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CAMPAIGN TO STOP FUNDING HATE,  
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EKTA,  
12 FEDERATION OF TAMIL SANGAMS OF  
NORTH AMERICA,  
13 FRIENDS OF SOUTH ASIA,  
GURU RAVIDASS GURDWARAS OF  
14 CALIFORNIA

15 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF SACRAMENTO

17 HINDU AMERICAN FOUNDATION,  
18 ARJUN BHAGAT, YASHWANT  
VAISHNAV, and RITA PATEL,

19 Petitioners/Plaintiffs,

20 v.

21 CALIFORNIA STATE BOARD OF  
22 EDUCATION, and DOES 1-10,

23 Respondents/Defendants.

Case No. 06 CS 00386

**[PROPOSED] BRIEF OF AMICI CURIAE  
AMBEDKAR CENTER FOR JUSTICE &  
PEACE, CAMPAIGN TO STOP FUNDING  
HATE, COALITION AGAINST  
COMMUNALISM, EKTA, FEDERATION  
OF TAMIL SANGAMS OF NORTH  
AMERICA, FRIENDS OF SOUTH ASIA,  
AND GURU RAVIDASS GURDWARAS OF  
CALIFORNIA IN SUPPORT OF  
DEFENDANT CALIFORNIA STATE  
BOARD OF EDUCATION'S OPPOSITION  
TO PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

**DATE:** April 21, 2006  
**TIME:** 10:30 a.m.  
**DEPT:** 19 (Hon. Patrick Marlette)

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**IDENTITY AND INTEREST OF AMICI**

Pursuant to California Rule of Court 13(c), this Amici Curiae Brief is respectfully submitted by the Ambedkar Center for Justice & Peace, Campaign to Stop Funding Hate, the Coalition Against Communalism, EKTA, Federation of Tamil Sangams of North America, Friends of South Asia, and the Guru Ravidass Gurdwaras of California (hereinafter “Amici”).

**AUTHORITY TO FILE BRIEF**

California Rule of Court 13(c)(1) authorizes Amici to file this brief with leave of Court.

**INTRODUCTION**

The lawsuit filed by the Hindu American Foundation (hereinafter “HAF” or “Plaintiff”) is the culmination of recent efforts in coordination with the Hindu Education Foundation (“HEF”) and Vedic Foundation (“VF”) to insert ahistorical and politically motivated edits in sixth grade textbooks which will be used this fall throughout California. The California State Board of Education (hereinafter “SBE” or “Defendant”) fulfilled its statutory duty to provide a neutral and public forum in which it heard from a wide variety of people, Hindus and non-Hindus, scholars and community groups, regarding proposed edits to the sections of sixth grade History-Social Science textbooks which discuss the history and customs of ancient India. Because the edits the HAF advocated were not ultimately adopted by the SBE, the HAF now seeks to have this Court substitute its judgment for that of the SBE in determining which edits to incorporate in the sixth grade textbooks. This lawsuit thus is nothing more than the HAF’s attempt to change fora to re-wage the battle it has already lost.

Plaintiff now seeks a preliminary injunction to stop the publishers from preparing the books for use in the fall pending final judgment of this Court. Amici submit this brief to urge the Court to deny the HAF’s motion for a preliminary injunction based on its inability to satisfy either prong of the legal standard for a preliminary injunction. In particular, it has not (1) demonstrated a likelihood of success on the merits nor has it demonstrated that (2) the balance of harms tips in its favor.

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1 **DISCUSSION**

2 **A. PLAINTIFF HAS NOT SHOWN THAT IT WILL SUCCEED ON THE MERITS**  
3 **OF ITS EDUCATION CODE CLAIMS.**

4 With respect to the merits prong of the injunction standard, Amici do not weigh in on the  
5 likelihood of success on the procedural claims asserted in the Complaint, an issue extensively  
6 briefed by the SBE in its Opposition to Plaintiffs’ Motion for a Preliminary Injunction. Rather,  
7 Amici dispute the HAF’s assertion that the changes adopted by the SBE to sixth grade History-  
8 Social Science texts do not meet the requirements of the California Education Code (“Ed. Code”).

