national government used its strengthened parliamentary majority to institute national level policies violating religious freedom across India, especially for Muslims. The national government allowed violence against minorities and their houses of worship to continue with impunity, and also engaged in and tolerated hate speech and incitement to violence.

Significantly, the BJP-led government enacted the Citizenship (Amendment) Act (CAA)—a fast track to citizenship for non-Muslim migrants from Afghanistan, Bangladesh, and Pakistan already residing in India—and approved a National Population Register (NPR) as a first step toward a nation-wide National Register of Citizens (NRC). The border state of Assam, under mandate of the Supreme Court, implemented a statewide NRC to identify illegal migrants within Assam. When the statewide NRC was released in August, 1.9 million residents—both Muslims and Hindus—were excluded. Those excluded live in fear of the consequences: three United Nations (UN) Special Rapporteurs warned that exclusion from the NRC could result in "statelessness, deportation, or prolonged detention." Indeed, Home Minister Amit Shah referred to migrants as "termites" to be eradicated. Troubled that Hindus were excluded from Assam's NRC, he and other BJP officials advocated for the CAA as a corrective measure to protect Hindus. The CAA provides listed non-Muslim religious communities a path to restore their citizenship and avoid detention or deportation. In its wake, BJP leaders have continued to advocate for a nation-wide NRC; the citizenship of millions would be placed under question, but, with the CAA in place, Muslims alone would bear the indignities and consequences of potential statelessness.

The CAA's passage in December sparked nationwide protests that police and government-aligned groups met with violence; in Uttar Pradesh (UP), the BJP chief minister Yogi Adityanath pledged "revenge" against anti-CAA protestors and stated they should be fed "bullets not biryani." In December, close to 25 people died in attacks against protestors and universities in UP alone. According to reports, police action specifically targeted Muslims.

Throughout 2019, government action—including the CAA, continued enforcement of cow slaughter and anti-conversion laws, and the November Supreme Court ruling on the Babri Masjid site—created a culture of impunity for nationwide campaigns of harassment and violence against religious minorities. In August, the government also revoked the autonomy of Muslim-majority state Jammu and Kashmir and imposed restrictions that negatively impacted religious freedom. Mob lynchings of persons suspected of cow slaughter or consuming beef continued, with most attacks occurring within BJP-ruled states. Lynch mobs often took on overtly Hindu nationalist tones. In June, in Jharkand, a mob attacked a Muslim, Tabrez Ansari, forcing him to chant "Jai Shri Ram (Hail Lord Ram)" as they beat him to death. Police often arrest those attacked for cow slaughter or conversion activities rather than the perpetrators. Violence against Christians also increased, with at least 328 violent incidents, often under accusations of forced conversions. These attacks frequently targeted prayer services and led to the widespread shuttering or destruction of churches.

In 2018, the Supreme Court urged the central and state governments to combat lynchings with stricter laws. When, by July 2019, the central government and 10 states had failed to take appropriate action, the Supreme Court again directed them to do so. Rather than comply, Home Minister Shah called existing laws sufficient and denied lynchings had increased, while the Home Ministry instructed the National Crime Records Bureau to omit lynchings from the 2019 crime data report.

During 2019, discriminatory policies, inflammatory rhetoric, and tolerance for violence against minorities at the national, state, and local level increased the climate of fear among non-Hindu communities. After the reporting period, India continued on this negative trajectory. In February 2020, three days of violence erupted in Delhi with mobs attacking Muslim neighborhoods. There were reports of Delhi police, operating under the Home Ministry's authority, failing to halt attacks and even directly participating in the violence. At least 50 people were killed.

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);
- Impose targeted sanctions on Indian government agencies and officials responsible for severe violations of religious freedom by freezing those individuals' assets and/or barring their entry into the United States under human rights-related financial and visa authorities, citing specific religious freedom violations;
- Strengthen the U.S. Embassy's and consulates' engagement with religious communities, local officials, and police, especially in regions impacted by religiously motivated violence; increase U.S. partnerships with Indian law enforcement to build capacity to protect religious minorities, houses of worship, and other holy sites, and confront religious-based hate crimes; and
- Allocate funding to support civil society to create a monitoring and early warning system in partnership with police to challenge hate speech and incitement to violence.

The U.S. Congress should:

- Continue to hold hearings highlighting religious freedom conditions in India and U.S. policy toward India.

