

DREXEL LAW REVIEW

THOMAS R. KLINE SCHOOL OF LAW

VOLUME 16

2024

ISSUE 4

ARTICLE

AN ACADEMIC CONFERENCE, A BOMB THREAT, AND A TITLE VI COMPLAINT: U.S. HINDU NATIONALIST GROUPS' LITIGIOUS ASSAULT ON ACADEMIC FREEDOM

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ABSTRACT

This Article outlines the rising threat to academic freedom from Hindutva (Hindu nationalist) organizations in the United States. The Article explores how the Hindu nationalist playbook in the United States works, the legal strategies they use to target scholars with whom they disagree, how they leverage social justice mechanisms for redress of grievances, and the broader endgame of these tactics. The Hindu Right both inside and outside of India has long sought to control and shape the content on Hinduism in educational institutions, media narratives, and increasingly, through the legal system. For example, in 2006, Hindutva groups filed suit in California in an effort to prevent

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teaching about caste as a core element of Hinduism in K-12 textbooks ; in the midst of the ensuing controversy, academics involved with that curricular revision were subjected to a systematic campaign of targeted harassment. Since then, groups such as the Hindu American Foundation (HAF), Hindu Svayamsevak Sangh (HSS), and Vishwa Hindu Parishad-America (VHPA), along with their affiliated student organizations, have used the legal system repeatedly as part of their broader efforts to shut down academic inquiry on Hinduism and Hindutva within academic spaces.

This Article focuses on HAF’s Title VI complaint against the University of Pennsylvania for its sponsorship of a 2021 academic conference, titled Dismantling Global Hindutva, which explored the global threat of Hindu nationalism. The conference was attacked by both domestic and international Hindu nationalist organizations through letter writing campaigns, harassment of university sponsors of the conference, speakers, and organizers. In the past five years, HAF has filed (and often lost) lawsuits against academics, state and local government officials, and faith-based organizations and leaders, ostensibly seeking to represent Hindu interests. However, as the Title VI complaint suggests, these activities risk creating a chilling effect on academic discourse by characterizing academic critiques of Hindu majoritarianism/nationalism, casteism, and Islamophobia as “Hinduphobic” and thereby facilitating targeted harassment of scholars who advance those critiques.

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INTRODUCTION

“Bomb threats, death threats, and rape threats.” This was the response I provided to a *Washington Post* reporter when asked about the kinds of threats¹ organizers had received in relation to an online academic conference, “Dismantling Global Hindutva: Multidisciplinary Perspectives,” which took place September 10–12, 2021.² Hindutva (Hindu nationalism) conventionally refers to the political ideology of Hindu nativism and exclusivity that recasts the multiethnic, multifaith Indian subcontinent as a homeland for Hindus.³ More broadly, this ideology holds—controversially, at a minimum—that Indians are culturally and ethnically Hindu regardless of other religious or cultural affiliations they may hold.⁴ The conference organizers received an email that read, “If this event will take place then I will become Osama bin Laden and will kill all the speakers, don’t blame me.”⁵ Conference speakers also received emails containing veiled statements to do harm, including one in which a picture of keynote speaker Meena Kandasamy’s child was posted online alongside a direct death threat.⁶ Some

1. Niha Masih, *Under Fire from Hindu Nationalist Groups, U.S.-Based Scholars of South Asia Worry About Academic Freedom*, WASH. POST (Oct. 3, 2021, 4:00 AM), <https://www.washingtonpost.com/world/2021/10/03/india-us-universities-hindutva/> [https://perma.cc/Nr6N-Q2PP].

2. *Dismantling Global Hindutva: Multidisciplinary Perspectives*, DISMANTLING GLOB. HINDUTVA, <https://dismantlinghindutva.com> [https://web.archive.org/web/20210924143048/https://dismantlinghindutva.com].

3. Ariel Sophia Bardi, *How ‘Hindutva’ Recast Multi-Faith India as the Hindu Homeland*, AEON (Oct. 24, 2017), <https://aeon.co/ideas/how-hindutva-recast-multi-faith-india-as-the-hindu-homeland> [https://perma.cc/A759-V727].

4. *See id.*; *see also Who Is a Hindu?*, VISHWA HINDU PARISHAD OF AM., <https://www.vhp-america.org/about-vhpa/who-is-a-hindu/> [https://perma.cc/45Y2-YJ9T] (explaining that religious Hindus are merely a subset of the Hindu population). Most scholars view the position that Indians are necessarily Hindu to be inaccurate. Several sources could be cited here; I have included some recent work. *See generally* EAMON MURPHY, *HINDU NATIONALISM AND TERRORISM IN INDIA: THE SAFFRON THREAT TO DEMOCRACY* (2023); CHRISTOPHE JAFFRELOT, *MODI’S INDIA: HINDU NATIONALISM AND THE RISE OF ETHNIC DEMOCRACY* (Cynthia Schoch trans., 2021); CRAIG MARTIN, *A CRITICAL INTRODUCTION TO THE STUDY OF RELIGION* (2d ed. 2017).

5. Dheepa Sundaram, *Hindutva 2.0: How a Conference on Hindu Nationalism Launches a Change in Strategy for North American Hindutva Organizations*, 90 J. AM. ACAD. RELIGION 809, 809 (2023) [hereinafter Sundaram, *Hindutva 2.0*].

6. Hannah Ellis-Petersen, *Death Threats Sent to Participants of US Conference on Hindu Nationalism* (Sept. 9, 2021, 9:47 AM), <https://www.theguardian.com/world/2021/sep/09/death-threats-sent-to-participants-of-us-conference-on-hindu-nationalism> [https://perma.cc/A9DS-YULN];

organizers believed that their families in India were being pressured financially (e.g., pensions withheld, employment threatened, etc.) because of their involvement with the conference.⁷

Despite the immense pressure from Hindu Right groups both within the United States and abroad, the conference proceeded and garnered more than 30,000 unique impressions on YouTube.⁸ Why did an academic conference provoke such vitriolic response from Hindu groups? The threats of violence that conference organizers and speakers received suggests the weaponization of what scholar of public culture Arun Chaudhari describes as “anxious futurism” or how U.S. Hindu communities grapple with a sense of belonging that was shaped in part by a “narrative of Hindu persecution.”⁹ While Chaudhari spoke of American Hindu activism in the early 2000s, U.S. Hindu Right groups’ recent organized assault on an academic conference on Hindutva suggests that: (1) concerns regarding who speaks for Hinduism have grown in intensity since the early years of Hindu activism; and (2) strategic confluences of Hinduism and Hindutva to suggest criticism of the latter constitutes impugning the former have become a central aspect of U.S. Hindu Right groups’ advocacy campaigns.¹⁰ Hindu Right groups in the United States have foregrounded these concerns and shrouded them in the language and framing of social justice to advance Hindu supremacist beliefs while aligning with a Hindu nationalist agenda, particularly within academic and educational spaces. Increasingly, U.S. Hindu Right groups

Maktoob, *From Sanatana Dharma to Sangh Parivar* | Dr. Meena Kandasamy |

Dismantling Global Hindutva Conference, YOUTUBE (Sept. 13, 2021),

<https://www.youtube.com/watch?v=usN3b4bBNMA&t=3s> [<https://perma.cc/35XL-2CKJ>].

7. I served on the ad hoc organizing committee for the Dismantling Global Hindutva: Multidisciplinary Perspectives Conference; this statement is also based on my conversations with other organizers.

8. See Susan Snyder, *A Hindu Foundation Has Filed a Complaint Against University of Pennsylvania, Saying an Online Conference Perpetuated Stereotypes*, PHILA. INQUIRER (Oct. 17, 2021, 5:00 AM), <https://www.inquirer.com/news/hindu-foundation-penn-civil-rights-complaint-hindutva-20211017.html> [<https://perma.cc/KH95-VPR4>]; Sundaram, *Hindutva 2.0*, *supra* note 5.

9. Arun Chaudhari, *American Hindu Activism and the Politics of Anxiety* 95 (Sept. 2012) (Ph.D., dissertation, York University) (on file with *Drexel Law Review* and Archives Canada).

10. See *id.* at 71, 231.

have turned to litigation and other forms of legal advocacy to advance this agenda.¹¹

This Article shows how the litigious responses of Hindu nationalist groups in the United States emerge from the lengthy history of these groups' campaigns against academics with whom they disagree, their assaults on critiques of casteism and Islamophobia, and their attempts to rewrite, and in some cases efface, historically-grounded understandings of Hinduism and Hindutva. Further, the Article situates the legal advocacy of the U.S. Hindu Right within the broader assaults on academic freedom and diversity, equity, and inclusion measures. The increasing litigiousness of the U.S. Hindu Right, particularly with respect to educational spaces, has resulted in a significant threat to academic freedom, open inquiry, and discussion of matters related to Hindutva and Hinduism. To provide context for these developments, Part I offers a brief overview of Hindutva, the development of U.S. Hindutva organizations, and why Hindutva-aligned organizations in the United States found an academic conference threatening. In Part II, the Article historicizes "Yankee Hindutva," U.S. Hindu and Hindutva political activism, and the major controversies over depictions of Hinduism in textbooks in California in 2006. Part III discusses the litigious history of these groups, and Part IV analyzes a recent complaint under Title VI that these groups have filed against the University of Pennsylvania. In Part V, the Article compares these attacks on academic inquiry on Hindutva and caste with conservative legal assaults on diversity, equity, and inclusion policies and "wokeness." The conclusion examines how U.S. Hindutva groups seek to develop and position community members and student groups as the face of the movement.

11. Recently, the Hindu American Foundation launched a web platform devoted solely to chronicling their legal advocacy efforts and actions. *HAF Legal Advocacy, 2004–Today*, HINDU AM. FOUND., <https://www.hinduamerican.org/projects/legal-advocacy> [<https://perma.cc/3enp-8xrf>].

I. WHAT IS HINDUTVA?

Hindutva, or Hindu nationalism, conventionally refers to the political ideology of Hindu nativism and exclusivity that recasts the multiethnic, multifaith Indian subcontinent as a homeland for Hindus.¹² More broadly, this ideology holds that Indians are culturally and ethnically Hindu regardless of other religious or cultural affiliations they may hold.¹³ Though associated with the Bharatiya Janata Party (“BJP”), a political party that emerged in the 1980s,¹⁴ and its antecedent and companion organization, the Rashtriya Swayamsevak Sangh (“RSS”),¹⁵ Hindutva’s origins trace to V.D. Sarvarkar’s *Essentials of Hindutva*, written in the 1920s.¹⁶ Sarvarkar, a colonial-era Hindu nationalist, popularized the concept of “Hindutva” and argued that “Hindus are not merely the citizens of the Indian state because, they are united not only by the bonds of the love they bear to a common motherland but also by the bonds of a common blood. They are not only a Nation [*rāṣṭra*] but also a race-*jāti*.”¹⁷ Sarvarkar’s Hindutva later morphed into the political movement seen in contemporary India that historian Romila Thapar describes as a “syndicated Hinduism,” a simplified, homogeneous Hinduism that selectively suppresses and manages its highly

12. See Bardi, *supra* note 3.

13. See *id.*; S. Asia Scholar Activist Collective, *What Is Hindutva? HINDUTVA HARASSMENT FIELD MANUAL*, <https://www.hindutvaharassmentfieldmanual.org/defininghindutva> [<https://perma.cc/6MY5-RHTL>] (Aug. 2023).

14. Eviane Leidig & Cas Mudde, *Bharatiya Janata Party (BJP): The Overlooked Populist Radical Right Party*, 22 J. LANGUAGE & POLS. 360, 363 (2023).

15. Bridge Initiative Team, *Factsheet: Rashtriya Swayamsevak Sangh (RSS)*, GEO. UNIV., <https://bridge.georgetown.edu/research/factsheet-rashtriya-swayamsevak-sangh-rss/> [<https://perma.cc/6RNN-9YGE>] (Oct. 13, 2022). The RSS is an Indian paramilitary organization founded in 1925 by K.B. Hedgewar that drew inspiration from Italian fascism. *Id.* Their global wing is the Hindu Swayamsevak Sangh, and they are also connected to Sewa International, a global humanitarian organization. Bridge Initiative Team, *Factsheet: Hindu Swayamsevak Sangh (HSS)*, GEO. UNIV. (Jan. 4, 2024), <https://bridge.georgetown.edu/research/factsheet-hindu-swayamsevak-sangh-hss/> [<https://perma.cc/6EYS-KMFB>].

16. VINAYAK DAMODAR SAVARKAR, *ESSENTIALS OF HINDUTVA* 84 (1923). There are some inconsistencies regarding the title and the author’s name, as the 1923 text originally identifies Savarkar as the author from the pseudonym “A Maratha” and the title was changed to *Hindutva: Who Is a Hindu?* in later reprints of the same text. VINAYAK CHATURVEDI, *HINDUTVA AND VIOLENCE: V. D. SAVARKAR AND THE POLITICS OF HISTORY* 6–8 (2022).

17. SAVARKAR, *supra* note 16, at 73.

complex internal differences.¹⁸ Early leaders such as M.S. Golwalkar,¹⁹ who took over RSS leadership in 1940, modeled their organizational structure on Italian fascism.²⁰ Other Hindutva ideologues have also idolized Nazis.²¹

In India, the RSS partners with a family of other cultural organizations, such as the Vishwa Hindu Parishad (“VHP”), and affiliated student groups, such as the Akhil Bharatiya Vidyalaya Parishad (“ABVP”), to inculcate Hindutva ideology.²² The RSS and VHP established affiliate cultural organizations in the United States, including Vishwa Hindu Parishad America (“VHPA”), founded in 1970, and the Hindu Swayamsevak Sangh-US (“HSSUS”), founded in 1989.²³ The apolitical stance (within the U.S. context) of these organizations appealed to first-generation Indian immigrants but less so to second and third generations. In this sense, HAF’s founding in 2003, along with the Coalition of Hindus of North America’s (“CoHNA”) inception in 2020, illustrate the adaptations Hindutva organizations in the United States have made in order to capture the interest of an increasingly progressive, young Hindu populace

18. See Romila Thapar, *Syndicated Hinduism*, INDIAN CULTURAL F. (Feb. 21, 2018), <https://indianculturalforum.in/2018/02/21/syndicated-hinduism-romila-thapar/> [<https://perma.cc/Y58U-5EFK>] (tracing the modern syndication of Hinduism in part to the influence of Christianity and monotheism at large).

19. Golwalkar not only learned from the organizational structure of Mussolini’s Brown Shirts, but he also viewed Hitler’s “purging of the country of the Semitic races—the Jews” as an expression of “[r]ace pride at its highest [and] . . . a good lesson for . . . Hindustan to learn and profit by.” Bridge Initiative Team, *Factsheet: Rashtriya Swayamsevak Sangh (RSS)*, *supra* note 15.

20. See Bridge Initiative Team, *Factsheet: Rashtriya Swayamsevak Sangh (RSS)*, *supra* note 15; see also Marzia Casolari, *Hindutva’s Foreign Tie-up in the 1930s: Archival Evidence*, 35 *ECON. & POL. WKLY.* 218, 218–28 (2000) (explaining the Hindu nationalists’ ties to fascism throughout the 1930s and 1940s).

21. See Aadita Chaudhury, *Why White Supremacists and Hindu Nationalists Are So Alike*, *ALJAZEERA* (Dec. 13, 2018), <https://www.aljazeera.com/opinions/2018/12/13/why-white-supremacists-and-hindu-nationalists-are-so-alike> [<https://perma.cc/G7WR-UY58>].

22. Bridge Initiative Team, *Factsheet: Vishwa Hindu Parishad of America (VHPA)*, *GEO. UNIV.* (May 25, 2023), <https://bridge.georgetown.edu/research/factsheet-vishwa-hindu-parishad-of-america-vhpa/> [<https://perma.cc/FTV5-LM8S>]; Padmaja Nair, *Religious Political Parties and Their Welfare Work: Relations Between the RSS, the Bharatiya Janata Party and the Vidya Bharati Schools in India* 26, 32 (U.K. Dep’t for Int’l Dev., Working Paper No. 37, 2009).

23. Bridge Initiative Team, *Factsheet: Vishwa Hindu Parishad of America (VHPA)*, *supra* note 22; Bridge Initiative Team, *Factsheet: Hindu Swayamsevak Sangh (HSS)*, *supra* note 15.

that also feels isolated from its culture, faith, and traditions.²⁴ To this point, these groups have sought to situate “Hinduphobia,” or the idea that Hindus face systemic discrimination as a result of their religious beliefs, as a prominent social justice concern. The coordinated assault on the *Dismantling Global Hindutva* (“DGH”) conference suggests that this strategy has merit and that U.S. Hindutva-aligned organizations have attained greater social, economic, and political power.²⁵

The attacks on the DGH conference by HAF and its supporters appeared less to involve a defense of Hinduism than an attempt to hold onto a bounded, static, discrete, and ahistorical Hindu identity that many other Hindus contest and disavow.²⁶ The conference threatened this identity by analyzing how Hindutva ideology profits from Hindu traditions and beliefs, “capitalize[s] on social hierarchies, exacerbate[s] discrimination towards marginalized communities, engage[s] in religious supremacism, and reinforce[s] patriarchal structures.”²⁷ The conference “offered a holistic picture of the growing, global presence of Hindutva as well as strategies for resistance from both within and outside the academy.”²⁸ More than 30,000 people joined virtually to listen to the speakers talk about the global spread of Hindutva and its related harms.²⁹ Forcefully disagreeing with the views advanced by conference participants, Hindutva organizations sought to shut the conference down. In fact, HAF even sent a letter to the U.S. Department of

24. See Sundaram, *Hindutva 2.0*, *supra* note 5, at 810–12; *Our Story*, HINDU AM. FOUND., <https://www.hinduamerican.org/about> [<https://perma.cc/C6GQ-7A64>] (explaining that HAF was founded in 2003 to “advance[] the understanding of Hinduism to secure the rights and dignity of Hindu Americans”); Bridge Initiative Team, *Factsheet: Coalition of Hindus of North America (COHNA)*, GEO. UNIV. (July 27, 2023), <https://bridge.georgetown.edu/research/factsheet-coalition-of-hindus-of-north-america-cohna/> [<https://perma.cc/GP8K-AC74>].