9 According to Ed. Code section 60040, the SBE is required to adopt instructional materials  
10 that “accurately portray the cultural and racial diversity of our society” and per section 60044(b),  
11 is prohibited from using instructional materials that contain “any sectarian or denominational  
12 doctrine or propaganda contrary to law.” The SBE is also mandated to ensure that instructional  
13 material “[a]re factually accurate and incorporate principles of instruction reflective of current  
14 and confirmed research.” Cal. Ed. Code section 60200(c)(3). As Amici will demonstrate, the  
15 textbook edits adopted by the SBE fulfill the statutory framework embodied in the Ed. Code in  
16 contrast to the textbook edits advocated by the HAF, which do not represent the current state of  
17 academic research and which, seen in their political context, present the very dangers legislated  
18 against in the Ed. Code.

19 **1. The Textbook Edits Adopted by the SBE at its Public Meeting on March 8,**  
20 **2006 Would Provide California Public Schoolchildren With Historically**  
21 **Accurate Non-Sectarian Textbooks.**

22 The HAF contend, without any legal authority, that the textbook edits adopted by the SBE  
23 constitute a substantive violation of Ed. Code section 60200<sup>1</sup>, because the texts violated Ed. Code  
24 section 60040. They argue that the textbook edits inaccurately present the inferior status of  
25 women, falsely portray Hinduism as a polytheistic tradition, mischaracterize the origins of  
26 Hinduism, and incorrectly identify the caste system as a distinguishing feature of Hinduism.. In  
27 so arguing, the HAF not only attempts to rewrite history, but to impose its desired and incorrect.

28 <sup>1</sup> Section 60200 sets forth the procedure by which the state board adopts basic instructional  
materials for K-8 use.

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1 version of history on the impressionable minds of sixth-graders in California in order to serve its  
2 political agenda in the United States and beyond. The changes proposed by the HEF and the VF  
3 and supported by the HAF<sup>2</sup> represent a narrow, sectarian version of Hinduism, and in fact  
4 suppress histories of many important constituents of the Ancient Hindu/Indian society. While the  
5 HAF claims to speak on behalf of the Hindu American community, it only represents a minority  
6 view of Hinduism that is aligned with elite, upper-caste views. The fact that the HEF and VF do  
7 not represent the opinions of the Indian American community or of non-upper caste Hindus, is  
8 evidenced by the letters written to the SBE by a number of community groups and organizations,  
9 expressing their concern over the HEF's and VF's edits. In addition to Amici, these organizations  
10 include the Dalit<sup>3</sup> Freedom Network, Dalit Shakti Kendra, The Dalit Solidarity Forum in the  
11 USA, National Campaign on Dalit Human Rights, National Front for Tribal Self-Rule,  
12 Organizing Youth!, and Youth Solidarity Summer Collective, among others.<sup>4</sup>

13 By suppressing histories of the oppression of women and lower castes, the HAF proposes  
14 that Indian history should only reflect the glorious history of upper-caste Hindu men and  
15 completely ignores the centuries of oppression faced by women and lower castes—oppression  
16 that has been extensively documented by chroniclers through the ages and which forms the  
17 foundation of many reform movements that enabled and continues to empower the marginalized  
18 communities in India today. This suppression is in direct contradiction with Ed. Code section  
19 60040, which directly instructs the state to address issues of diversity and pluralism in societies.

20 Similarly the Plaintiff's petition focuses narrowly on just one branch of Hinduism—that  
21 which is monotheistic and is derived from the Vedas, religious texts traditionally considered  
22 sacred only by upper-caste Brahmins, who constitute less than 5% of the Hindu population<sup>5</sup>—and

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24 <sup>2</sup> The HAF never submitted any edits as its own, but rather has advocated for the adoption of edits  
submitted by the VF and the HEF.

25 <sup>3</sup> See Human Rights Watch, *Broken People: Caste Violence Against India's "Untouchables"* 2  
26 (1998) (detailing how Dalits, literally meaning "broken" people, are those regarded as  
"untouchable" and at the bottom rung within the Indian caste structure).