Background

India's population is 79.8 percent Hindu, 14.2 percent Muslim, 2.3 percent Christian, 1.7 percent Sikh, 0.7 percent Buddhist, and 0.4 percent Jain; smaller groups include Zoroastrians (Parsis), Jews, and Baha'is. India's constitution defines the nation as secular and protects freedom of religion or belief—including the right to proselytize. However, religious freedom is "subject to public order," a vague phrase allowing the suspension of rights to protect social "tranquility." This qualification was used to justify anti-conversion laws in the 1977 Supreme Court case *Rev. Stainislaus v. State of Madhya Pradesh and Orissa*. The BJP has challenged the secular principles of the constitution by implementing policies reflecting Hindu nationalist ideology, or Hindutva.

The Citizenship (Amendment) Act and the National Register of Citizens

In December 2019, parliament passed the CAA, providing a pathway to citizenship for non-Muslim migrants already in India from Afghanistan, Bangladesh, and Pakistan by treating them as refugees fleeing religious persecution. The CAA would be even more problematic in conjunction with a nationwide NRC, which could be modeled after the statewide NRC in Assam, and is a goal outlined in the BJP's manifesto and repeatedly promised by BJP leadership. The NRC process in Assam raised significant concerns: impoverished families could not present the necessary documents due to poor record keeping or illiteracy. Even with documentation, citizens were excluded because of minor inconsistencies; some were excluded despite using the same documents as included relatives. The Foreigners' Tribunals that adjudicate citizenship status have been critiqued for their anti-minority bias. In December, the Parliament approved an NPR to collect residents' citizenship data. According to government statements and under the Citizenship Rules, 2003, the NPR—which allows residents to be marked as "doubtful citizens" and placed under scrutiny—is the first step toward a nation-wide NRC.

Cow Slaughter Laws

In Hinduism, the cow is considered sacred. Article 48 of India's constitution directs the state to "take steps . . . prohibiting the slaughter of cows and calves," and 21 states criminalize cow slaughter in various forms. Cow protection has been promoted as a key issue by the BJP and the Rashtriya Swayamsevak Sangh (RSS). Lynch mobs, often organized over social media, have attacked minorities—including Muslims, Christians, and Dalits—under suspicion of eating beef, slaughtering cows, or transporting cattle for slaughter. Since the BJP came to power in 2014, there have been over 100 attacks, amounting to over 98 percent of such attacks since 2010. Lynching victims, rather than the perpetrators, are often arrested under these laws.

Anti-Conversion Laws

While the constitution protects the right to proselytize, 10 states have anti-conversion laws criminalizing conversion using force, allurement, inducement, or fraud, but many use vague language that can be interpreted as prohibiting consensual conversions. In 2019, BJP-ruled Himachal Pradesh increased the penalties for forced conversions. Authorities predominately arrest Muslims and Christians for conversion activities. To date, however, there are no known convictions for forced conversion. Hindutva groups pursue mass conversions through ceremonies known as *ghar wapsi* (homecoming), without interference from authorities. Empowered by anti-conversion laws and often with the police's complicity, Hindutva groups also conduct campaigns of harassment, social exclusion, and violence against Christians, Muslims, and other religious minorities across the country. Following attacks by Hindutva groups against religious minorities for conversion activities, the police often arrest the religious minorities who have been attacked.

In September 2019, the Home Ministry introduced new rules under the Foreign Contribution (Regulation) Act requiring all members of nongovernmental organizations (NGOs) to sign an affidavit affirming they have "not been prosecuted or convicted for indulging in forced religious conversion or creating communal tensions" to receive foreign funding. Faith-based NGOs, in particular Christian organizations, expressed fear that this is intended to limit their activities.

Religious Freedom in Jammu and Kashmir

In August 2019, the government stripped Muslim-majority Jammu and Kashmir's autonomy and imposed security measures, including restricting freedom of movement and assembly, cutting Internet and phone access, and arresting Kashmiri leaders, including religious leaders. The restrictions on movement and assembly limited the ability to attend prayers and religious ceremonies. USCIRF also received several reports of mosques being closed, imams and Muslim leaders arrested and detained, and threats and violence by extremist groups.

Key U.S. Policy

During 2019, the United States and India strengthened their relationship, especially in security and defense. In December, the two governments signed an agreement for defense technology transfers during a 2+2 ministerial dialogue. President Donald J. Trump and Prime Minister Narendra Modi appeared together at the September "Howdy Modi" event in Houston, Texas, during which the President praised this relationship. Amid these positive developments, U.S. officials highlighted concerns with India's religious freedom violations through public statements, congressional hearings, and bilateral engagements. In October, U.S. Ambassador-at-Large for Religious Freedom Samuel D. Brownback traveled to India. The Indian government, however, continued to reject the State Department's and USCIRF's reporting on religious freedom violations in India.