25. See Sundaram, *Hindutva 2.0*, *supra* note 5, at 810.

26. See *id.*; Audrey Trushcke, *Hindutva’s Dangerous Rewriting of History*, 24 S. ASIA MUTLDISCIPLINARY ACAD. J. 1, 1–2 (2020).

27. See Sundaram, *Hindutva 2.0*, *supra* note 5.

28. *Id.*

29. *Id.*

Education, formally claiming that the University of Pennsylvania had violated Title VI by hosting the conference.³⁰

In the months leading up to the conference, Hindutva groups in the United States engaged in a campaign which sought to attack and discredit the conference's speakers, organizers, and sponsors.³¹ For example, HAF, CoHNA, and the Hindu Svayamsevak Sangh ("HSS") coordinated a massive letter-writing campaign that crashed servers at Drew University and overwhelmed administrators at many of the universities, colleges, and centers sponsoring the conference.³² At one level, such a response to an academic conference on Hindutva in the United States might seem disproportionate or bizarre—or even a niche concern. At another level, however, the response is notable insofar as it fits a "larger global pattern in which the delegitimization of universities is a pillar of far-right politics."³³

II. "YANKEE HINDUTVA" AND THE RISE OF HINDU ACTIVISM IN THE UNITED STATES

When Vijay Prashad and Biju Mathew first coined the term "Yankee Hindutva" in an article in 2000, they cited studies showing the Indian population in the United States was apolitically conservative and "uninterested in ideological matters" and wondered how the Hindu Right could attract support in such a community.³⁴ They surmised that the unique U.S. brand of Hindutva was "a response to US racism through the provision of support structures for Indian Americans who are at a social loss in the US . . . [and] the growth of Hindu nationalism

30. Letter from Hindu Am. Found. to Suzanne Goldberg, Acting Assistant Sec'y for C.R. & Randolph Wills, Deputy Assistant Sec'y for Enf't, U.S. Dep't of Educ. Off. of C.R. (Oct. 6, 2021), <https://www.hinduamerican.org/wp-content/uploads/2021/10/Title-VI-Complaint.University-of-Pennsylvania.100621.pdf> [<https://perma.cc/QV2V-QCQU>] [hereinafter HAF Letter to Dep't of Educ.].

31. Ellis-Petersen, *supra* note 6.

32. *Id.*

33. Supriya Gandhi, Rupa Pillai, Dheepa Sundaram & Audrey Truschke, *Intertwined History: Hindutva Attacks and the Study of Hinduism*, 90 J. AM. ACAD. RELIGION 785, 786 (2022).

34. Biju Mathew & Vijay Prashad, *The Protean Forms of Yankee Hindutva*, 23 ETHNIC & RACIAL STUD. 516, 517 (2000).

at ‘home.’”³⁵ Prashad and Biju explored the VHPA; three years after the publication of their article, HAF was founded.³⁶ More recently, in 2020, CoHNA emerged.³⁷ The cottage-industry style growth of U.S. Hindutva organizations coincides with growing political involvement of the Indian American community,³⁸ as indicated by its increasing political participation in U.S. electoral politics since 2008.³⁹ Moreover, these newer organizations have appeared to move away from the apolitical conservatism that characterized Hindu communities in the 1990s and early 2000s and have instead appeared to position themselves as advocates for vulnerable Hindus who need a political voice.⁴⁰

Beginning in 1995, the Hindu Right began harassing scholars of Hinduism (e.g., sexist language, bad-faith accusations, threats to employment/publication, and death threats) who were largely of non-South Asian descent at U.S. universities, some of whom were working in India.⁴¹ In the 2000s, these targeted campaigns shifted to emphasize claims that only

35. *Id.* at 518.

36. See *Our Story*, *supra* note 24.

37. Bridge Initiative Team, *Factsheet: Coalition of Hindus of North America (CoHNA)*, *supra* note 24.

38. See Sumitra Badrinathan, Devesh Kapur, Jonathan Kay & Milan Vaishnav, *Social Realities of Indian Americans: Results from the 2020 Indian American Attitudes Survey*, CARNEGIE ENDOWMENT FOR INT’L PEACE (June 9, 2021), <https://carnegieendowment.org/2021/06/09/social-realities-of-indian-americans-results-from-2020-indian-american-attitudes-survey-pub-84667> [<https://perma.cc/9ZRD-H5TS>].

39. See Vinod Janardhanan, *Political Participation of the Indian Diaspora in the USA*, 5 J. INT’L & GLOB. STUDIES 17, 25 (2013); see also Sumitra Badrinathan, Devesh Kapur & Milan Vaishnav, *How Will Indian Americans Vote? Results from the 2020 Indian American Attitudes Survey*, CARNEGIE ENDOWMENT FOR INT’L PEACE (Oct. 14, 2020), <https://carnegieendowment.org/2020/10/14/how-will-indian-americans-vote-results-from-2020-indian-american-attitudes-survey-pub-82929> [<https://perma.cc/Z3LC-4KGW>] [hereinafter Badrinathan et al., *How Will Indian Americans Vote?*] (explaining the rapidly growing Indian American population and the potential for the group’s large political influence).

40. See, e.g., Lavina Melwani, *Meet the Young Hindu American Foundation*, HINDUISM TODAY (Apr. 1, 2009), <https://www.hinduismtoday.com/magazine/april-may-june-2009/2009-04-meet-the-young-hindu-american-foundation/> [<https://perma.cc/C962-C6EF>] (demonstrating HAF’s involvement in American politics).

41. Audrey Truschke, *Hindu Supremacists in a White World*, 90 J. AM. ACAD. RELIGION 805, 805–06 (2023) [hereinafter, Truschke, *Hindu Supremacists in a White World*]; see S. Asia Scholar Activist Collective, *Timeline of Specific Incidents of Hindutva Harassment of Academics in North America* 90 J. AM. ACAD. RELIGION, 788, 788–92 (2022) [hereinafter S. Asia Scholar Activist Collective, *Timeline of Specific Incidents*].

“insider” Hindus could speak credibly about Hinduism.⁴² For example, conservative philanthropist and author Rajiv Malhotra prominently and repeatedly began to argue that scholars of Hinduism who were not themselves Hindu could not offer an authentic and empathetic understanding of the tradition. To be clear, Malhotra was advocating for Hindus who shared his views (e.g., on casteism as a colonial construct, Indian history, and Hindutva as a form of Hinduism) to produce such “authentic” scholarship. Such views, which can best be described as Hindu majoritarianism, garner significant levels of support within the Hindu Right.⁴³

The response to Malhotra’s critique of the study of Hinduism writ large was complicated. On the one hand, as many scholars have argued, white supremacy and Orientalist frameworks continue to shape religious studies scholarship, including who has access to study traditions like Hinduism.⁴⁴ On the other hand, the solution that requires being Hindu as a necessary qualification and prerequisite for academic study would likely stifle rather than advance scholarship on Hinduism. Pushback against Malhotra in academic spaces was not universal. Some scholars, sympathetic to Malhotra’s critiques, published an edited volume entitled *Invading the Sacred*, which purportedly sought to expose ethically questionable scholarship and underscore the need for an “insider” perspective on Hinduism that this volume claimed to offer.⁴⁵ This volume, which Malhotra

42. Truschke, *Hindu Supremacists in a White World*, *supra* note 41; see Dheepa Sundaram, *The Neocolonial Futurism of Hindutva*, IMMANENT FRAME (Nov. 23, 2022), <https://tif.ssrc.org/2022/11/23/the-neocolonial-futurism-of-us-hindutva/> [<https://perma.cc/9QN6-TJDA>] [hereinafter Sundaram, *The Neocolonial Futurism of Hindutva*]; S. Asia Scholar Activist Collective, *Timeline of Specific Incidents*, *supra* note 41.

43. See Sundaram, *The Neocolonial Futurism of Hindutva*, *supra* note 42.

44. See Malory Nye, *Decolonizing the Study of Religion*, 43 OPEN LIBRS. HUM. 1, 2 (2019); Richard King, *Orientalism and the Modern Myth of “Hinduism”*, 46 NUMEN 146, 146–149 (1999).

45. See Sundaram, *The Neocolonial Futurism of Hindutva*, *supra* note 42.

Rajiv Malhotra advances the view that academia denies critical thinking skills and that “a cartel of faculty” are teaching a “gospel called social justice,” a “religion” he believes has been exported to India. Malhotra’s earlier concerns about the need for “insiders” has been transformed into an indictment of “wokeness” and its danger for academic scholarship on Hinduism.

Id.

himself has intimated that he largely drafted himself, was positioned as counterpoint to what he and the contributors viewed as the problematic “psychoanalytic” critiques and approaches to Hinduism scholarship, a veiled reference to work of professors Wendy Doniger and Paul Courtright.⁴⁶ Malhotra and the contributors make several questionable claims in the volume, including that non-Hindu scholars lacked depth and cultural knowledge but were nevertheless validated as superior by what Malhotra calls “peer review cartels.”⁴⁷ Such “cartels,” according to Malhotra, lead to biased scholarship that fails to account for the Hindu insider’s lived experience of the tradition.⁴⁸ These claims, while perhaps compelling to some Hindu practitioners, were not necessarily rooted in sound scholarly work. Rather, this volume appeared to be an effort to cloak ideologically driven efforts to chill academic freedom and advance majoritarian views of what constitutes authentic Hinduism in a scholarly veneer. After the release of this volume, Malhotra has published two books that attack the U.S. academy as invested in a plot to

46. Namya Sinha, *I Coined The Term Hinduphobia; No One Acknowledged The Prejudice Against Hinduism: Author Rajiv Malhotra*, TIMES NOW (India) (May 14, 2024), <https://www.timesnownews.com/lifestyle/books/features/i-coined-the-term-hinduphobia-because-while-there-was-much-discussion-about-islamophobia-and-anti-semitism-no-one-acknowledged-the-prejudice-against-hinduism-rajiv-malhotra-article-110123083> (interviewing and quoting Malhotra’s assertion that “[w]hile I had other people edit [*Invading the Sacred*], so their name is on the cover, it is a book about my thoughts and debates”); see KRISHNAN RAMASWAMY, ANTONIO DE NICOLAS, & ADITI BANERJEE, *INVADING THE SACRED: AN ANALYSIS OF HINDUISM STUDIES IN AMERICA* (2007). The book’s introduction, titled “Why This Book Is Important,” engages in a critique of the American Academy of Religion’s Section on Religions of South Asia and its influence over scholarship on Hinduism:

This book argues that the discipline has been shaped by preconceived Eurocentric categories that are assumed to be universal by Western syndicated research. Most internal criticism or ‘peer-review’ comes from among scholars who are interrelated in different ways, and it largely excludes practitioners of Hinduism. The producers and distributors of this specialized knowledge supposedly comprise a sort of closed, culturally insular cartel, which has disastrous consequences for original thinking about India and Hinduism.

RAMASWAMY ET AL., *supra*, at 3. It should be noted that most scholars of South Asia do not find the vast majority of critiques advanced in this volume credible or supported by sound scholarly analysis.

47. *Id.*

48. *Id.* Interestingly, the book’s introduction erroneously credits Malhotra with coining the term “Hinduphobia,” though he may be the first to apply it to the academic study of Hinduism in the United States.

destroy India by exporting Western notions of social justice which he believes are functioning as modern methods of colonization.⁴⁹

In this sense, the arguments being advanced by Malhotra and organizations such as the VHPA and HSS, particularly since 2009, appear to have become more explicitly politically conservative than those advanced by Hindutva groups in earlier periods.⁵⁰ While perhaps not directly comparable, it is striking that, like conservative Christian groups in the United States, which have moved noticeably to the right, Hindutva-aligned organizations such as the VHPA, HSS, and now HAF and CoHNA, have found common cause with conservative and right-wing groups focused on issues of religious freedom and free speech, particularly on college campuses.⁵¹ For example, in an episode of Malhotra's podcast he directly compares "break India" and "break America" forces through the lens of "wokeness" with guest speaker Peter Boghossian, who is

49. See, e.g., RAJIV MALHOTRA & VIJAYA VISWANATHAN, *SNAKES IN THE GANGA: BREAKING INDIA 2.0* (2022); RAJIV MALHOTRA & ARAVINDAN NEELAKANDAN, *BREAKING INDIA: WESTERN INTERVENTIONS IN DRAVIDIAN AND DALIT FAULTLINES* (2012); see also Infinity Foundation Official, *Harvard: A Social Justice Madrassa? Peter Boghossian & Rajiv Malhotra*, YOUTUBE, at 3:00–6:00 (Jan. 21, 2024), <https://youtu.be/k5ehBQJhFMQ?si=07xnndi8-yD6Nsnf> [<https://perma.cc/DGY7-L2KF>] (discussing how Malhotra's book allegedly exposes how "this axis of leftists and Islam" at Harvard tries to fill Indian academia with "Hindu haters" and "Jewish haters"); *Indra's Net*, RAJIV MALHOTRA, <https://www.rajivmalhotra.com/product/indras-net> [<https://perma.cc/JE5Q-LUW8>] (describing another of his books as a "rejoinder" to university academics' "slanderous thesis [that] is feeding the view that Hinduism is an illegitimate façade with oppressive motives").

50. See, e.g., *Hindutva and the Shared Scripts of the Global Right*, IMMANENT FRAME, <https://tif.ssrc.org/category/exchanges/hindutva-and-the-shared-scripts-of-the-global-right/> [<https://perma.cc/3AMJ-PP5H>] (discussing the various ways and reasons right-wing politics and Hindutva "feed into each other" and "may even reinforce each other even as they also diverge").

51. Compare *The George Washington University Tramples Free Speech, Ignores Context in Suspending Student for Indian Swastika Posting*, FOUND. INDIVIDUAL RTS. EDUC. (Apr. 28, 2015), <https://www.thefire.org/news/george-washington-university-tramples-free-speech-ignores-context-suspending-student-indian> [<https://perma.cc/B7NZ-N6PN>] (reporting how the Foundation for Individual Rights in Education and HAF used a free speech challenge to defend posting an Indian swastika in a university dorm common area), with Henry Larson & Francesca D'Annunzio, *A Group of Far-Right Christian Lawmakers Aims to Merge Church and State*, AZ MIRROR (Sept. 11, 2023), <https://azmirror.com/2023/09/11/a-group-of-far-right-christian-lawmakers-aims-to-merge-church-and-state/> [<https://perma.cc/Y22J-XTA5>] (describing how a far-right group of religious lawmakers have used free speech challenges like *Kennedy v. Bremerton*, 597 U.S. 507 (2022), to advance "Christian views into law").

known for quitting a faculty position at Portland State due to the constraints of diversity, equity, and inclusion (“DEI”) policies.⁵² Malhotra and other members of these conservative movements oppose what they see as the parallel “woke” politics and anti-India forces that are fostered within social justice movements on the left, which often stand in solidarity with anti-caste and anti-Islamophobia movements in India.⁵³ In fact, the VHPA’s social media arm, HinduPACT, celebrated the recent Supreme Court decision striking down race-conscious admission practices at Harvard and the University of North Carolina, ostensibly in the name of equity for white and Asian students.⁵⁴

52. Sundaram, *The Neocolonial Futurism of Hindutva*, *supra* note 42 (discussing Infinity Foundation Official, *Is Critical Race Theory Breaking America? Rajiv Malhotra & Peter Boghossian*, YOUTUBE (Oct. 11, 2021), <https://youtu.be/clb477m25Lg> [<https://perma.cc/WZ96-6VYY>] [hereinafter Infinity Foundation Official, *Is Critical Race Theory Breaking America?*]).

53. Sundaram, *The Neocolonial Futurism of Hindutva*, *supra* note 42. Malhotra’s brand of Hindutva is on display in a podcast episode titled *Is Critical Race Theory Breaking America?* in which he and guest Peter Boghossian discuss how so-called woke politics are destroying the United States. Infinity Foundation Official, *Is Critical Race Theory Breaking America?*, *supra* note 52. Malhotra goes further to suggest students at elite institutions are being misled into thinking that social justice movements in the United States are transferrable or applicable to the Indian polity. See *id.* In a later podcast, also with Peter Boghossian, he argues such movements are being exported to India to maximize those movements’ growing importance on the global stage. Infinity Foundation Official, *Breaking America and Breaking India | Peter Boghossian & Rajiv Malhotra | Snakes in the Ganga*, YOUTUBE, at 10:30–15:00 (Oct. 16, 2022),

<https://www.youtube.com/watch?v=iWLZg2A1eEU> [<https://perma.cc/TZ3N-BF8Y>] [hereinafter Infinity Foundation Official, *Breaking America and Breaking India*]. When the Supreme Court recently banned the use of race-conscious admission in universities and colleges (i.e., affirmative action), the VHPA lauded this decision and suggested that India should follow suit and end caste-based “reservations” or government efforts to mitigate the harms of caste oppression by reserving positions in government jobs and state universities for those from caste oppressed and tribal communities. See Somdeep Sen, *Why the Hindu Right Opposes Affirmative Action in the US*, Aljazeera (Aug. 7, 2023), <https://www.aljazeera.com/opinions/2023/8/7/why-the-hindu-right-opposes-affirmative-action-in-the-us> [<https://perma.cc/V3WD-6TFJ>] (describing how the Hindu right has adopted the language and arguments against affirmative action in their arguments against caste reservation systems). Interestingly, the decision was also celebrated by Indian American candidate for the Republican presidential nomination, Vivek Ramaswamy. *Supreme Court’s Affirmative Action Decision Is a Step Forward, GOP Presidential Candidate Vivek Ramaswamy Says*, ABC NEWS (June 30, 2023, 1:19 PM), <https://abcnews.go.com/Politics/supreme-courts-affirmative-action-decision-step-forward-gop/story> [<https://perma.cc/K86W-LL8V>].