27 <sup>4</sup> Letters from listed organizations, to the California State Board of Education (Dec. 2005 – Feb.  
2006), available at <http://www.friendsofsouthasia.org/textbook/LettersOfSupport.html>.

28 <sup>5</sup> National Scheduled Caste/Scheduled Tribe Commission, 1995-96 Report 16 (1996); National  
Scheduled Caste/Scheduled Tribe Commission, 1997-98 Report 16 (1998).

1 denies the legitimacy of the various, pluralistic traditions that make up Hinduism, many of which  
2 are polytheistic, and many which discount the supremacy of Vedas. In fact, this version of  
3 Hinduism, which places Vedas at its core, is a very recent development and has been used  
4 extensively by Hindu Nationalists in recent years to delegitimize the various folk traditions that  
5 give Hinduism its vibrant, lived form. This sectarian approach to Hinduism is specifically  
6 prohibited by Ed. Code section 60044(b).

7 Plaintiff, in its brief, has made several claims regarding how the depiction of Hinduism in  
8 the adopted textbook edits is derogatory to Hinduism. Each of these claims is examined below to  
9 show that the adopted edits depict the religion in an accurate manner, which is consistent with  
10 scholarly sources<sup>6</sup> and respectful of the diversity inherent in the religion and its peoples. On the  
11 other hand, the changes advocated by the HAF, as gathered from its official literature, are in fact  
12 ideological, sectarian and historically inaccurate.<sup>7</sup>

13 **a. Status of Women**

14 The SBE has fulfilled its statutory duty with respect to portraying the status of women in  
15 ancient India.

16 Plaintiff claims that the “role of women in other religions is either presented positively or  
17 at least neutrally.” (Plaintiff’s Motion for Preliminary Injunction (“Motion”) at 18). This  
18 assertion is plainly belied by the discussion provided in the textbooks to the lower status of  
19 women in other religions and cultures.

20 For example, the proposed Teachers’ Curriculum Institute (TCI) textbook, “HISTORY  
21 ALIVE! The Medieval World and Beyond,” provides details of women’s unequal status in  
22 medieval European and Japanese societies, as well as noting restrictions against them in Islamic

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25 <sup>7</sup> In its Motion, the HAF also advocates a set of edits for the first time, which have hitherto not  
26 been considered by the SBE or mentioned in the set of edits approved by the Curriculum  
27 Commission on December 2<sup>nd</sup>, 2005. It claims that Hindus “are the only major religious group  
28 that worship the Divine in Her Feminine Form (except in a most cursory manner),” and also  
mentions the presence of female sages, philosophers, ritual specialists and grammarians. Since  
these edits have never been part of those considered by the SBE to date, the HAF’s introduction  
of these edits after the March 8, 2006 SBE meeting, thus, is itself, a violation of the adoption  
procedures that prohibit the introduction of new edits after a decision has been reached.

1 cultures.<sup>8</sup> On page 47, the textbook focuses on medieval Europe: “Most boys grew up to do the  
2 same work as their fathers. Some girls also trained for a craft. But most girls married early, some  
3 as early as age 12... For many girls, their education was at home...” On page 249, the textbook  
4 focuses on 17<sup>th</sup> Century Japan:

5 Girls did not choose their own husbands. Instead, families arranged marriages for  
6 their daughters to increase their position and wealth. Wives were expected to bear  
7 sons and look after their husbands. Sometimes they were expected to kill themselves  
8 when their husbands died.... Not all Japanese women were treated the same way.  
9 Peasant women had some respect and independence because they worked alongside  
10 their husbands. But in Samurai families, women were completely under men’s  
11 control.

12 Finally, on page 102, the textbook focuses on Shari’ah, or Islamic law: “...the Qur’an tells women  
13 ‘not to display their beauty.’ For this reason, most Muslim women usually wear different forms  
14 of modest dress. Most women cover their arms and legs. Many also wear scarves over the hair.”