KEY USCIRF RESOURCES & ACTIVITIES

- **Hearing:** Citizenship Laws and Religious Freedom
- **Testimony:** Jammu and Kashmir in Context (before the Tom Lantos Human Rights Commission)
- **Issue Brief:** The Religious Freedom Implications of the National Register of Citizens in Assam
- **Factsheet:** The Citizenship (Amendment) Act in India

INDIVIDUAL VIEWS OF COMMISSIONER GARY L. BAUER

I must dissent from the decision of my fellow Commissioners to recommend India, the world's largest democracy, for designation as a "country of particular concern," or CPC, placing India in a gallery of rogue nations in which it does not belong.

The trend line on religious freedom in India is not reassuring. But India is not the equivalent of communist China, which wages war on all faiths; nor of North Korea, a prison masquerading as a country; nor of Iran, whose Islamic extremist leaders regularly threaten to unleash a second Holocaust.

India is our ally. A young democracy, it only gained its sovereign freedom in 1947. I hope and pray India's leaders will resist the impulse to punish or restrict any of their citizens based on faith. The United States should raise our concern over restrictions on religious liberty in all bilateral communications and negotiations with India, as allies do. I am deeply concerned that this public denunciation risks exactly the opposite outcome than the one we all desire.

In conclusion, a brief word about our times. Increasingly, nation states are confronting a fundamental choice between two diametrically opposed visions of governance.

One recognizes that all human beings have equal dignity, value and worth. The United States believes this is so because we are made in the image of God. Countries following this vision believe in freedom, including the most fundamental freedom of all – freedom of religion.

Communist China aggressively promotes an alternative that allows some economic liberty but demands that all other loyalties of the heart and soul be replaced by loyalty to the state.

I am confident that India will reject any authoritarian temptation and stand with the United States and other free nations in defense of liberty, including religious liberty.

INDIVIDUAL VIEWS OF COMMISSIONER TENZIN DORJEE

I want to express my concerns about the CAA, as all persecuted religious minorities deserve the same treatment. I also dissent from the recommendation that India should be designated as a "country of particular concern," or CPC. India does not belong to the same category as authoritarian regimes like China and North Korea. India is the largest democratic nation in the world, where the CAA has been challenged openly by the opposition Congress Party and law makers, civil society, and various groups. By and large, the press freely reported both anti-and pro-CAA voices and chief ministers of states such as Kerala decided not to implement the CAA. The Supreme Court of India has been asked to adjudicate on its constitutionality. India is a free and open democratic society that allows for all possibilities; therefore, India is not a CPC country.

India is also an ancient, multifaith civilization where for the most part multiple faith groups respectfully and peacefully have co-existed for centuries. I am not oblivious to the worst interreligious conflicts and the partition of India. However, as major news sources reported, even during the violence over the CAA, Sikhs, Muslims, and Hindus protected each other's homes and places of worship from mob violence and held interfaith ceremonies. As Tibetan refugees, we enjoyed complete religious freedom in India that is non-existent in Tibet and China. Recently, I was on a personal pilgrimage to major Buddhist holy sites in India and saw Hindus, Muslims, and other faiths enjoying religious freedom at their places of worship, shops, and homes. India and the United States are vital strategic partners. As I exit USCIRF as a Commissioner, I highly recommend constructive engagement among India, the U.S. government, and USCIRF to advance mutual interests including religious freedom and human rights.

INDIVIDUAL VIEWS OF COMMISSIONER JOHNNIE MOORE

I am gravely concerned that political and inter-communal strife will be further exacerbated by religious tensions, yet I am also heartened that India remains the world's largest democracy, governed by a pristine constitution, and I am also encouraged that this great nation is a tremendous friend and ally of the United States. It is also a nation that is the very definition of diverse. My hope, and my prayer, is that India's still-young, and freewheeling, democracy will give way to an ever-brighter future through these challenges, for all of its citizens, whatever their religion or political affiliation. I am rooting for India's institutions to draw upon her rich history in order to pull her through the present time. India also happens to be a country that I have loved for all of my adult life. It is a country I love because of its pluralism and because of the transformative impact it has had on my own life through my many visits (and visits to vibrantly religious places in Varanasi, Old Delhi, Amritsar, Dharamsala, Agra, Ajmer, Hyderabad, Kolkata, throughout Kerala, and many other places).