54. HinduPACT (@HinduPACT), X (June 29, 2023, 2:53 PM), <https://twitter.com/HinduPACT/status/1674491289897693208> [<https://perma.cc/9VFF-9Z2Y>] (“#RacialQuotas in ed. adversely impacted #IndianAmerican students. We welcome #AffirmativeAction ruling by the #SCOTUS. We advocate innovative ways to provide fair & equitable opportunities to historically discriminated communities.”).

Another important development during the last few decades has been the addition of multiple student-led organizations that have become the face of the U.S. Hindutva movement.⁵⁵ The Hindu Students Council (HSC), VHPA, and @hinduoncampus (an account on Twitter, or "X") have all acted as vocal allies of HAF and CoHNA, arguing that critiques of caste and Hindutva represent nefarious attempts to impugn Hinduism and Hindus.⁵⁶

The birth and evolution of HAF and CoHNA suggest that legitimate concerns about racial stigmatization, coupled with the desire to establish a "Hindu" cultural footprint in the United States, have fostered a burgeoning Hindu nationalist movement in America.⁵⁷ For example, in response to the Supreme Court's affirmative action decision, HAF's Executive Director took a different view than the VHPA, posting on X that "we need legal means to lift up black & brown communities."⁵⁸ Traditionally, Hindus in the United States have held progressive political positions but lagged behind other minoritized groups (e.g., Black and Jewish voters) in registering to vote and participating in the

55. Nikhil Mandalparthy, *100 Years Later, American Hindu Leaders Are Making the Same Mistakes*, THE WIRE (Sept. 6, 2021), <https://thewire.in/world/american-hindu-leaders-swami-trigunatita-hindutva-colonialism> [<https://perma.cc/9FVF-8NK9>].

56. See Audrey Truschke, *The Hindu Right in the United States*, OXFORD RSCH. ENCYC. OF AM. HIST. (2022) [hereinafter, Truschke, *The Hindu Right in the United States*]; see Mandalparthy, *supra* note 55.

57. See Mandalparthy, *supra* note 55 (explaining that some of the newly proliferated Hindu organizations display "ferocious opposition" to any critiques of Hindu nationalism).

58. Suhag A. Shukla (@SuhagAShukla), X (July 1, 2023, 1:15 PM), <https://twitter.com/SuhagAShukla/status/1675191528967270400> [<https://perma.cc/GL8B-CYSR>] ("SCOTUS just ruled that Harvard's admission policies discriminated against Asian Americans based on their race. So we need legal means to lift up black & brown communities. What is [Senator Wahab's] plan? Hey, let's target Asian Americans based on a made up category—caste.") This post is notable in that it both critiques the decision and pivots to criticize efforts to pass an anti-discrimination law in California. *Id.* This law, despite passing easily through the legislature, was vetoed by Gavin Newsom, who claimed that protections against caste discrimination are contained within existing law, echoing an argument advanced by Hindu Right groups who opposed this bill. Harmeet Kaur & Chandelis Duster, *California Governor Vetoes Bill that Would Ban Caste Discrimination*, CNN, <https://www.cnn.com/2023/10/09/us/california-caste-discrimination-bill-veto/index.html> [<https://perma.cc/5X4W-3G5Y>] (Oct. 9, 2023, 5:59 PM); Sameea Kamal, *Newsom Blocks A Bill to Ban Caste Discrimination in California*, CAL. MATTERS (Oct. 10, 2023), <https://calmatters.org/politics/2023/10/caste-discrimination-newsom/> [<https://perma.cc/CTJ2-8DYY>] (stating that the vetoed bill "passed the Assembly by a 55-3 vote in late August, and the Senate 31-5").

political process.⁵⁹ However, since 2000, Indian Americans have become more politically active and now constitute a solid voting bloc for Democrats,⁶⁰ particularly in states like Georgia and Arizona, where Asian populations are increasing.⁶¹ Since many current elected leaders who identify as South Asian, Indian, or Hindu are Democrats, and much of the political activism within Indian American communities has taken place in progressive political spaces,⁶² the more traditional, conservative-leaning,

59. Compare Badrinathan et al., *How Will Indian Americans Vote?*, *supra* note 39 (claiming Indian Americans remain mostly Democratic-leaning in modern elections), and *Party Affiliation Among Hindus*, PEW RSCH. CTR., <https://www.pewresearch.org/religion/religious-landscape-study/religious-tradition/hindu/party-affiliation/> [<https://perma.cc/7CZY-W7WP>] (finding that most Hindus are Democrats), with Jeff Manza & Clem Brooks, *The Religious Factor in U.S. Presidential Elections*, 103 AM. J. SOCIO. 38, 61 (1997) (finding that Jewish voters were the most politically engaged religious group); and Abby Budiman, *Key Facts About Black Eligible Voters In 2020 Battleground States*, PEW RSCH. CTR. (Oct. 21, 2020), <https://www.pewresearch.org/short-reads/2020/10/21/key-facts-about-black-eligible-voters-in-2020-battleground-states/> [<https://perma.cc/264S-DVGH>] (finding that, since 2000 at least, Black voters have had very high turnout rates relative to other groups).

60. See *Indian-Americans More Tilted Towards Democrats, Says Author Sangay K Mishra*, ECON. TIMES, <https://economictimes.indiatimes.com/nri/nris-in-news/indian-americans-more-tilted-towards-democrats-says-author-sangay-k-mishra/articleshow/51792372.cms> (Apr. 12, 2016, 2:25 PM) [<https://perma.cc/A3GB-2ZXR>]; Badrinathan et al., *How Will Indian Americans Vote?*, *supra* note 39.

61. See *How Hindus Grew into Second Largest Faith in Arizona & Delaware*, NBC NEWS, <https://www.nbcnews.com/news/asian-america/how-hindus-grew-second-largest-faith-arizona-delaware-n139401> [<https://perma.cc/3HZU-PDK7>] (June 24, 2014, 12:28 PM) (Arizona). A growing number of South Asian American are part of voting publics in the South, in states like Virginia and Georgia, and in the West, in places like Arizona and Colorado. See Sabrina Tavernise & Robert Gebeloff, *How Voters Turned Virginia From Deep Red to Solid Blue*, N.Y. TIMES, <https://www.nytimes.com/2019/11/09/us/virginia-elections-democrats-republicans.html> [<https://perma.cc/T5CH-A8PV>] (Nov. 3, 2021); see also Lisa A. Sturtevant, *Virginia's Changing Demographic Landscape*, VA ISSUES & ANSWERS, https://www.jmu.edu/lacs/_files/Virginias-Changing-Demographic-Landscape.pdf [<https://perma.cc/F2NE-JEV5>]. See generally *2022 Asian American Voter Survey*, (Jul. 25, 2022), <https://apia-vote.org/wp-content/uploads/2022-Asian-American-Voter-Survey-Report.pdf> [<https://perma.cc/3W4K-EB27>].

62. See Jeet Heer, *The Divided Landscape of Indian American Politics*, THE NATION (Feb. 20, 2024), <https://www.thenation.com/article/society/the-divided-indian-american-political-landscape/> [<https://perma.cc/S58G-C3NB>] (noting that “there’s long been a significant component of left-wing activism”); Maggie Astor & Jill Cowen, *Indian Americans Rapidly Climbing Political Ranks*, N.Y. TIMES (Feb. 27, 2023), <https://www.nytimes.com/2023/02/27/us/politics/indian-american-politicians.html> [<https://perma.cc/PPY6-A9DU>]. Prominent conservative South Asian politicians such as Nikki Haley, Vivek Ramaswamy, and Bobby Jindal should not be overlooked. Notably, only Ramaswamy identifies as Hindu. Scaachi Koul, *Vivek Ramaswamy and the Scourge of the South Asian Model Minority*, SLATE (Nov. 9, 2023, 3:44 PM), <https://slate.com/news-and-politics/2023/11/vivek-ramaswamy-nikki-haley-gop-debate.html> [<https://perma.cc/7QVZ->

Hindu-centric approach to U.S. politics of groups like the VHPA seems to have become less appealing to younger Indian and Hindu Americans over time.⁶³

HAF, in many ways, was a product of this movement, emerging in 2003 and initially claiming to be a “progressive voice for over two million Hindus.”⁶⁴ However, on their current website, HAF describes their advocacy as “non-partisan and politically agnostic.”⁶⁵ The language of nonpartisanship appears strategic. In practice, this means that HAF often appears to leverage seemingly progressive values in certain spaces—particularly those that promote diversity, equity, and inclusion—to inculcate the narrative that U.S. Hindus are under threat from more than just racism, white supremacy, and anti-immigrant sentiment.⁶⁶ To this point, despite lacking evidence of systemic religious prejudice against Hindus in the United States,⁶⁷ HAF positions “Hinduphobia”⁶⁸ as a significant threat to U.S. Hindus, a position long held by more conservative Hindutva groups like the VHPA and a central focus for newer groups like CoHNA. Often, these groups use Hinduphobia framing to suggest that critiques of casteism, Islamophobia, Brahminism, and

Y68N]. There are also a growing number of conservative elected officials of South Asian descent in U.S. state and local offices. *See id.*

63. *See* Bridge Initiative Team, *Factsheet: Vishwa Hindu Parishad of America (VHPA)*, *supra* note 22.

64. *See* Hindu American Foundation Endowment, HINDU HERITAGE ENDOWMENT, https://www.hheonline.org/funds/fund_75.html [<https://perma.cc/NLU9-U6RT>]; *Our Story*, *supra* note 24.

65. *Who We Are*, HINDU AM. FOUND., <https://www.hinduamerican.org/about> [<https://perma.cc/BET6-HGFD>].

66. *See* Sundaram, *The Neocolonial Futurism of Hindutva*, *supra* note 42.

67. Hate Crime in the United States Incident Analysis, Federal Bureau of Investigation, <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime>.

68. *See* S. Asia Scholar Activist Collective, *Bad Faith Bias Claims*, HINDUTVA HARASSMENT FIELD MANUAL, <https://www.hindutvaharassmentfieldmanual.org/badfaith> [<https://perma.cc/398X-89JH>] (Aug. 2023). Hinduphobia is a term popularized by far-right Hindu groups to claim systematic and targeted discrimination against Hindus for being Hindu. *See id.* Most scholars see the term as problematic because it stifles academic inquiry and rests on the false notion that Hindus have experienced widespread, systemic discrimination globally and throughout history. *See id.* Notably, HAF defines Hinduphobia as “[a] set of antagonistic, destructive, and derogatory attitudes and behaviors towards Hinduism and Hindus that may manifest as prejudice, fear, or hatred.” *Hinduphobia*, HINDU AM. FOUND., <https://www.hinduamerican.org/hinduphobia> [<https://perma.cc/D9DN-VR6Q>].

Hindutva are hallmarks of systemic anti-Hindu sentiment and constitute a discriminatory attack on Hindus and Hindu religious practices.⁶⁹ Recently, HAF's position on Hinduphobia received a legislative boost from a group of Hindu members of Congress, led by U.S. Representative (D-MI) Shri Thanedar, who introduced a resolution seeking to recognize and condemn "anti-Hindu bigotry" and "attacks on Hindu places of worship," all laudable aims.⁷⁰ In practice, such a resolution likely does very little to protect Hindus from racism and bigotry. However, it could impact curricular choices regarding Hinduism nationwide, frustrate future anti-caste discrimination legislative efforts similar to the ordinance passed in Seattle, Washington in 2022, and curtail colleges and universities from adopting anti-caste discrimination policies such as those in place at several colleges and universities.⁷¹

III. CALIFORNIA TEXTBOOK CONTROVERSY

The concerns around curriculum have already resulted in conflicts between scholars and Hindu Right groups over how Hinduism should be taught, as seen in the textbook revision controversy that emerged in California in 2006.⁷² These interventions, ostensibly made to promote accurate and respectful portrayals of Hindus and Hinduism (e.g., downplaying

69. See Suhag Shukla, *Why the Hindu American Foundation Is Asking the Department of Education to Investigate Penn*, DAILY PENNSYLVANIAN (Nov. 4, 2021, 8:40 PM), <https://www.thedp.com/article/2021/11/upenn-hindu-american-hindutva-conference-investigation> [https://perma.cc/H456-3CPA]; S. Asia Scholar Activist Collective, *supra* note 13.

70. H.R. Res.1131, 118th Cong. (2024).

71. See generally Guha Krishnamurthi, *The Constitutionality of Prohibiting Caste Discrimination*, U. CHI. L. REV. (July 13, 2023), <https://lawreview.uchicago.edu/constitutionality-prohibiting-caste-discrimination> [https://perma.cc/NA9D-YJ4Y]; Ashok Danavath, *Universities in the U.S. are Finally Adding Caste to Their Non-discrimination Policy, But Is It Enough?*, AM. KAHANI (June 19, 2023), <https://americankahani.com/perspectives/universities-in-the-u-s-are-finally-adding-caste-to-their-non-discrimination-policy-but-is-it-enough/> [https://perma.cc/6AAE-5SNL].

72. See *Seeking Change in How Hinduism and Ancient India Are Taught in California*, HINDU AM. FOUND., <https://www.hinduamerican.org/california-textbooks-overview> [https://perma.cc/DQ4V-L7BL] (Mar. 4, 2024); *California Court Upholds Claim of Hindu American Foundation Regarding Illegal Process, but Retains Textbooks*, HARV. UNIV. (Sept. 1, 2006), <https://hwpi.harvard.edu/pluralism-archive/news/california-court-upholds-claim-hindu-american-foundation-regarding-illegal> [https://perma.cc/5QAL-E4V6].

Hinduism's role in the caste system and its harms and advancing Hindu-centric origin narratives of South Asia), effectively produce narratives that align with the cultural and ideological positions which undergird the Hindu nationalist project in India.⁷³

The initial flashpoint for this controversy involved Hindu Right groups (primarily the American Hindu Education Foundation ("HEF"), HAF, and the Vedic Foundation) objecting to the California State Board of Education's ("CSBE") revision of textbooks to reflect a more accurate and inclusive discussion of Hinduism and Indian history.⁷⁴ Notable proposed changes included: replacing references to "India" with "South Asia," adding discussions of caste and Hinduism, and removing a reference to the Saraswati River (mentioned in the Rig Veda),⁷⁵ which is believed to be holy by many Hindus.⁷⁶ HAF argued that such changes were historically inaccurate,⁷⁷ while the Vedic Foundation and HEF called such changes "demeaning and stereotypical."⁷⁸

HAF ultimately won its lawsuit on the procedural ground that the CSBE had failed to provide clear guidelines for commenting and submitting suggestions for curricular changes.⁷⁹ Despite HAF's legal victory, which had the effect of forcing CSBE to reform its guidelines for proposed textbook changes in the future, scholar of Asian American religion and culture Rupa

73. Purnima Bose, *Hindutva Abroad: The California Textbook Controversy* 2 THE GLOB. S. 11, 12, 15 (2008); see Old Writer, *India, South Asia, and Hindutva: What's Going on with California Textbooks?*, BERKELY POL. REV. (May 17, 2016), <https://bpr.berkeley.edu/2016/05/17/india-south-asia-and-hindutva-whats-going-on-with-california-textbooks/> [<https://perma.cc/YG83-7EZK>].

74. Old Writer, *supra* note 73.

75. Itika Sharma Punit, *Hindu Groups in California Oppose the Proposed Revisions to School Textbooks*, QUARTZ (Apr. 25, 2016), <https://qz.com/india/666103/hindu-groups-in-california-oppose-the-proposed-revisions-to-school-textbooks> [<https://perma.cc/5LZC-P9RS>].

76. C.P. Rajendran, *Sarawati: The River that Never Was, Flowing Always in the People's Hearts*, THE WIRE (Feb. 26, 2019), <https://thewire.in/the-sciences/the-saraswati-is-a-river-that-never-was-and-flowed-always-in-the-peoples-hearts> [<https://perma.cc/YJ6K-NUNW>].

77. *Seeking Change in How Hinduism and Ancient India Are Taught in California*, *supra* note 72.

78. Bose, *supra* note 73, at 15. Bose considers "the ideological transformations that accompany Hinduism's passage to the United States by using the 2005-2006 California textbook controversy." *Id.* at 11.

79. *Seeking Change in How Hinduism and Ancient India Are Taught in California*, *supra* note 72; *Hindu Am. Found. v. California State Bd. of Educ.*, No. 06 CS 00386 (Cal. Sup. Ct. 2006).