15 Similarly, in the proposed Glencoe/McGraw Hill textbook, “Discovering our Past:  
16 Ancient Civilizations,”<sup>9</sup> the imbalance of power between women and men is also well  
17 documented in different civilizations such as Ancient Israel, China, Athens and Rome. On page  
18 218, in a discussion about ancient Israelites, the textbook states that, “...[s]ons were especially  
19 valued because they carried on the family name.” On page 287, the textbook discusses China:  
20 “Men were respected because they grew the crops. They went to school, ran the government...  
21 Chinese women could not hold government posts.” On page 362, it is stated that

22 For Athenian women, life revolved around home and family. Girls married early—at 14 or  
23 15—and were expected to have children and take care of household duties. .... they could  
24 leave the house only if a male relative went with them... Still, even educated women were  
25 not considered the equals of men. They had no political rights and could not own property.  
26 Fathers took charge of unmarried daughters. Husbands looked after their wives. Sons or  
27 male relatives looked after the welfare of widows.

28 Finally, on page 465, the textbook discusses Rome: “Women in early Rome had some rights, but

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26 <sup>8</sup> Teachers’ Curriculum Institute, *HISTORY ALIVE! The Medieval World and Beyond*  
27 (forthcoming 2006) (review copy of textbook released by publisher as part of Proposed  
28 Curriculum Program package).

<sup>9</sup> Glencoe/McGraw-Hill, *Discovering Our Past* (forthcoming 2006) (review copy of textbook  
released by publisher as part of Proposed Curriculum Program package).

1 they did not have the same status as men. The paterfamilias controlled his wife’s activities.”

2           These examples suggest that the status of women in Hinduism has been given parity with  
3 other religions. However, more important than the issue of comparative equality in the treatment  
4 of Hinduism regarding the status of women, is the importance of historical accuracy. As the  
5 “South Asia Area Center Title VI<sup>10</sup> Report on California Textbooks” notes, Sanskritic, or elite  
6 upper-caste, religious text sanctioned fewer rights and opportunities for Hindu women, who are  
7 described as being “impure and unfit for scholarship, as lacking judgment and capability, of being  
8 the carriers of caste purity, as being entitled to lesser property and inheritance than men, etc.”  
9 (See Exhibit C to Declaration of University Faculty and Scholars in Support of Amici Curiae in  
10 Support of Defendant’s Opposition to Motion for Preliminary Injunction (“Faculty Decl.”)). The  
11 Title VI Report quotes from the “Laws of Manu,” referred to as a resource in the textbooks on  
12 modern Hindu concepts, which mandates the life-long subordination of women to men in their  
13 families. According to the “Laws of Manu,” “[a] woman never merits independence” and must  
14 be subject to her father first, then her husband, and finally her son.

15           Omitting this information provides students with an incomplete understanding of  
16 Hinduism. 109 faculty and scholars who have expertise in historical and contemporary religious,  
17 social, economic, and political issues about South Asia and South Asian diasporas agree that  
18 accurate information about the circumscribed role of women in the past is pedagogically  
19 important insofar as it aids students’ understanding of gender inequalities in the present. (Faculty  
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22 <sup>10</sup> Title VI National Resource Centers (NRCs) for Foreign Language and Area Studies were  
23 established by the United States Department of Education to foster teaching and research in area  
24 studies. Twelve of these NRCs are designated as South Asia Centers and are at the University of  
25 California at Berkeley, University of Washington at Seattle, University of Wisconsin at Madison,  
26 University of Texas at Austin, Cornell University, North Carolina Center for South Asia Studies  
27 (an educational cooperative of North Carolina State University, Duke University, University of  
28 North Carolina, and North Carolina Central University), Syracuse University, University of  
Chicago, University of Michigan, University of Pennsylvania, University of Texas, and  
University of Virginia. In addition to providing instruction in South Asian languages and culture,  
these centers are mandated with strengthening international teaching and curricula at the K-12  
level. Information on Title VI centers is available at the Federal Department of Education  
website: <http://www.ed.gov/about/offices/list/ope/iegps/title-six.html>

1 Decl. ¶ 6). It is important to teach students about patriarchy in ancient societies and religions in  
2 order to prepare them to be gender-sensitive citizens who can fully uphold the ideas of equality  
3 and justice. The treatment of patriarchy in Hinduism should not be considered a “burden” to  
4 Hindu children.