Pillai notes that the “efforts of academics, activists, and South Asian American parents advocating counter perspectives and arguing for a complicated understanding of the religion and the region” thwarted the Hindutva-aligned groups’ efforts to a considerable degree, as pluralistic descriptions of South Asian history were retained in the final curricular guidance.⁸⁰ Notably, Pillai situates the Hindu Right groups’ objections in a longer history of textbook controversies and argues that “such actors are building on tactics deployed by other conservative movements within the United States.”⁸¹ She notes that groups like the United Confederate Veterans (“UCV”) and the United Daughters of the Confederacy (“UDC”)—in ways that are similar to the efforts of Hindutva-aligned groups—have frequently objected to historical portrayals of the Civil War centered on slavery, calling instead for more “balanced” perspectives that “rationalize the war as a conflict over states’ rights rather than slavery, a shift in framing that would escape the ignominy attached to slavery.”⁸² While efforts to change textbook histories of the Confederacy initially failed, these groups changed tactics to more effectively lobby state governments to pass laws to support their versions of history. This led to statewide adoptions of textbooks and forced national publishers to cut objectionable sections to ensure their books could be used in the South.⁸³

Much like conservative activists seeking more favorable portrayals of the Confederacy, HAF also has sought to use legislative endeavors to force states to adopt their versions of Hindu history and culture. The procedural ruling HAF won in 2006 led to changes in soliciting public comment, all but guaranteeing HAF and other Hindutva-aligned groups a voice in future textbook changes. On cue, in 2016, the controversy made an encore appearance as the California textbooks were set to be revised again. In this case, HAF made similar arguments as it did in

80. Rupa Pillai, *Textbook Harassment: The Hindu Right’s Conservative Agenda to Whitewash History*, 90 J. AM. ACAD. RELIGION 801, 802 (2022).

81. *Id.* at 801.

82. *Id.*

83. *Id.* at 801–02.

2006, objecting to textbook changes that would discuss Brahmanism, use the historically accurate reference for the region, “South Asia,” and more robustly discuss caste atrocities within Hindu traditions.⁸⁴ HAF even advocates for “removing” what they view as “the common graphical misrepresentation of the ‘caste system’ as a pyramidal hierarchy.”⁸⁵ Notably, HAF claims Hindu Dalits (oppressed caste group) within their coalition supported such a change, that it was necessary to show the “complexity and evolution of caste,” and that it would ensure “contributions of Hindus of all backgrounds [are] acknowledged.”⁸⁶ Certainly, attending to caste as a complex, nuanced concern is a goal many South Asian scholars, activists, community and faith leaders, and parents share and would value.⁸⁷ However, HAF’s interventions reflect its tendency to cater to the social politics of its caste-privileged donors and constituents rather than an interest in equitable and accurate representation of Hinduism and Hindu communities.⁸⁸ Many scholars and progressive Hindu groups believe that HAF’s suggested changes eschew historical accuracy in favor of “Brahmin-washing” contentious traditions and beliefs pertaining to Hinduism and South Asia.⁸⁹

IV. HAF’S HISTORY OF LEGAL AND POLITICAL INVOLVEMENT

Statements by HAF’s founders and leaders offer interesting insights into how the organization has developed and evolved

84. See Punit, *supra* note 75. This emerges when examining the HAF’s recent legal complaints since 2020 which have targeted anti-caste discrimination measures in education, housing, and employment in California. See discussion *infra* Part III.

85. *Seeking Change in How Hinduism and Ancient India Are Taught in California*, *supra* note 72.

86. *Id.*

87. See Vina M. Goghari & Mavis Kusi, *An Introduction to the Basic Elements of the Caste System of India*, 14 *FRONTIERS IN PSYCH.* 1, 2–3 (2023) (discussing the complexity of the caste system).

88. See Truschke, *The Hindu Right in the United States*, *supra* note 56; Raju Rajagopal, *Gov. Newsom Put Concerns of Caste-Privileged Communities over Civil Rights*, *RELIGION NEWS SERV.* (Oct. 9, 2023), <https://religionnews.com/2023/10/09/gov-newsom-put-concerns-of-caste-privileged-communities-over-civil-rights/> [<https://perma.cc/8MLH-J3JL>]. Many of wealthy Indian donors to democratic politicians were thought to have pressured Governor Gavin Newsome to veto legislation passed by the California state legislature that would have explicitly banned caste discrimination. *Id.*

89. Punit, *supra* note 75.

over time. According to a statement by one of its founding members (and current executive director) in 2003 and noted earlier, HAF began as a self-consciously progressive Hindu advocacy organization focusing in three key areas: media, public policy, and academia.⁹⁰ She also emphasized that “[o]ver the years, each of these areas has matured as our mode of operation has evolved from reactive to proactive.”⁹¹ This early portrait of the HAF discussed the expenses of the 2006 lawsuit it filed against the CSBE, its concerns about financial solvency, and its values as an organization.⁹² In another communication around the same time, a founding HAF member (and current board member) describes the organization as filling a vacuum of leadership among U.S. Hindus, whom he described as being too focused “on things of the past, such as their caste, their community in India or traditions that were outdated” and not attending to “the important elements to sustain a healthy and vibrant Hindu-American community for the future: youth leadership, a culture of service and a commitment to progressive Hinduism.”⁹³

In recent years, however, HAF has characterized itself as non-partisan and committed to the “relentless pursuit of facts; deep consideration of Hindu principles and American values, such as pluralism, freedom, equality, and justice.”⁹⁴ While the language on its face seems inclusive, much like “diverse viewpoint” language in legislation seeking to discourage teaching about diversity, equity, and inclusion centered topics, HAF’s language belies its legal and curricular interventions which reflect an effort to inculcate a Hindu-centric worldview commensurate with Hindutva ideology. In this sense, it is notable that HAF no longer uses the word “progressive” to describe their mission and states on their website that they may support policy which aligns with conservative positions on issues of free

90. See Melwani, *supra* note 40.

91. *Id.*

92. *Id.*

93. *Id.*

94. *Our Story*, *supra* note 24.

speech and religious freedom.⁹⁵ To this point, their attempts to curb discussions within educational spaces of any topics HAF views to be “anti-Hindu,” including caste discrimination in U.S. Hindu communities, anti-Muslim politics in India, and Hindutva, mirror similar tactics by conservatives in Florida and Texas to restrict or whitewash discussions of slavery.⁹⁶ The organization appears to have shifted its approaches to shaping post-secondary education by seeking not only to leverage social justice frameworks in an effort to convince Hindu students that anti-Hindu hate has been growing, as they long have done, but also by claiming more forcefully that discrimination and bias against Hindus have been exacerbated by academic inquiry and discussions of Hindutva and caste, aligning with more conservative positions on public education.⁹⁷

In line with its stated mission,⁹⁸ much of HAF’s work has focused on religious freedom claims involving Hindus as well as other members of minority religious traditions. Indeed, since its founding in 2003, HAF has filed numerous *amici curae* briefs in federal cases,⁹⁹ mostly involving religious freedom concerns.¹⁰⁰

95. *Id.*

96. See discussion *supra* Section II.1. See Ileana Najarro, *Many States Are Limiting How Schools Can Teach About Race. Most Voters Disagree*, EDUC. WEEK (Oct. 30, 2023), <https://www.edweek.org/teaching-learning/many-states-are-limiting-how-schools-can-teach-about-race-most-voters-disagree/2023/10> [<https://perma.cc/KG66-RX39>].

97. See HAF *Reiterates Potential Threats for Hindus on Campus at Universities Sponsoring Dismantling Global Hindutva Conference*, HINDU AM. FOUND. (Aug. 27, 2021), <https://www.hinduamerican.org/press/potential-threats-hindus-at-universities-sponsoring-dismantling-global-hindutva> [<https://perma.cc/XB2Z-2UKN>].

98. *Serving the Hindu American Community Since 2003*, HINDU AM. FOUND., <https://www.hinduamerican.org/about> [<https://perma.cc/C6GQ-7A64>].

99. *HAF Legal Advocacy, 2004-Today*, HINDU AM. FOUND., <https://www.hinduamerican.org/projects/legal-advocacy> [<https://perma.cc/NAV8-HHD6>]. Due to limitations on research, this article focuses on *amici curae* HAF has filed in federal cases and legal complaints publicly available.

100. See, e.g., Brief for Americans United for Separation of Church & State et al. as Amici Curiae Supporting Appellees, *ACLU of Ohio Found., Inc. v. Deweese*, 633 F.3d 424 (6th Cir. 2011) (No. 09-4256) [hereinafter *Americans United ACLU Brief*] (alleging judicial courtroom displays are an endorsement of religion in violation of the Establishment Clause); Brief for Americans United for Separation of Church & State et al. as Amici Curiae Supporting Appellees, *Annex Med., Inc. v. Sebelius*, 2013 U.S. App LEXIS 2497 (8th Cir. Feb. 1, 2013) (No. 13-1118) [hereinafter *Americans United Annex Med. Brief*] (alleging a for-profit medical producer should not be exempt from the Religious Freedom Restoration Act); Brief for Anti-Defamation League et al. as Amici Curiae Supporting Appellees, *Bishop v. Smith*, 760 F.3d 1070 (10th Cir.

These briefs paint a picture of an organization that appears to be concerned primarily with the abrogation of the religious freedom rights of Hindus.¹⁰¹ Notably, before 2014, HAF's finances were modest, making filing expensive lawsuits challenging.¹⁰² However, an examination of the more recent federal and California lawsuits in which HAF has been involved reveal a somewhat different picture than the cases in which it has been involved simply as an *amicus*. Since 2006, HAF has been directly involved in eight lawsuits (including seven in which it served as a plaintiff or filed a motion to intervene); four of these lawsuits have been filed since 2020.¹⁰³ Four cases involved the state of California, of which three lawsuits focused on the state's

2014) (No. 14-5003, 14-5006) (alleging Oklahoma's marriage ban violates the Equal Protection Clause and the Establishment Clause, which if overturned, would allow religious groups to define marriage); Brief for Americans United for Separation of Church & State et al. as Amici Curiae Supporting Appellees, *Bishop v. Adams*, 2023 U.S. App. Lexis 17032 (4th Cir. July 6, 2023) (No. 22-1175) [Americans United Bishop Brief] (alleging Section 4 of the South Carolina Constitution violates the Equal Protection and the Free Exercise Clauses because its enactment was motivated by racial and religious discriminatory intent); Brief for Christian Legal Society et al. as Amici Curiae Supporting Appellees, *Thai Meditation Ass'n of Ala., Inc. v. City of Mobile*, 83 F.4th 922 (11th Cir. 2023) (No. 22-11674) (arguing that the court's interpretation undermines intent and "protection of religious conscience" in the Religious Land Use and Institutionalized Persons Act).

101. See, e.g., Americans United ACLU Brief, *supra* note 100; Americans United Annex Med. Brief, *supra* note 100; Brief for Anti-Defamation League, *supra* note 100; Americans United Bishop Brief, *supra* note 100; Brief for Christian Legal Society, *supra* note 100.

102. The steep expenses required for HAF's 2006 complaints against the CSBE illustrate the financial challenges of these legal strategies. See Melwani, *supra* note 40. Interestingly, 2014 is also the year that Indian Prime Minister Narendra Modi was elected to office. Many Hindu organizations in the West have worked to rehabilitate his image, including HAF. Bhavna Vij Aurora, *NRI Organisations Shoring up Support for Narendra Modi on Western Front, Especially in the US*, ECON. TIMES,

https://economictimes.indiatimes.com/news/politics-and-nation/nri-organisations-shoring-up-support-for-narendra-modi-on-western-front-especially-in-the-us/articleshows/34349681.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst [<https://perma.cc/MU33-NJV8>] (Apr. 30, 2014, 1:26 PM).

103. *Summers v. Adams*, 669 F. Supp. 2d 637 (D.S.C. 2009); Complaint, *In re Universal Health Care Grp., Inc. v. Hindu Am. Found., Inc.*, No. 8:13-bk-05952-KRM, 2015 U.S. Dist. LEXIS 86615 (M.D. Fla. July 2, 2015); Complaint, *MAZON: A Jewish Response to Hunger v. Dep't of Health & Hum. Servs.*, No. 1:21-cv-00475, 2021 WL 225403 (S.D.N.Y. Jan. 19, 2021); *Dep't of Fair Emp. & Hous. v. Cisco Sys., Inc.*, 297 Cal. Rptr. 3d 827 (Cal. Ct. App. 2022); *Hindu Am. Found. v. Viswanath*, 646 F. Supp. 3d 78 (D.D.C. 2022); *Hindu Am. Found., Inc. v. Kish*, No. 2:22-cv-01656-DAD-JDP, 2023 U.S. Dist. LEXIS 154414 (E.D. Cal. Aug. 30, 2023); *Kumar v. Koester*, No. 2:22-cv-07550, 2023 U.S. Dist. LEXIS 132566 (C.D. Cal. July 25, 2023). See *Seeking Change in How Hinduism and Ancient India Are Taught in California*, *supra* note 72, for details on HAF's legal action against the California Board of Education, beginning in 2006.

efforts to curb caste-based discrimination in education, employment,¹⁰⁴ and housing and the impact of these efforts on Hindu communities.¹⁰⁵

In its first lawsuit, in 2006, HAF and the California Parents for the Equalization of Education Materials (“CAPEEM”) claimed that the CSBE utilized flawed and illegal processes to create educational materials on Hinduism for sixth grade textbooks that misrepresented Hindu origins, traditions, and history.¹⁰⁶ CAPEEM also argued that CSBE violated the Establishment Clause by: (1) indoctrinating students by presenting Judaism and Christianity through the lens of believers, but characterizing Hinduism as an intellectual tradition; and (2) treating Hindus differently than other religious and ethnic groups during the comment and review process.¹⁰⁷ The U.S. District Court for the Eastern District of California dismissed the Establishment Clause claims, but agreed on procedural grounds that members of CAPEEM were harmed directly by CSBE’s process for review.¹⁰⁸

Additionally, HAF has filed two recent cases, one involving religious freedom concerns over “I believe” license plates¹⁰⁹ and another involving allegations that a number of individual scholars, journalists, and community leaders—including leaders of Hindus for Human Rights, the chair of the Federation of Indian American Christian Organizations of North America

104. *Dep’t of Fair Emp. & Hous.*, 297 Cal. Rptr. 3d 827; *Kish*, 2023 U.S. Dist. LEXIS 154414; *Kumar*, 2023 U.S. Dist. LEXIS 132566. Notably, in *Hindu Am. Found., Inc. v. Kish*, the Hindu American Foundation claimed victory when the California Civil Rights Division dismissed their case against Cisco Systems engineers accused of caste-based discrimination but maintaining their case against Cisco for civil rights violations. See Associated Press, *California Scraps Caste Bias Case Against Cisco Engineers; Company Still Being Sued*, NBC NEWS (Apr. 12, 2023, 4:46 PM), <https://www.nbcnews.com/news/asian-america/calif-scraps-caste-bias-case-cisco-engineers-company-still-sued-rcna79434> [<https://perma.cc/9WL4-4FCX>].

105. *Cal. State Bd. of Educ.*, No. 06CS00386; *Dep’t of Fair Emp. & Hous.*, 297 Cal. Rptr. 3d 827; *Kish*, 2023 U.S. Dist. LEXIS 154414; *Kumar*, 2023 U.S. Dist. LEXIS 132566.

106. *Cal. Parents for the Equalization of Educ. Materials v. Noonan*, 600 F. Supp. 2d 1088, 1095, 1099 (E.D. Cal. 2009); *Cal. State Bd. of Educ.*, No. 06CS00386.

107. See *Cal. Parents for the Equalization of Educ. Materials*, 600 F. Supp. 2d at 1095, 1102–03.

108. *Id.* at 1109, 1124.

109. *Summers v. Adams*, No. 3:08-2265, 2008 U.S. Dist. LEXIS 103729, *2 (D.S.C. Dec. 23, 2008) (“‘I Believe’ license plate, [is] a special license plate with the phrase ‘I Believe’ and the image of a cross superimposed on a stained glass window.”).

(“FIACONA”), and Rutgers University Professor Audrey Truschke—had made defamatory statements about the organization.¹¹⁰ Most of these cases have been filed in the past five years—a period that coincides with a significant increase in HAF donations, which grew from \$186,000 in 2005 to just under \$2.3 million in 2022.¹¹¹ Notably, the Title VI administrative complaint that HAF sent to the U.S. Department of Education in 2021, which claimed that the University of Pennsylvania had violated the educational civil rights of Hindu students, is not included in this list.¹¹² However, that complaint is particularly significant insofar as it appears to be HAF’s first attempt to enshrine “Hinduphobia” into civil rights law.¹¹³ An examination of HAF’s apparently growing litigiousness, particularly its recent attempts to oppose legal or regulatory endeavors to ban caste-based discrimination, suggests the group’s alignment with the underlying principles of Hindutva groups nationally and globally.

In recent years, HAF has also increased its lobbying efforts, an arena that puts a spotlight on its pro-Hindutva stances.¹¹⁴ For example, the organization was reported to have actively opposed a bipartisan congressional resolution that would have prevented Indian Prime Minister Narendra Modi’s visa from being renewed should he not be reelected.¹¹⁵ The resolution had

110. *Hindu Am. Found. v. Viswanath*, 646 F. Supp. 3d 78, 85–86 (D.C.D.C. 2022).

111. Andrea Suozzo, Alec Glassford, Ash Ngu & Brandon Roberts, *Hindu American Foundation*, PROPUBLICA, https://projects.propublica.org/nonprofits/display_990/680551525/2009_03_EO%2F68-0551525_990_200512 [<https://perma.cc/H3WT-UYHS>] (Apr. 24, 2024) (providing tax return from 2005); *Tax Exempt Organization Search*, IRS, <https://apps.irs.gov/app/eos/> (last visited Apr. 24, 2024) (choose “Organization Name” from “Search Term” dropdown; then input “Hindu American Foundation” as the search term). Between 2020–2022, HAF received two million dollars each year according to publicly available tax data. *Id.*

112. Letter from Hindu Am. Found. to Suzanne Goldberg, *supra* note 29.

113. *See id.*; HAF Asks Office of Civil Rights to Investigate Univ. of Pennsylvania’s Role in Hinduphobic Conference, HINDU AM. FOUND. (Oct. 6, 2021), <https://www.hinduamerican.org/press/university-pennsylvania-dismantling-global-hindutva-complaint> [<https://perma.cc/3UR7-T2SP>].

114. Aurora, *supra* note 97. Since Modi’s first term, HAF has reportedly invested significantly in advocating for pro-Modi policies in Washington. *Id.*

115. Zahir Janmohamed, *Their Master’s Voice in Washington*, OUTLOOK, <https://www.outlookindia.com/website/story/their-masters-voice-in-washington/289551> [<https://perma.cc/LJ6G-MWJW>] (Feb. 17, 2014, 12:00 AM); *see* H.R. Res. 417, 113th Cong. (2013).

forty-three sponsors (twenty-one Republicans and twenty-two Democrats) until HAF exerted pressure.¹¹⁶ HAF representatives reportedly visited each of the sponsors and claimed the resolution was “biased and anti-Hindu.”¹¹⁷ As one legislative aide noted, “HAF is not promoting Modi but they are definitely trying to undermine anyone in Washington who is critical of Modi.”¹¹⁸ That HAF’s pressure was successful speaks to U.S. desire to maintain strong diplomatic ties with India, which it views as a strategic ally; the growing influence of the Indian American voting public; and efforts to rehabilitate Modi’s image since his election in 2014.¹¹⁹

Moreover, HAF leaders and board members seem to have cultivated close relationships with Hindutva groups and political figures. In 1996, one of the cofounders and current advisory board members of HAF authored *Hindutva: The Great Nationalist Ideology*, a manifesto which appeared to support the Hindu nationalist Bharatiya Janata Party (“BJP”).¹²⁰ In the essay, he argues:

The future of Bharat is set. Hindutva is here to stay.
It is up to the Muslims whether they will be

116. Janmohamed, *supra* note 110.

117. *Id.*

118. *Id.*

119. See *id.*; *Political Visibility of Indian-Americans Is Far Bigger Than 1% Population Share*, ECON. TIMES, <https://economictimes.indiatimes.com/nri/latest-updates/political-visibility-of-indian-americans-far-bigger-than-1-population-share/articleshow/99861878.cms?from=mdr> [<https://perma.cc/59N2-K97Z>]; Rhea Mogul, *How Modi Went from Being Banned to Embraced by the United States*, CNN, <https://www.cnn.com/2023/06/20/india/india-narendra-modi-united-states-white-house-visit-intl-hnk/index.html> [<https://perma.cc/APF3-GH2T>] (June 20, 2023, 10:03 PM). Narendra Modi hired APCO, a PR firm specializing in branding firms, organizations, and governments. Binoy Prabhakar, *How an American Lobbying Company Apco Worldwide Markets Narendra Modi to the World*, ECON. TIMES, <https://economictimes.indiatimes.com/news/company/corporate-trends/how-an-american-lobbying-company-apco-worldwide-markets-narendra-modi-to-the-world/articleshow/17537402.cms?from=mdr> [<https://perma.cc/ZY7D-DUDT>] (Dec. 9, 2012, 3:39 AM). In the case of Modi, APCO promoted Modi as a “strong leader” and touted the success of his “Gujarat Model” to rehabilitate Modi’s reputation after the 2002 Gujarat riots. *Id.*

120. The author of the essay, Mihir Meghani, maintains that it was not written in support of or on behalf of the BJP, an assertion that cannot be substantiated one way or another. For more, see Mat McDermott, *Letter to the Editor of India Abroad from Mihir Meghani, April 2006*, HINDU AM. FOUND. (May 27, 2021), <https://www.hinduamerican.org/blog/letter-to-editor-india-abroad-mihir-meghani-april-2006> [<https://perma.cc/JCK3-ASA6>].

included in the new nationalistic spirit of Bharat. It is up to the government and the Muslim leadership whether they wish to increase Hindu furor or work with the Hindu leadership to show that Muslims and the government will consider Hindu sentiments.¹²¹

While the author has disclaimed the allegation that this essay was written for the BJP or represents the views of a political party, the language of this essay repeats many anti-Muslim sentiments that are also frequently proclaimed by the BJP and other Hindu nationalists. Additionally, HAF has sponsored events featuring controversial Indian speakers such as Aarti Tikoo Singh, who notably stated that “Islamophobia is a ‘bullshit word.’”¹²² Another HAF cofounder has blamed “Muslim provocateurs” for stoking communal violence during the 2002 riots in Gujarat.¹²³ He also alleged that “[t]he police, inexcusably blinded by the rage of the moment, may have participated with the rioters in the first 24 hours.”¹²⁴ Human Rights Watch (“HRW”) has called both of these assertions into question, based on hours of interviews with eyewitnesses and other carefully documented accounts of the violence. As the organization concluded: “What happened in Gujarat was not a spontaneous uprising, it was a carefully orchestrated attack against Muslims. The attacks were planned and organized with extensive participation of the police and state government officials.”¹²⁵

21. MIHIR MEGHANI, *HINDUTVA: THE GREAT NATIONALIST IDEOLOGY* (1998); see also Raqib Hameed Naik & Divya Trivedi, *Sangh Parivar's U.S. Funds Trail*, FRONTLINE (India) (Jul. 4, 2021), <https://frontline.thehindu.com/the-nation/sangh-parivars-us-funds-trail/article35117629.ece> [<https://perma.cc/9A5U-DUR8>].

22. *Hindu American Foundation Hosts Islamophobia-Denying Journalist*, ORGS. FOR MINORITIES OF INDIA (Oct. 24, 2019), <https://www.ofmi.org/hindu-american-foundation-hosts-islamophobia-denying-journalist/> [<https://perma.cc/JE9F-PQEC>].

23. *Id.*; Aseem R. Shukla, *A Gujarat's Road to Rage*, SULEKHA (India) (2002), https://creative.sulekha.com/a-gujarati-s-road-to-rage_100349_blog [<https://perma.cc/DW2T-NG3B>].

24. *Hindu American Foundation Hosts Islamophobia-Denying Journalist*, *supra* note 122; Aseem R. Shukla, *The HRW Report on Gujarat: Another Assassination*, SULEKHA (India) (2002), http://creative.sulekha.com/the-hrw-report-on-gujarat-another-assassination_100472_blog [<https://perma.cc/FD6U-AJC8>].

25. *India: Gujarat Officials Took Part in Anti-Muslim Violence*, HUM. RTS. WATCH (Apr. 30, 2002), <https://www.hrw.org/news/2002/04/30/india-gujarat-officials-took-part-anti-muslim->

HAF's intervention in the 2006 California textbook controversy, along with a report that it commissioned and published in 2007 to catalog and document online anti-Hindu hate,¹²⁶ foreshadow HAF's broader litigation project: ensuring that members of certain Hindu communities are able to shape how Hinduism is taught in both formal and informal educational settings.¹²⁷ Despite claims from HAF leadership in 2009 that it "[is] a Hindu American organization representing all Hindu Americans,"¹²⁸ some of its leaders and most prominent and active members are closely associated with narrower conceptions of Hinduism. In 2012, for example, a former HAF board member and Michigan State Representative, Padma Kuppaa, wrote in support of anti-religious conversion laws in India, arguing that such legislation would prevent "unethical tactics."¹²⁹ Religious conversion and missionary work in India have always been contentious given their colonial history.¹³⁰ While missionary organizations have been regulated since 1953,¹³¹ recent anti-

violence [<https://perma.cc/9YSZ-LR57>]. See generally HUM. RTS. WATCH, "WE HAVE NO ORDERS TO SAVE YOU": STATE PARTICIPATION AND COMPLICITY IN COMMUNAL VIOLENCE IN GUJARAT (2002). Shukla criticized Human Rights Watch's 2002 report as being "[i]ibelous" and the product of "biases," and as amounting to a "character assassination" of Modi. Shukla, *supra* note 124.

126. HINDU AM. FOUND., *HYPERLINK TO HINDUPHOBIA: ONLINE HATRED, EXTREMISM AND BIGOTRY AGAINST HINDUS* (2007) [hereinafter HINDU AM. FOUND., *HYPERLINK TO HINDUPHOBIA*].

127. See *Judge Troubled by California Board of Education Handling of Hindu Textbook Case*, HARV. UNIV. (Apr. 24, 2006), <https://hwpi.harvard.edu/pluralismarchive/news/judge-troubled-california-board-education-handling-hindu-textbook-case> [<https://perma.cc/BS7C-NSZP>]; *Seeking Change in How Hinduism and Ancient India Are Taught in California*, *supra* note 72.

128. Melwani, *supra* note 40.

129. Padma Kuppaa, *Society: Predatory Proselytism*, HINDUISM TODAY (Oct. 1, 2012), <https://www.hinduismtoday.com/magazine/october-november-december-2012/2012-10-society-predatory-proselytism/> [<https://perma.cc/9S5G-WNLV>]; see *Hindu American Foundation Hosts Islamophobia-Denying Journalist*, *supra* note 122; COALITION AGAINST GENOCIDE, *AFFILIATIONS OF FAITH (PART II): JOINED AT THE HIP* (2013), <https://www.coalitionagainstgenocide.org/reports/2013/cag.22dec2013.haf.rss.2.pdf> [<https://perma.cc/96AX-AQT8>] (discussing historical ties between various HAF leaders and active members and other Hindutva organizations).

130. See Pynhunlang NM Shullai, *Colonialism, Christianity and Mission Activities in India: A Postcolonial Perspectives*, 3 INT'L J. HUMANS. & SOC. SCI. STUD. 324, 324 (2017).

131. See *Christianity and the Debate over Conversions in India*, OUTLOOK, <https://www.outlookindia.com/amp/story/books/books-christianity-and-the-debate-over-conversions-in-india-news-305381> [<https://perma.cc/T6P5-8YRL>] (Jan. 29, 2022, 11:40 AM) (describing the opposition of India's first Home Minister to the work of foreign missionaries in 1953); *From the Archive, 17 April 1953: India Warns Missionaries No Evangelising, No Politics*, GUARDIAN ARCHIVE INDIA (Apr.

conversion laws in India are aimed at preventing equity rather than protecting against forcible conversion, which is exceedingly rare.¹³² Specifically, these laws are arguably used to prevent caste-oppressed and other minority groups from converting out of Hinduism.¹³³ Kuppa's position was at odds with the U.N. Special Rapporteur on Religious Freedom or Belief, who cautioned that such anti-conversion legislation implies that the state has the authority to assess whether converts' beliefs are sincere. However, her position is in line with the BJP platform that has sought to introduce a national anti-conversion law to prevent "coercive" religious practices.¹³⁴ In 2019, another HAF member presided over the 2019 "Howdy Modi" event, a welcome rally held to commemorate Prime Minister Narendra

17, 2013, 2:00 AM), <https://www.theguardian.com/theguardian/2013/apr/17/india-religion-christian-missionaries-1953> [<https://perma.cc/B4VE-3U3L>]. Missionaries were banned by the East India Trading Company in 1757 until 1813 when the British government lifted the ban. Mark Cartwright, *East India Company*, WORLD HISTL ENCYC. (Sept. 27, 2022), https://www.worldhistory.org/East_India_Company/ [<https://perma.cc/YFW9-YVUN>]. Current procedure cautions against evangelizing and political involvement and requires permission from the government to operate in country. U.S. DEP'T OF STATE OFF. OF INT'L. RELIGIOUS FREEDOM, 2021 REPORT ON INTERNATIONAL RELIGIOUS FREEDOM: INDIA 6, 9 (2022).

132. See Irman Qureshi, *Indian Christians Fear Attacks or Jail over Conversions*, BBC (Dec. 20, 2021), <https://www.bbc.com/news/world-asia-india-59724425> [<https://perma.cc/2RSC-C22Q>]; Rashad Khan, *The Political Ideology Behind Anti-Conversion Laws in India*, THE DIPLOMAT (June 30, 2023), <https://thediplomat.com/2023/06/the-political-ideology-behind-anti-conversion-laws-in-india/> [<https://perma.cc/V7HL-6D9U>].

133. Qureshi, *supra* note 132; Khan, *supra* note 132. "Dalits (formerly untouchables) have historically been known to convert to Christianity to escape a rigid Hindu caste hierarchy." Qureshi, *supra* note 132.

The United State Commission on International Religious Freedom (USCIRF) recently published a report on India's state-level conversion laws and came to the conclusion that the laws have been framed to prevent conversions to religions that the state finds unfavorable (Christianity and Islam, as per the report) and not to protect individuals against forced conversions, which was its stated purpose.

Khan, *supra* note 132.

134. See Hindu American Foundation Hosts Islamophobia-Denying Journalist, *supra* note 122; Khan, *supra* note 132. It should be noted that foreign missionary organizations have been regulated in India since 1953. See *Christianity and the Debate over Conversions in India*, *supra* note 131; *From the Archive, 17 April 1953: India Warns Missionaries No Evangelising, No Politics*, *supra* note 131.

Modi's state visit.¹³⁵ Notably, that individual's family foundation is a prominent contributor to HAF.¹³⁶

More recently, HAF has offered support for Hindu religious organizations that have been accused of caste bias. Despite credible accusations of labor and immigration violations as well as caste-based discrimination against immigrant Dalit workers, when twelve workers recanted their stories two years after the original filing, HAF's Senior Director of Communications Mat McDermott posted a blog on the HAF website supporting the Bochasanwasi Shri Akshar Purushottam Swaminarayan Sanstha ("BAPS")¹³⁷ temple in New Jersey and cautioning against a rush to judgement.¹³⁸ In it, HAF claims the government engaged in an "unprecedented raid" against a "widely respected Hindu institution," treating it "as something close to slave-traders."¹³⁹ HAF connected the raid to a recent case against Cisco Systems, in which two of the company's engineers were accused of caste-based discrimination. McDermott suggests that in both cases, media and activists did not properly ascertain facts while failing to acknowledge the several

135. *Hindu American Foundation Hosts Islamophobia-Denying Journalist*, *supra* note 122; Naik & Trivedi, *supra* note 121. This event, organized and sponsored by supporters of Indian Prime Minister Narendra Modi in the US and abroad, celebrated Modi's visit to the US and his relationship with then President Trump and had a carnival-like atmosphere. See 'Howdy, Modi!': Trump Attends Indian PM's Rally in Houston, AL JAZEERA (Sep. 22, 2019), <https://www.aljazeera.com/news/2019/9/22/howdy-modi-trump-attends-indian-pms-rally-in-houston> [<https://perma.cc/5QUN-MR6H>].

136. Vandana Menon, *A Mysterious New Report Tells You Who Funds Hindu Nationalism in US, and with How Much Money*, THE PRINT (June 14, 2022, 11:01 AM), <https://theprint.in/feature/a-mysterious-new-report-tells-you-who-funds-hindu-nationalism-in-us-and-with-how-much-money/995680/> [<https://perma.cc/4TL2-2L2S>].

137. BAPS or Swaminarayan is a Hindu sect that centers service to the community and has distinct theology and origin narrative. The BAPS organization website describes itself as "a socio-spiritual Hindu faith with its roots in the Vedas. It was revealed by Bhagwan Swaminarayan (1781-1830) in the late 18th century and established in 1907 by Shastriji Maharaj (1865-1951)." *Who We Are*, BAPS SWAMINARAYAN SANSTHA, <https://www.baps.org/About-BAPS/WhoWeAre.aspx> [<https://perma.cc/7M7D-BBK9>].

138. Mat McDermott, *What Happened at BAPS and Cisco Is a Timeless Warning About the Perils of Presuming Guilt*, HINDU AM. FOUND. (Aug. 10, 2023), <https://www.hinduamerican.org/blog/baps-cisco-connections> [<https://perma.cc/G2EC-KCH3>]. See Sarah Pulliam Bailey, *A \$96 Million Hindu Temple Opens amid Accusations of Forced Labor*, N.Y. TIMES (Oct. 21, 2023), <https://www.nytimes.com/2023/10/21/nyregion/nj-hindu-temple.html> [<https://perma.cc/58AT-797D>].

139. McDermott, *supra* note 138.

plaintiffs in the BAPS case who have not retracted their stories or the ongoing bias lawsuit Cisco Systems still faces.¹⁴⁰

Arvin Valmuci of the Organization for Minorities in India has described HAF's move towards Hindu nationalism as a concerning and significant shift.¹⁴¹ He points out, for example, that the group's 2007 report on anti-Hindu hate online decried *all* forms of discrimination, stating that "[r]acism, anti-Semitism, xenophobia, homophobia, anti-Hindu hate, Islamophobia—whatever the name and context—must be exposed and condemned for it necessarily precludes civilizational dialogue that is so crucial today."¹⁴² That earlier position, Valmuci argues, seems at odds with HAF's current discussions of Hinduphobia, which rarely still invoke the language of pluralism when discussing anti-Hindu hate.¹⁴³ Rather, more recently, HAF appears instead to emphasize and seek legal recognition of Hindus' distinctive vulnerability, particularly on college campuses, with the implication that academic inquiry into Hindutva, casteism, Islamophobia, and other "controversial topics" would harm Hindu students.¹⁴⁴ In other words, while many of HAF's earlier *amici curiae* briefs seemed to be intended to preserve religious freedom in broad and pluralistic terms, its more recent lawsuits appear designed instead to carve out space for Hindu exceptionalism and to enshrine Hindu vulnerability into U.S. law.

V. HAF TITLE VI COMPLAINT

In line with its legal efforts targeting Hindutva-critical scholarship in the United States, HAF, along with other Hindutva groups, sought to mobilize outrage against the *Dismantling*

140. *Id.* When the Cisco case was dismissed, HAF's executive director welcomed the decision, referring to the case as a "witchhunt" brought on by the "presumption of guilt in the media." *Cisco Still Faces Caste Bias Suit While Engineers' Case Dismissed*, CBS (Apr. 10, 2023), <https://www.cbsnews.com/sanfrancisco/news/cisco-still-faces-caste-bias-suit-dalit-engineers-case-dismissed/> [<https://perma.cc/6QA6-NHUV>].

141. *Hindu American Foundation Hosts Islamophobia-Denying Journalist*, *supra* note 122.

142. HINDU AM. FOUND., *HYPERLINK TO HINDUPHOBIA*, *supra* note 126, at 33.

143. *Hindu American Foundation Hosts Islamophobia-Denying Journalist*, *supra* note 122.

144. See Shukla, *supra* note 69; HAF *Reiterates Potential Threats for Hindus on Campus at Universities Sponsoring Dismantling Global Hindutva Conference*, *supra* note 97.

Global Hindutva: Multidisciplinary Perspectives conference in 2021, which it deemed to be an “anti-Hindu” event.¹⁴⁵ After the conference concluded, HAF shifted its focus to those whom it deemed responsible for the conference.¹⁴⁶ To this end, it filed a complaint under Title VI against the University of Pennsylvania with the U.S. Department of Education’s Office of Civil Rights.¹⁴⁷ The complaint alleged that the conference harmed Hindu students, made them “unsafe,” and impeded academic freedom for those with “diverg[ent]” views.¹⁴⁸ The complaint asserts two concrete claims, only one of which could pertain to the University of Pennsylvania:

1. planning, sponsoring, hosting, and/or participating in a one-sided conference about India and Hindus which promoted negative stereotypes, slurs, and distorted facts; and
2. developing and promoting a “harassment field manual” that promotes negative stereotypes, slurs, and distorted facts about Hindus, denies Hinduphobia and anti-Hindu hatred, and specifically targets Hindu students for censure and marginalization in violation of Title VI of the Civil Rights Act of 1964 and Title VI of the Higher Education Opportunity Act of 2008.¹⁴⁹

HAF’s second claim appears to be referring to the South Asia Scholar Activists Collective (“SASAC”), which created a “field manual” to combat Hindutva harassment in academic and professional settings in the United States, which draws from academic scholarship on Hindutva and was linked on the DGH

145. See Letter from Hindu Am. Found. to Univ. Presidents & Sponsors of Dismantling Glob. Hindutva Conf. (Aug. 27, 2021) (on file with author) [hereinafter HAF Letter to Conf. Sponsors].

146. HAF Letter to Dep’t of Educ., *supra* note 30.

147. *Id.*; Tori Sousa, *Penn Faces Federal Complaint for Participation in Conference Discussing Hindu Nationalism*, DAILY PENNSYLVANIAN (Oct. 26, 2021, 1:01 AM), <https://www.thedp.com/article/2021/10/hindu-foundation-penn-complaint-us-department-of-education> [<https://perma.cc/8RHE-JYVN>].

148. See HAF Letter to Dep’t of Educ., *supra* note 30.

149. *Id.* (emphasis added).

conference website.¹⁵⁰ The complaint charges the conference organizers with “developing” this manual and “promoting” it.¹⁵¹ Presumably, the complaint makes this misleading assertion based on an erroneous belief that SASAC helped to organize the conference.¹⁵² However, while the complaint devotes significant space to SASAC and its *Hindutva Harassment Field Manual*, there is little documentation of any actual or potential harms that Hindu students may have suffered as a result. The field manual offers informed, evidence-based critiques of Hindutva talking points. In other words, the complaint seems to serve as a proxy to attack scholarship and educational materials that HAF finds objectionable by characterizing the field manual as an assault on Hindu students.¹⁵³ Such attacks on academic institutions, curricula, and professors are all too familiar in states like Florida or Texas, where lawmakers have targeted DEI initiatives through “divisive concepts” laws.¹⁵⁴ In this sense, HAF’s letter also shows an important shift in approach away from the “silent” activism of groups like the VHPA in the early 2000s.¹⁵⁵

Since 2006, HAF has participated directly in three lawsuits against California policymaking bodies, leaders of educational

150. *Id.* SASAC members created the field manual in July 2021 as a resource for students, teachers, scholars, journalists, and others facing Hindutva assaults within academic settings. *See id.* DGH conference organizers chose to share this resource with conference participants. *Id.*

151. *Id.*

152. *See id.* Three members of SASAC joined an ad-hoc organizing team to ensure the conference proceeded after the attacks perpetrated by HAF and others. However, they did so as individuals, and the organization was not a sponsor or organizer of the event. *See Dismantling Global Hindutva: Multidisciplinary Perspectives*, *supra* note 3.

153. *See id.*

154. *See “Divisive Concepts” Legislation and Educational Censorship*, NAT’L COAL. FOR HIST., [historycoalition.org/divisive-concepts/](https://perma.cc/LR8Y-CGV5) [https://perma.cc/LR8Y-CGV5]; *e.g.*, S.B. 16, 88th Reg. Sess. (Tex. 2023); S.B. 17, 88th Reg. Sess. (Tex. 2023); S.B. 18, 88th Reg. Sess. (Tex. 2023); S.B. 266, 2023 Leg. (Fla. 2023); H.B. 7, 2022 Leg. (Fla. 2022). These laws, now present or pending in twenty states, draw from former President Trump’s now withdrawn executive order which sought to remove DEI trainings from federal employee and contractor onboarding programs. *See Revocation of Executive Order 13950*, U.S. DEP’T OF LAB., <https://www.dol.gov/agencies/ofccp/executive-order-13950> [https://perma.cc/CX9M-UXPQ]; *see also* Sayda Martinez-Alvarado & Sandra Perez, *A Map of Anti-DEI Efforts on College Campuses Across the U.S.*, EDUC. TR. (Nov. 15, 2023), <https://edtrust.org/resource/a-map-of-anti-dei-efforts-on-college-campuses-across-the-u-s/> [https://perma.cc/G7R7-SCDN] (monitoring anti-DEI efforts in each state).

155. *Compare* HAF Letter to Dep’t. of Educ., *supra* note 30, *with* Mathew & Prashad, *supra* note 34, at 517.

institutions and their Boards of Trustees, and elected officials alleging that U.S. Hindus' right to practice their religion has been abrogated in different contexts in violation of First Amendment principles.¹⁵⁶ In each of these instances, HAF argues that anti-caste discrimination measures adopted by the state are unnecessary and disproportionately harm Hindus. However, its Title VI letter differs from many of its previous efforts (with the notable exception of legal action to halt anti-caste discrimination policy enacted by the California State University system).¹⁵⁷ In this instance, HAF has presented itself as an advocacy organization that seeks to protect Hindu students on campus, much like the groups advocating for censorship bills that have emerged in Republican-led states like Florida and Texas which seek to do the same for conservative students.¹⁵⁸

However, HAF's Title VI complaint makes another claim that diverges from those made by conservative lawmakers seeking to halt discussions of gender identity/sex, race, and other so-called "controversial topics." The complaint argues that Hindu students, as a minoritized religious group in the United States, have been harmed or could be harmed by an academic conference on Hindutva which HAF claims that the University of Pennsylvania sponsored and organized.¹⁵⁹ Unlike the book bans, anti-affirmative action laws, and curriculum changes pushed by conservative politicians—which often seek to preserve white, cisgendered, male privilege—the Hindu Right groups' assaults on academic freedom position Hindus as

156. HAF filed a motion in *California Department of Fair Employment and Housing v. Cisco Systems, Inc.*, No. 20CV372366 (Cal. Super. Ct. 2020), and represented plaintiffs in *Hindu American Foundation, Inc. v. Kish*, No.2:22-cv-01656, 2023 U.S. Dist. LEXIS 154414 (E.D. Cal. Aug. 31, 2023), and *Kumar v. Koester*, No. 2:22-cv-07550, 2023 U.S. Dist. LEXIS 132566 (C.D. Cal. July 25, 2023). See *California's Case Against Cisco Systems Is Unconstitutional, Violated Hindus' Religious Freedom*, HINDU AM. FOUND. (Jan. 13, 2021), <https://www.hinduamerican.org/press/california-cisco-case-violates-religious-freedom> [[https://perma.cc/qq6e-c2t8](https://perma.cc/QQ6E-C2T8)].

157. See HAF Letter to Dep't of Educ., *supra* note 30; *Kumar*, 2023 U.S. Dist. LEXIS 132566, at *3.

158. HAF Letter to Dep't of Educ., *supra* note 30; S.B. 16, 88th Reg. Sess. (Tex. 2023); S.B. 17, 88th Reg. Sess. (Tex. 2023); S.B. 18, 88th Reg. Sess. (Tex. 2023); S.B. 266, 2023 Leg. (Fla. 2023); H.B. 7, 2022 Leg. (Fla. 2022).

159. See HAF Letter to Dep't of Educ., *supra* note 30.

“perennially vulnerable” and unable to perpetrate harm against others.¹⁶⁰ As such, the complaint suggests, the identification and critique of casteism or Islamophobia within Hindu communities, and the challenges to the political ideology of Hindutva, may themselves constitute forms of anti-Hindu discrimination or bias in violation of Title VI.¹⁶¹

These arguments capitalize on an “affect of injury,” rather than a specific injured party or perpetrator, which positions Hindus as victims of discrimination or bias and shields Hindutva organizations from scrutiny.¹⁶² Such a position also “disallows the nuanced reality in which Hindus can experience bigotry in some forms while exhibiting alarming behavior themselves, such as threatening to bomb participants of an academic conference.”¹⁶³ Instead, the complaint argues that Hinduophobia is a growing concern for U.S. Hindus and suggests that primary and secondary school education on Hinduism and the caste system are partially to blame.¹⁶⁴ Citing a FBI hate crime press release—which ironically points out that religion-based hate crimes have decreased and hate crimes against Hindus

160. Sundaram, *The Neocolonial Futurism of Hindutva*, *supra* note 42; Feminist Critical Hindu Studies Collective, *Hindu Fragility and the Politics of Mimicry in North America*, IMMANENT FRAME (Nov. 2, 2022), <https://tif.ssrc.org/2022/11/02/hindu-fragility-and-the-politics-of-mimicry-in-north-america/> [<https://perma.cc/7C5K-CL4R>]; see Andre M. Perry, Hannah Stephens & Manann Donoghoe, *The Supreme Court’s Decision to Strike Down Affirmative Action Means that HBCU Investment Is More Important than Ever*, BROOKINGS INST. (June 29, 2023), <https://www.brookings.edu/articles/the-supreme-courts-decision-to-strike-down-affirmative-action-means-that-hbcu-investment-is-more-important-than-ever/> [<https://perma.cc/ZTY2-A8GL>]; George M. Johnson, *Book Bans Are the Result of White Fear of a Changing World*, PRISM (Feb. 16, 2022), <https://prismreports.org/2022/02/16/book-bans-are-the-result-of-white-fear-of-a-changing-world/> [<https://perma.cc/TS7W-8TJB>]; Sarah Schwartz & Eesha Pendharkar, *Here’s the Long List of Topics Republicans Want Banned from the Classroom*, EDUC. WEEK (Feb. 2, 2022), <https://www.edweek.org/policy-politics/heres-the-long-list-of-topics-republicans-want-banned-from-the-classroom/2022/02> [<https://perma.cc/V9S2-HAAP>].

161. Sundaram, *The Neocolonial Futurism of Hindutva*, *supra* note 42; Thomas Blom Hansen, *The Political Theology of Violence in Contemporary India*, 2 S. ASIA MULTIDISC. ACAD. J. 1 (2008), <https://doi.org/10.4000/samaj.1872> [<https://perma.cc/555H-NB4Z>].

162. See Sundaram, *Hindutva 2.0*, *supra* note 5, at 811.

163. *Id.*

164. See Rishi Bhutada, *Yes, Saying Caste Is Linked to Hinduism Leads to Bullying of Hindu Students*, HINDU AM. FOUND. (July 12, 2016), <https://www.hinduamerican.org/blog/yes-saying-caste-is-linked-to-hinduism-leads-to-bullying-of-hindu-students/> [<https://perma.cc/AYT4-RXSZ>].

“remain a very small percentage of overall hate crimes in the United States” —the complaint maintains that critiques of Hindutva make Hindus, particularly Hindu students on college campuses, “unsafe.”¹⁶⁵

Interestingly, HAF does *not* cite a 2007 report that it commissioned to catalogue online anti-Hindu hate.¹⁶⁶ This report, produced by scholars of Asian studies, comparative religion, and Hinduism, documents several predominantly extremist Christian websites as purveyors of anti-Hindu hate.¹⁶⁷ The report documents several instances of anti-minority bigotry that one could describe as white/Christian supremacy.¹⁶⁸ Notably, the 2007 report only uses the term “Hinduphobia” once (in the title) and describes the online bigotry against Hinduism (as well as other non-Christian faiths) as antithetical to the American commitment to religious pluralism and tolerance.¹⁶⁹ Certainly, one could argue that this report represents old data. However, given that HAF’s Title VI complaint appears to characterize Hinduphobia as an entrenched *and* growing concern, it seems odd not to include historical evidence that might support such a claim. One possible reason for this apparent anomaly is that while the 2007 report documents an alarming pattern of bias against non-majoritarian faith practices and anti-Asian sentiment generally, it does little to show that the incidents it discusses, which range from ignorant to bigoted discussions of non-Christian religious practices, amount to a systematic targeting of Hindus specifically.¹⁷⁰ Similarly, in 2022, a group of researchers released a study that ostensibly showed the rise in

165. *Hate Crimes Increased In 2020, But Religion-Based Crimes Dropped Significantly: FBI*, HINDU AM. FOUND. (Sept. 13, 2021), <https://www.hinduamerican.org/press/2020-hate-crimes-fbi-stats> [<https://perma.cc/469H-BZBX>]; *HAF Reiterates Potential Threats for Hindus on Campus at Universities Sponsoring Dismantling Global Hindutva Conference*, *supra* note 97. Notably, Hindus are last on this list with only eleven incidents reported in 2020, up from eight incidents in 2019. Anti-Hindu attacks accounted for 0.8% of overall reported incidents. *Hate Crimes Increased In 2020, but Religion-Based Crimes Dropped Significantly: FBI*, *supra*. Moreover, in 2020 religion-based hate crimes accounted for 15.5% of all hate crimes. *Id.*

166. *See generally* HINDU AM. FOUND., [HYPERLINK TO HINDUPHOBIA](#), *supra* note 126.

167. *See generally id.*

168. *Id.* at 14–32.

169. *Id.* at 2, 6.

170. *See generally id.* at 14–32.

anti-Hindu hate online.¹⁷¹ However, with only a few exceptions, their examples pointed primarily to the proliferation of anti-South Asian tropes and terms and growing anti-Asian hate in social media.¹⁷² While the 2022 study, like the 2007 report, uncovers vile and derogatory content found online, neither report provides concrete evidence of systemic hatred specifically directed towards Hindus, even as they both show the prevalence of anti-minority content online in broader terms.

Part of HAF's complaint—its direct allegations that the conference propagated Hinduphobia and that University of Pennsylvania as a sponsor and employer of faculty organizers should be held accountable—were at least relevant and potentially verifiable.¹⁷³ However, a much larger section of the complaint takes aim at organizations and individuals with no formal affiliation with either the University of Pennsylvania or the DGH conference. Primary among these is the South Asia Scholar Activist Collective, an online organization of scholars and activists who support academic freedom and inclusive politics.¹⁷⁴ Other targets include Students Against Hindutva Ideology ("SAHI"), a student group that has organized several protests against Hindutva initiatives in India like the Citizenship (Amendment) Act (widely viewed as a deliberate attempt to exclude Muslims and strip them of their citizenship),¹⁷⁵ and

171. See PRASIDDHA SUDHAKAR, JOHN FARMER, JOEL FINKELSTEIN, PARTH PARIHAR, & LEE JUSSIM, NETWORK CONTAGION RSCH. INST., ANTI-HINDU DISINFORMATION: A CASE STUDY OF HINDUPHOBIA ON SOCIAL MEDIA 3 (2022). This study points to several spikes of shared hashtags and posts of what the study authors describe as anti-Hindu tropes on X (formerly known as Twitter) and other social media platforms. See *id.* at 3, 9. Some of the terms identified as "anti-Hindu" such as "pajeet" were inferred as anti-Hindu because they were derogatory towards South Asians in general. *Id.* at 5–6. Further, the report suggests that many of the anti-Hindu accounts were in Iran which, the authors argue, is likely a political calculation rather than religious hatred. See *id.* at 2, 14.

172. See *id.* at 2.

173. HAF Letter to Dep't of Educ., *supra* note 30.

174. See *id.*; About SASAC, S. ASIA SCHOLAR ACTIVIST COLLECTIVE, <https://www.southasiacollective.org/> [<https://perma.cc/4MXE-XQMP>].

175. See HAF Letter to Dep't of Educ., *supra* note 30, at 6; SAHI, STOP HINDU HATE ADVOC. NETWORK, <https://stophinduhate.org/hindu-haters-2/organisations/sahi/> [<https://perma.cc/4ZZL-R4GT>]; Natalie Kainz & Alexandra Galloway, *Students Protest Against Hindutva*, YALE DAILY NEWS (Mar. 6, 2020, 1:11 AM), <https://yaledailynews.com/blog/2020/03/06/students-protest-against-hindutva/> [<https://perma.cc/25FJ-KMDC>].

several individual scholars who presented their work at the conference, but had no formal affiliation with the University of Pennsylvania.¹⁷⁶ By targeting scholars unaffiliated with University of Pennsylvania, HAF perhaps may have sought to show that there is widespread anti-Hindu sentiment in academia. The complaint's inclusion of non-University of Pennsylvania organizations involved primarily in anti-Hindutva and anti-caste activism appears intended to support an argument that the conference was a "partisan political event."¹⁷⁷ By framing an academic conference as a front for political activism, the complaint may be read as implying that there was no legitimate academic inquiry taking place.

The complaint provides scant support for the claims it makes against the DGH conference or its alleged affiliation with the University of Pennsylvania and its faculty members.¹⁷⁸ Indeed, the first few paragraphs of the complaint make the bold, yet unsubstantiated, statement that there is "strong reason to believe that the event was initiated by at least one or more members of University of Pennsylvania faculty, may have involved several graduate students, and was supported by other faculty members from the Department of South Asia Studies and the South Asia Center."¹⁷⁹ However, the complaint provides no further documentation or explanation for this belief. The complaint also fails to provide concrete documentation of harms to Hindu students at the University of Pennsylvania campus and instead offered unsubstantiated assertions that those holding "diverge[nt]" views have been stifled or suffered "rumor-mongering."¹⁸⁰ Rather, much of the complaint attacks the *Hindutva Harassment Field Manual* as an "anti-Hindu" publication, based primarily on the information it provides regarding Hindutva, casteism, and Hinduphobia.¹⁸¹ In service of ostensibly protecting Hindu students from systemic bias, HAF's complaint

176. HAF Letter to Dep't of Educ., *supra* note 30.

177. HAF Letter to Conf. Sponsors, *supra* note 145.

178. HAF Letter to Dep't of Educ., *supra* note 30, at 1.

179. *Id.*

180. *Id.* at 6.

181. *See generally id.*

positions scholarly inquiry with which it disagrees as anti-Hindu and seeks recompense for perceived harms through legal means; both alarming assaults on academic freedom.

VI. "DIVISIVE CONCEPTS": PARALLELS BETWEEN THE HINDU RIGHT'S ACADEMIC INTERVENTIONISM AND ATTACKS ON "WOKE-ISM" IN THE U.S. ACADEMY

Much more can be said about these litigious efforts to chill academic discussions of Hindutva, Islamophobia, casteism, and other aspects of Hinduism or Hindu communities that Hindutva groups seem ready to ignore. In fact, in regard to caste, HAF, CoHNA, and the more conservative-leaning VHPA and HSS have each argued that caste is not an essential or intrinsic aspect of Hinduism at all.¹⁸² HAF has also suggested anti-caste discrimination laws are attempts to slander and sow hatred against Hindus¹⁸³ and violate the Establishment Clause.¹⁸⁴ These arguments rest on claims that such laws are not "facially

182. See *Reporters Guide to Caste*, HINDU AM. FOUND., <https://www.hinduamerican.org/caste-reporters-guide> [<https://perma.cc/MD6V-XQBC>] (characterizing caste as a European concept and not connected to the teachings of Hinduism); *Deconstructing "Caste," The Colonial Trope*, COAL. OF HINDUS OF N. AM., <https://cohna.org/decolonize/> [<https://perma.cc/W8WH-HYNK>] (refuting the concept of castes as colonial in nature); *Hinduism and "Caste"*, COAL. OF HINDUS OF N. AM., <https://cohna.org/hinduism-caste/> [<https://perma.cc/UP6Y-BSTT>] (arguing that castes are a European concept that have been conflated with "nuanced and flexible" systems); Bridge Initiative Team, *Factsheet: Hindu Swayamsevak Sangh (HSS)*, *supra* note 15 (noting that HSS has lobbied for school textbooks to remove references to the caste system's origin); Bridge Initiative Team, *Factsheet: Vishwa Hindu Parishad of America (VHPA)*, *supra* note 22 ("VHPA also opposes legislations that seeks to ban discrimination based on the caste system.").

183. See First Amended Complaint at 4, *Hindu Am. Found., Inc. v. Kish*, No. 2-22-CV-01656-DAD-JDP (E.D. Cal. Sept. 21, 2023); Muskaan Arshad, *Unmasking Hinduphobia in the US*, HARV. POL. REV. (Oct. 6, 2023), <https://harvardpolitics.com/unmasking-hinduphobia-in-the-us/> [<https://perma.cc/D55V-DBMS>] (noting that Hindu nationalist groups characterize proposals to add cast as a protected category as "Hinduphobia" that "may manifest as prejudice, fear, or hatred").

184. Krishnamurthi, *supra* note 71. Krishnamurthi argues that while the Establishment Clause provides the potentially strongest argument against anti-caste discrimination laws, the government need not take a position on whether caste is a fundamental aspect of Hinduism. *Id.* This is the position Judge Richard A. Jones takes as well in his opinion upholding the constitutionality of Seattle's addition of caste as a protected class. *Bagal v. Sawant*, No. C23-0721-RAJ, 2024 U.S. Dist. LEXIS 41290, at *4 (D. Wash. Mar. 8, 2024) (citing *Grove v. Mead Sch. Dist.* No. 354, 753 F.2d 1528, 1543 (9th Cir. 1985)).

neutral,”¹⁸⁵ and that legislation banning caste-based discrimination will “target South Asians, Indians, and Hindus,”¹⁸⁶ a reasoning which a federal district court rejected in response to a recent challenge to Seattle’s addition of caste as a protected class in Council Bill 120511.¹⁸⁷

In effect, these legal challenges to anti-caste discrimination measures reprise arguments made in support of “divisive concepts” laws that claim to promote even-handed, unbiased history, but which in practice prevent critical discussions of Black history, LGBTQIA+ identities, and other “controversial subjects.”¹⁸⁸ Thirty-two states have introduced “divisive concepts” legislation that seeks to ban or limit the teaching of Critical Race Theory, so-called woke ideas, and/or curtail the power of diversity, equity, and inclusion initiatives.¹⁸⁹ Many of these laws “oppose the teaching of ‘Critical Race Theory’” through a legal framework which argues that “race is a social construct” and is rarely taught in K-12 classrooms.¹⁹⁰ In several states, companion measures or revisions to “divisive concepts” laws have been designed to target both K-12 and higher education settings as well as curricular decisions by instructors in public schools and, in some cases, private schools and business.¹⁹¹

185. *Testimony of HAF Leaders at Santa Clara County, California Hearing on Caste-Based Discrimination*, HINDU AM. FOUND. (May 7, 2021), <https://www.hinduamerican.org/press/santa-clara-county-caste-hearing-haf-testimony> [<https://perma.cc/6TP5-BGEY>].

186. *Id.*

187. *Bagal*, 2024 U.S. Dist. LEXIS 41290, at *7–10.

188. See “*Divisive Concepts*” *Legislation and Educational Censorship*, *supra* note 154. See generally Anil Kalhan, *From Florida to Pennsylvania and Beyond*, 16 DREXEL L. REV. 685 (2024). HAF has supported LGBTQIA+ rights in the United States. Its website features a discussion of how LGBTQIA+ identities are aligned with Hindu values and teachings. *HAF Policy Brief: Hindu Teachings Inclusive of LGBT People*, HINDU AM. FOUND. (June 16, 2016), <https://www.hinduamerican.org/press/haf-policy-brief-hindu-teachings-inclusive-lgbt-people> [<https://perma.cc/3YTS-P4F9>]; see also *HAF Commends Supreme Court’s Affirmation of National Marriage Equality*, HINDU AM. FOUND. (Jun. 26, 2015), <https://www.hinduamerican.org/press/supreme-court-affirms-marriage-equality/> [<https://perma.cc/8GK5-F689>].

189. See Kiara Alfonseca, *Florida Doubles Down on Anti-Critical Race Theory Legislation*, ABC NEWS. (Jan. 19, 2022, 2:26 PM), <https://abcnews.go.com/US/florida-doubles-anti-critical-race-theory-legislation/story?id=82348795> [<https://perma.cc/KT3J-7JVE>] [hereinafter Alfonseca, *Florida Doubles Down*].

190. See “*Divisive Concepts*” *Legislation and Educational Censorship*, *supra* note 154.

191. See *id.* Notably, Florida’s anti-Critical Race Theory bill targets both public schools and private businesses and bans any policy which would make people feel uncomfortable. S.B. 148,

Using similar language and framing, HAF's complaint against the University of Pennsylvania characterizes academic critiques of Hindutva as harmful to Hindu students' academic freedom, likely to make Hindu students feel "uncomfortable" and "unsafe," and constituting violations of Hindu students' civil rights as members of a minority community in the United States.¹⁹² While these arguments may appear innocuous—perhaps even valid in particular contexts, given that Hindus are often harmed by white supremacy—the aims of "divisive concepts" legislation and HAF's efforts appear to be similar: to prevent critical views of history and society that make some people uncomfortable.¹⁹³ In this sense, HAF seems to treat the ideological safety of Hindu students as commensurate with physical safety. Such efforts are not unlike conservative claims that educational discussions of race, racism, and slavery harm white students.¹⁹⁴ Indeed, these arguments are very similar to the free exercise arguments HAF has made in an employment lawsuit filed against the California Civil Rights Division in 2021.¹⁹⁵ There, HAF and the other plaintiffs argued that including anti-caste discrimination policies in California's Fair Housing and Employment Act violates the First Amendment rights of "all Hindu and Indian Americans" and harms Hindus' "ability to freely discuss and practice their faith."¹⁹⁶ In effect, though HAF has expressed disappointment at efforts to curtail affirmative

2022 Leg., Reg. Sess. (Fla. 2022); see also Kiara Alfonseca, *New Florida Bill Would Ban Feelings of "Discomfort" in Teachings About Racism in US History*, ABC NEWS (Jan. 20, 2022), <https://abc7news.com/critical-race-theory-florida-bill-discomfort-ron-desantis-what-is-crt-in-schools/11491558/> [<https://perma.cc/MQ7H-KBMQ>] [hereinafter Alfonseca, *Florida Bill Would Ban Feelings of "Discomfort" in Teaching*].

192. See HAF Letter to Dep't of Educ., *supra* note 30.

193. The discomfort that HAF seeks to prevent should not be equated with the racial and cultural discrimination that South Asians face, nor should it discount the incidences of anti-Hindu hate that have and do take place. Rather, much like conservative efforts to whitewash US History, HAF's goal is to have Hinduism presented similarly, with positives highlighted and negative histories muted.

194. Compare discussion *supra* notes 143–47 with Alfonseca, *Florida Doubles Down*, *supra* note 189.

195. See First Amended Complaint at 1, *Hindu Am. Found., Inc. v. Kish*, Case No. 2-22-CV-01656-DAD-JDP (E.D. Cal. Aug. 31, 2023) (amended complaint filed on Sept. 21, 2023).

196. See *id.* at 5, 8–9, 28.

action, pushed back against the encroachment of Christianity in public spaces, and offered support to other progressive causes, such as protests over Indigenous water rights at Standing Rock, its efforts to control how Hinduism is taught echo and appear to draw heavily from the conservative legal playbook.

These similarities are especially striking when considering their recent efforts to use the legal system to quell criticism of their far-right linkages. In 2021, HAF filed a defamation lawsuit against several Indian American interfaith groups, their directors, and a Rutgers University professor, Audrey Truschke.¹⁹⁷ This complaint illustrates the ways in which the organization's legal strategies increasingly resemble those employed by conservatives to chill criticism in other contexts.¹⁹⁸ The lawsuit alleged that suggestions that the organization had misused COVID relief funds were meritless and constituted defamation.¹⁹⁹ HAF's defamation case dragged on for two years and was eventually dismissed.²⁰⁰ However, the litigation did cause considerable financial and emotional stress for the defendants.²⁰¹ Moreover, the lawsuit achieved the result of shifting the focus away from HAF and onto the defendants' alleged defamation.²⁰²

197. Complaint, *Hindu Am. Found. v. Viswanath*, 646 F. Supp. 3d 78 (D.D.C. 2021) (No. 1:21-cv-01268 (APM)).

198. HAF retained Stonerock-Harder, LLP, the Beverly Hills, California-based law firm known for handling First Amendment cases for Donald and Melania Trump. *Hindus for Human Rights & Indian American Muslim Council Leaders, Rutgers Professor Audrey Truschke Sued for Defamation and Conspiracy Against HAF*, HINDU AM. FOUND. (May 7, 2021), <https://www.hinduamerican.org/press/haf-defamation-lawsuit-iamc-hfhr-truschke> [<https://perma.cc/WY2U-YRUQ>]; see also, Shane Croucher, *Trump's Stormy Daniels Lawyers Boast that They're Cheaper than Michael Avenatti*, NEWSWEEK (Dec. 4, 2018, 10:46 AM), <https://www.newsweek.com/trumps-stormy-daniels-lawyers-boast-theyre-cheaper-michael-avenatti-1242747> [<https://perma.cc/Y59-X8VS>].

199. See Complaint, *supra* note 197, at 2.

200. *Hindu Am. Found. v. Viswanath*, 646 F. Supp. 3d 78 (D.D.C. 2022).

201. See Rasheed Ahmed, *A Libel Case in the US Has Helped Exposed How the Hindutva Ecosystem Distorts the Truth*, WIRE (Jan. 13, 2023), <https://thewire.in/communalism/hindu-american-foundation-defamation-lawsuit> [<https://perma.cc/Z5W7-PDQE>].

202. See *id.* Numerous media outlets in India and several in the US covered the lawsuit. The litigants shared updates on their social media, effectively shifting the narrative to whether HAF was defamed. See, e.g., *id.*

One question arising from the litigation is whether the lawsuit appropriately could be characterized as a Strategic Lawsuit Against Public Participation, or SLAPP, suit, in which “individuals and entities [attempt] to dissuade their critics from continuing to produce negative publicity.”²⁰³ Such lawsuits have long been a tactic used by corporations, political organizations, and other prominent figures to target criticism and undermine freedom of speech.²⁰⁴ While several states have implemented anti-SLAPP laws, the federal government has not yet acted to curb this type of tactical litigation.²⁰⁵

As discussed above, both the HSS and VHPA have a long history of promoting conservative values and forging political alliances with right-wing groups in the United States.²⁰⁶ Proponents of Hindutva with a transnational following, such as Rajiv Malhotra, have suggested that so-called woke politics are “breaking” India and America.²⁰⁷ The racist tropes and ahistorical arguments in which Hindutva proponents traffic are often strikingly reminiscent of arguments advanced by conservatives such as Christopher Rufo or Richard Hanania:

In the weaponization of Critical Race Theory for India, any group that can be convinced to oppose Indian civilization is a useful ally and is given the status of a victim. Besides the Dalits, the most important among them are the Indian Muslims and the LGBTQ+ communities. Once these victim identities are crystallized, they are weaponized to

203. *SLAPP Suit*, CORNELL L. SCH., https://www.law.cornell.edu/wex/slapp_suit [<https://perma.cc/L8BA-ZYE3>].

204. See Matthew L. Schafer & Tanvi Valsangikar, *The Application of the New York Anti-SLAPP Scheme in Federal Court*, J. FREE SPEECH L. 573, 576–77 (2023).

205. *SLAPP Suit*, *supra* note 203.

206. See Mathew & Prashad, *supra* note 34, at 516–34.

207. See Rajiv Malhotra & Vijaya Viswanathan, *Excerpt from Snakes in the Ganga* (2022), <https://www.rajivmalhotra.com/books/snakes-in-the-ganga/noteworthy-excerpts/the-indianization-of-critical-race-theory> [<https://perma.cc/WR66-JN4J>].

dismantle the structures, and provoked to attack
in all directions²⁰⁸

Malhotra's comments seem to suggest that social justice activists instrumentalize marginalized communities to attack Indian civilization by weaponizing critical race theory. In his book *Snakes in the Ganga*, he appears to expand these claims, essentially arguing that identitarian movements that seek to uplift marginalized communities are instead stifling critique of members of these communities and hindering minorities from “achieving excellence” because they view themselves as “perpetual victims.”²⁰⁹ This reasoning resembles the conservative view on affirmative action that minorities are harmed by the implication of self-victimization.²¹⁰ However, this view discounts the lived experience of Black and Brown people by omitting the racial power dynamics that have long structured public education in the United States.²¹¹ Malhotra’s argument that “woke” ideologies are being exported to India and uncritically applied to caste maintains that systemic caste discrimination is a myth perpetuated by “social justice warriors” seeking perpetual victimhood.²¹² He further characterizes transnational anti-caste movements as a form of modern colonialism and a method of cultural erasure.²¹³ The anxieties Malhotra expresses regarding the loss of Indian culture and history is reminiscent of laments by conservatives in the United States that western civilization and history are being erased or minimized in the

208. *Id.*; see also Infinity Foundation Official, *Breaking America and Breaking India*, *supra* note 53; Zack Beauchamp, *Chris Rufo's Dangerous Fictions*, VOX (Sept. 10, 2023), <https://www.vox.com/23811277/christopher-rufo-culture-wars-ron-desantis-florida-critical-race-theory-anti-wokeness> [<https://perma.cc/5HSZ-8KC2>]; Zak Cheney-Rice, *Our Journey Into Extremism*, N.Y. MAG: INTELLIGENCER (Aug. 12, 2023), <https://nymag.com/intelligencer/2023/08/richard-hanania-racist-message.html> [<https://perma.cc/CDS6-XJKW>] (discussing Hanania).

209. See Malhotra & Viswanathan, *supra* note 207.

210. John McWhorter, Opinion, *On Race and Academia*, NY TIMES (July 4, 2023), <https://www.nytimes.com/2023/07/04/opinion/race-academia-preferences.html> [<https://perma.cc/965J-93W2>].

211. See, e.g., *id.*

212. See Malhotra & Viswanathan, *supra* note 207.

213. See generally Rajiv Malhotra, *The Axis of Neo-Colonialism*, 11 WORLD AFFS.: J. INT'L ISSUES 36 (2007).

push to recover and include the experiences and histories of minoritized communities.²¹⁴ However, by describing efforts towards caste equity as colonialism, Malhotra, like HAF, positions Hindus as victims, oppressed by equity movements that ostensibly would mitigate their right to engage in discriminatory practices in the name of religious tradition.

Recently, HAF's Executive Director was quoted in a news report as describing conservative entrepreneur Vivek Ramaswamy's candidacy for the Republican presidential nomination as "inspirational for kids" and reflective of "the growing political diversity within the Hindu community."²¹⁵ This statement is notable in that recognizes the growing political diversity among U.S. Hindus and marks the importance of seeing a Hindu American running for president. Perhaps it also shows that HAF as an organization has shifted further right and may be more willing to tactically align with some of the political stances that groups like the VHPA and the HSS have more consistently espoused since their founding.²¹⁶ The Executive Director's comments could imply that an increasing number of members of the U.S. Hindu community see their own identities and values reflected in the conservative policy positions that Ramaswamy espouses, such as the "there are two genders" ideology, despite such a position being at odds with the very Hindu and US values HAF claims to promote.²¹⁷ More specifically, the litigious history of HAF could be read as a slow shift

214. See, e.g., Michael Poliakoff, *A Childish Fear of Western Civilization*, IMAGINATIVE CONSERVATIVE (Apr. 26, 2020), <https://theimaginativeconservative.org/2020/04/childish-fear-western-civilization-michael-poliakoff.html> [<https://perma.cc/FFU3-5MUE>].

215. Deepa Bharath, *Vivek Ramaswamy's Hindu Faith Is Front and Center in His GOP Presidential Campaign*, AP NEWS, <https://apnews.com/article/vivek-ramaswamy-hindu-republican-presidential-campaign-68a09925f38fb23d69fa31a2271c0ca8> [<https://perma.cc/Y7WD-E66A>] (Aug. 6, 2023, 9:06 PM).

216. Reportedly, HAF board members Rishi Bhutada and Mihir Meghani have historical ties to the VHPA and the Hindu Student Council. Both claim these affiliations predated their work with HAF, remained casual, and that now, HAF is a politically agnostic, independent non-profit organization. See COALITION AGAINST GENOCIDE, *supra* note 129. For HAF's response, see HINDU AM. FOUND., THE COALITION AGAINST GENOCIDE: A NEXUS OF HINDUPHOBIA UNVEILED (2013) https://www.hinduamerican.org/wp-content/uploads/2020/05/Coalition_Against_Genocide_A_Nexus_of_HinduphobiaUnveiled.pdf [<https://perma.cc/8NHJ-D469>]

217. See *id.*; *supra* note 188.

away from the organization's original mission statement, in which it described itself as a progressive organization perhaps to reflect a Hindu polity in the United States which may be becoming more politically conservative.²¹⁸ The statement also suggests that the organization's leadership may see opportunities for alliances with U.S. conservative politics, a position that is seemingly at odds with its founding mission statement and appears tailored towards the concerns of caste- and class-privileged Hindus in the United States.²¹⁹

Moreover, while HAF and its leadership have publicly expressed disagreement with some positions Ramaswamy has taken,²²⁰ their views converge on their unequivocal support for anti-Pakistan measures, general admiration for Narendra Modi's government and policies, and opposition to caste-conscious legislation.²²¹ As argued in this Article, the Hindu American Foundation has simultaneously mirrored the rhetoric of religious freedom used by conservative political groups while employing tactics that mimic racial justice and other anti-discrimination movements often associated with the political left in the United States. This paradoxical strategy speaks to the

218. See *Our Story*, *supra* note 24.

219. See Truschke, *The Hindu Right in the United States*, *supra* note 56.

220. Shukla seems to critique the Supreme Court of the United States' decision to end affirmative action at colleges and universities by suggesting that California's attempt to pass anti-caste discrimination legislation is a similarly anti-Asian initiative. @SuhagAShukla, X (July 1, 2023, 1:15 PM), <https://twitter.com/SuhagAShukla/status/1675191528967270400> [<https://perma.cc/GL8B-CYSR>]. Interestingly, Ramaswamy benefited from a George Soros scholarship directed at the children of immigrants though he has referred to race-conscious admission policies as cancerous. Kali Holloway, 'Anti-Woke' GOP Candidate Vivek Ramaswamy Can Thank Affirmative Action for His Success, DAILY BEAST, <https://www.thedailybeast.com/vivek-ramaswamy-can-thank-affirmative-action-for-his-success> [<https://perma.cc/5KLY-NGWC>] (Aug. 23, 2023, 11:54 AM).

221. Compare HAF *Applauds Modi Government for Welcoming Persecuted Religious Minorities from Afghanistan*, HINDU AM. FOUND. (July 20, 2020), <https://www.hinduamerican.org/press/haf-applauds-modi-government-for-welcoming-persecuted-religious-minorities-from-afghanistan/> [<https://perma.cc/P49M-4ZNN>], and Susan Snyder, *A Hindu Foundation Has Filed a Complaint Against University of Pennsylvania, Saying an Online Conference Perpetuated Stereotypes*, PHILA. INQUIRER (Oct. 17, 2021), <https://www.inquirer.com/news/hindu-foundation-penn-civil-rights-complaint-hindutva-20211017.html> [<https://perma.cc/CVZ3-HU7V>], with Molly Olmstead, *How Vivek Ramaswamy, a Hindu, Is Aligning Himself with Christian Nationalists*, SLATE (Aug. 29, 2023, 4:12 PM), <https://slate.com/news-and-politics/2023/08/vivek-ramaswamy-religion-hindu-christian-nationalism.html> [<https://perma.cc/UN4J-4T9T>].

complexity of the Hindu constituency in the United States that the organization seeks to represent—one that mostly identifies with progressive politics while also remaining connected to its Hindu identity and seeks to share its traditions with the next generation.

Since 2014, HAF's legal strategy appears to be directed towards a Hindu community in the United States which largely supports a conservative Indian government (i.e., the Hindu nationalist Bharatiya Janata Party and Prime Minister Narendra Modi) while often voting at the same time for Democrats and progressives in the United States.²²² In this context, caste—like race in conservative circles—has become a point of intervention in which HAF can leverage First Amendment doctrinal arguments to argue that anti-caste discrimination laws harm Hindus specifically and South Asians in general. Not coincidentally, HAF's arguments mimic those by Ron DeSantis to urge adoption of so-called “divisive concepts” legislation, which he argued was necessary to prevent students from feeling “discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race, color, sex, or national origin.”²²³ This assertion follows the specious claim that white students are harmed by discussions of slavery and repression of minorities in U.S. history.²²⁴ However, HAF goes even further than proponents of divisive concepts legislation to argue not only that discussions of caste in Hinduism harm Hindu students, but also that such discussions constitute a form of systemic repression of Hindus, or “Hinduphobia”—suggesting that legally recognizing the experiences of caste-oppressed Hindus and members of other South Asian groups is, in effect, anti-Hindu.²²⁵

222. Badrinathan et al., *How Will Indian Americans Vote?*, *supra* note 39.

223. S.B. 148, 2022 Leg., Reg. Sess. (Fla. 2022); *see also* Alfonseca, *Florida Doubles Down*, *supra* note 189.

224. Ursula Wolfe-Rocca & Christie Nold, *Why the Narrative that Critical Race Theory 'Makes White Kids Feel Guilty' Is a Lie*, HECHINGER REP. (Aug. 2, 2022), <https://hechingerreport.org/opinion-why-the-narrative-that-critical-race-theory-makes-white-kids-feel-guilty-is-a-lie/> [<https://perma.cc/T58D-XKML>].

225. *See Reporters Guide to Caste*, *supra* note 182.

CONCLUSION

I have argued elsewhere that the focus on student harms through student voices constitutes a shift in U.S. Hindutva strategy,²²⁶ evidenced by lawsuits Hindu Right groups filed in 2022 and 2023.²²⁷ In so doing, HAF, CoHNA, and a new crop of Hindu student organizations have sought to position the recognition of “Hinduphobia” as a vital social justice concern for Hindus.²²⁸ While HAF’s 2007 report on Hinduphobia focused on Christian websites that denigrated Hinduism and other non-Christian traditions, its more recent efforts to expose Hinduphobia have focused on academics and college campuses.²²⁹ This shift is evident in the definition of Hinduphobia that appears on HAF’s website:

Hinduphobia or anti-Hindu hatred have a tragically long history which continues to this day across the globe. They are fueled by a range of factors, including religious intolerance, religious exclusivism, a lack of religious literacy, misrepresentation in the media, academic bias still rooted in oftentimes racist, colonial-era misportrayals and, in the diaspora, generalized anti-immigrant xenophobia and hatred.²³⁰

226. See Sundaram, *Hindutva 2.0*, *supra* note 5, at 809–14.

227. See *Hindu Am. Found. v. Viswanath*, 646 F. Supp. 3d 78 (D.D.C. 2022); First Amended Complaint, *Hindu Am. Found., Inc. v. Kish*, No. 2-22-CV-01656-DAD-JDP (E.D. Cal. Sept. 21, 2023).

228. *Hate Crimes*, HINDU AM. FOUND., <https://www.hinduamerican.org/issues/#hate-crimes> [<https://perma.cc/FFS7-ZYFX>]; *5 Takeaways from the Rutgers Hinduphobia Study*, COAL. OF HINDUS OF N. AM., <https://cohna.org/5-takeaways-rutgers-hinduphobia-study/> [<https://perma.cc/942S-AKNM>]; *Hindu on Campus*, <https://hinduoncampus.org/> [<https://perma.cc/63WX-P7K8>].

229. Compare HINDU AM. FOUND., *HYPERLINK TO HINDUPHOBIA*, *supra* note 126, with CLASSROOM SUBJECTED: BULLYING AND BIAS AGAINST HINDU STUDENTS IN AMERICAN SCHOOLS, HINDU AM. FOUND. (2015).

230. *Hinduphobia*, *supra* note 68. Notably, this definition builds on work during a 2022 symposium titled “Understanding Hinduphobia,” that invited participants to define Hinduphobia and develop strategies for identifying and combatting it. See *Understanding Hinduphobia Conference*, HINDU STUDENT COUNCIL, <https://www.hindustudentscouncil.org/understanding-hinduphobia-2022/> [<https://perma.cc/VNZ8-Y5FR>]; *Working Definition of Hinduphobia*, UNDERSTANDING HINDUPHOBIA (June 21, 2021), <https://understandinghinduphobia.org/working-definition/> [<https://perma.cc/TQ2V-6PCA>]. This initiative, spearheaded by Hindu activist

The inclusion of “academics” as potential perpetrators of Hinduphobia also represents a notable shift from the focus of the 2007 HAF-commissioned report, which exposed Christian extremism online and encouraged readers to embrace religious pluralism.²³¹ HAF’s founding members reiterate these points in a 2009 interview with *Hinduism Today* in which they described their organization as “different” from other Indian organizations because of its focus on the U.S. experience of being Hindu, rather than “communalism and violence.”²³² They also claim that they suffered “McCarthyesque” attacks by academics and claimed that no other organization had been on the front lines fighting against casteism.²³³ However, just three years earlier, in context of the California textbook case, HAF advanced positions on Hindu traditions, South Asian history, and caste that many academics and scholars of South Asia found untenable.²³⁴ In other words, it seems that the pluralist idealism espoused by HAF’s founding members in its early years has given way to a Hindutva-aligned activism. To this end, HAF’s website now features an extended definition of Hinduphobia which references Hindu genocides, mirroring language in the BJP’s platform and other manifestos in support of Hindutva positions.²³⁵

Indu Viswanathan, led to the development of the Understanding Hinduphobia website. *Navigating Hinduphobia*, UNDERSTANDING HINDUPHOBIA, <https://manual.understandinghinduphobia.org/about/> [<https://perma.cc/8HXK-JBJV>].

231. See *supra* Part IV.

232. Melwani, *supra* note 40.

233. *Id.*

234. *Hindu Am. Found., Inc. v. Kish*, Case No. 2-22-CV-01656-DAD-JDP (E.D. Cal. Aug. 21, 2023); see Jennifer Medina, *Debate Erupts in California over Curriculum on India’s History*, N.Y. TIMES (May 4, 2016), <https://www.nytimes.com/2016/05/06/us/debate-erupts-over-californias-india-history-curriculum.html> [<https://perma.cc/TD8A-P96Y>].

235. See *Hinduphobia*, *supra* note 68; Mihir Meghani, *Hindutva: The Great Nationalist Ideology*, Newsgroup Archive (Oct. 24, 1998), <https://soc.culture.indian.narkive.com/8N3aKcDo/hindutv-the-great-nationalist-ideology>; Audrey Truschke *How India’s Hindu Nationalists Are Weaponizing History Against Muslims*, TIME (Oct. 6, 2023, 5:18 AM EDT), <https://time.com/6320003/india-weaponizing-history-against-muslims/> [<https://perma.cc/5R3L-HAWP>].

In its Title VI complaint against the University of Pennsylvania, HAF draws upon social justice frameworks to characterize Hindus as vulnerable but valuable contributors to the American polity.²³⁶ As such, the complaint urges the adoption of “remedies” that are modeled on “on anti-racist frameworks for mitigating harm including: a public acknowledgement of Hinduphobia, a public statement acknowledging ‘negative stereotypes, slurs, and distorted facts about Hindus and India,’ and mandatory training on Title VI for the South Asia Center.”²³⁷ However, by using or mirroring the language of anti-racist and antisemitic “harm” (stereotypes, slurs, and the like), the complaint characterizes Hinduphobia as a systemic form of discrimination.²³⁸ Such a move appears to be premised on a claim to be an authentic and authoritative voice on Hinduism and, by extension, Hindutva. The DGH conference necessarily challenged and threatened this claim, since it sought to engage multiple voices and perspectives in discussion on the best way to combat the rising global threat of Hindu nationalism.²³⁹ In doing so, it also unsettled the notion of a single “Hinduism.” Such critiques require accurate histories, in-depth, evidence-based analyses of Hindu beliefs and traditions, honest discussions regarding the state of political and public institutions in India, and efforts to confront caste/casteism in Hindu communities worldwide. In other words, when Hindutva groups label mundane academic inquiry as a material harm, scholarly work on India and Hinduism is stifled. Such maneuvers not only risk shutting down discussions on Hinduism that elicit discomfort,

236. See HAF Letter to Dep’t of Educ., *supra* note 30.

237. Sundaram, *The Neocolonial Futurism of Hindutva*, *supra* note 42.

238. See Aparna Gopalan, *The Hindu Nationalists Using the Pro-Israel Playbook*, JEWISH CURRENTS (June 28, 2023), <https://jewishcurrents.org/the-hindu-nationalists-using-the-pro-israel-playbook> [https://perma.cc/A94C-QJD8]; Sravya Tadepalli & Sunita Viswanath, “Hinduphobia”: *How the Language of Social Justice Works to Serve Hindu Nationalism in the US Diaspora*, INDIA F. (Dec. 1, 2023), <https://www.theindiaforum.in/society/hinduphobia-how-language-social-justice-works-serve-hindu-nationalism-united-states-diaspora> [https://perma.cc/4XQM-8YCY].

239. See *Dismantling Global Hindutva*, SYRACUSE UNIV. MAXWELL SCH. OF CITIZENSHIP & PUB. AFFS. (SEPT. 11, 2011), <https://www.maxwell.syr.edu/research/moynihan-institute-of-global-affairs/events/2021/09/11/default-calendar/dismantling-global-hindutva> [https://perma.cc/2DQK-9K72].

but also risk supplanting scholarly approaches to Hindutva with a so-called insider perspective. Such moves would limit rather than encourages diverse scholarship on Hinduism.

In a 2009 presentation to donors, HAF's then-director of development (and current chief financial officer and managing director) informed the room of the next frontier of their advocacy: children.²⁴⁰ To this end, the organization has produced a wealth of educational materials for K-12 curricula that focus on Hinduism, but fewer materials that focus on higher education.²⁴¹ The organization's legal activities suggest that it no longer sees academics as partners or sees its own mission as being a "progressive voice" for Hindus.²⁴² Rather, the Title VI complaint against the University of Pennsylvania and the organization's vigorous opposition to the *Dismantling Global Hindutva: Multidisciplinary Perspectives* conference reiterate what the organization's development director made clear in her 2009 speech: Hindu students are indeed the future.

These legal maneuvers have sought to position Hindu students as being on the frontlines of the academic freedom debates taking place in U.S. college and university campuses and as the face of these organizations' activities.²⁴³ HAF's complaint against the University of Pennsylvania, coupled with its recent legal complaints against anti-caste discrimination measures, align the organization with conservative groups which have argued that higher education is a threat. Many such groups are viewed favorably among many conservative Hindus in the United States, who view U.S. Democratic Party values as inconsistent their own conceptions of Hindu values. However, by couching its concerns in the language and framework of

240. See *Hindu American Foundation Makes Vivid Case for Support*, HINDU HERITAGE ENDOWMENT, <https://www.hheonline.org/reports/2009/july-aug-sept/jul09.html> [<https://perma.cc/ZW8J-WG46>].

241. See *Education Resources on Hindus & Hinduism*, HINDU AM. FOUND., <https://www.hinduamerican.org/education>, [<https://perma.cc/AL26-D95A>]; *Education Resources: Lesson Plans, Toolkits, and More*, HINDU AM. FOUND., <https://www.hinduamerican.org/teaching-resources> [<https://perma.cc/6ZBN-KGSM>] (linking to several various resources).

242. See HAF Letter to Dep't of Educ., *supra* note 30.

243. See *supra* Part III.

antiracist work, HAF nevertheless continues to frame its efforts as designed to protect Hindu rights and defend religious freedom. Such arguments can be appealing to Hindu college students, who often have legitimate concerns about white supremacist and Christian supremacist violence, anti-Asian hate, and other forms of anti-minority discrimination.²⁴⁴ In this sense, the threat that U.S. Hindutva groups present is formidable. By characterizing their efforts to interfere with academic inquiry into Hindutva as a matter of civil rights, these groups effectively skirt the traditional divides of progressive and conservative politics to suggest that critical scholarship on Hindutva harms Hindu religious freedom.

244. See Tadepalli & Viswanath, *supra* note 238.