5 **b. Basic Tenets of Hinduism**

6 The HAF claims that “[b]asic tenets of Hinduism are inaccurately described and Hinduism  
7 is inappropriately compared to other religions.” (Motion at 19). The HAF claims elsewhere that  
8 textbooks subject “Hindu students to ridicule and shame with the false description of Hindu  
9 worship as polytheistic.”<sup>11</sup>

10 This claim of monotheism is blatantly false, as simply confirmed by referring to standard  
11 introductory texts on Hinduism that are extensively used in universities in the United States. For  
12 instance, “Darsan,” Diana Eck’s popular college text on Hinduism, discusses the numerous and  
13 diverse traditions (polytheism) as central to the practice of Hinduism.<sup>12</sup> Surendranath Dasgupta, a  
14 doyen of studies on Indian philosophy and religion at Calcutta University, also clearly locates  
15 polytheistic practices within Hinduism in his well-known text.<sup>13</sup>

16 The false portrayal of Hinduism as a monotheistic faith is discriminatory against the  
17 diverse religious practices of the lower castes in particular. Some Vedic strictures are highly  
18 discriminatory: for instance, some consider the products used by lower castes (such as meat and  
19 liquor) and the practitioners/consumers of these products unclean. To then assert that all these  
20 diverse practices are merely reflections of some unifying principle located in the Brahmanic  
21 Vedas is false.

22 An accurate portrayal of Hinduism requires its depiction as a polytheistic religion, since  
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25 <sup>11</sup> Hindu American Foundation, *Hindu American Foundation Analysis and Recommendations*  
26 *Regarding February 27<sup>th</sup> Edits and Corrections List*, at  
<http://www.hinduamericanfoundation.org/pdf/HAF%20Final%20Edits.pdf>

27 <sup>12</sup> Diana L. Eck, *Darsan: Seeing the Divine Image in India*, (Columbia University Press 1996) (1981).

28 <sup>13</sup> See generally 1 Surendranath Dasgupta, *A History of Indian Philosophy* (1922); See also 1 Sources of  
Indian Tradition 320 (Ainslee Embree ed., 2nd ed. 1988) (providing a clear statement against portraying  
Hinduism as monotheistic).



1 Hinduism is infused with varying and competing interpretations throughout history. It is not a  
2 “religion of the book” and has historically evolved as a syncretic faith.<sup>14</sup> Scholars contend this to  
3 be the most discerning feature of Hinduism. The HAF’s characterization of Hinduism as  
4 monotheistic is sectarian, and discards spiritual, sociocultural, and philosophical differences and  
5 contributions from “lower” caste Hindu communities that are integral to its formulation, practice,  
6 and interpretation. An attempt to represent Hinduism as monotheistic, as will be shown in more  
7 detail below, is consistent with the objective of the Hindu right-wing movement, known as  
8 Hindutva, of linking Hindu religion to the Indian state.

9 Indeed, as stated by 109 South Asia faculty and scholars, “Hinduism ... is constituted of  
10 diverse and plural traditions, and consequently the religion cannot be reduced to a narrowly  
11 defined group of texts and precepts.” (Faculty Decl. ¶ 6). To do so “delegitimize[s] the various  
12 folk and syncretic traditions that give Hinduism its vibrant, lived form.” Id.

### 13 c. Caste and Untouchability

14 The HAF assertion that “The Vedas and later authoritative sacred texts do not advocate  
15 the practice of caste discrimination” is simply untrue, since several Hindu texts advocated strict  
16 observance of the discriminatory regime of the caste system. The HAF inaccurately claims that  
17 caste is an insignificant part of Hinduism and is practiced to the same extent in Hinduism as in  
18 other religions. (Motion at 19).

19 The HAF, along with its allies the HEF and VF, are opposed to true depictions of the caste  
20 system as an oppressive and hierarchical social order founded upon marginalization and  
21 discrimination of large sections of the population.<sup>15</sup> They argue that the caste system is not an  
22 integral aspect of Hinduism despite vast amounts of scholarship that show how intrinsically the  
23 caste system is ideologically and practically woven into the fabric of Hinduism. For instance, the

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26 <sup>14</sup> Chetan Bhatt, *Hindu Nationalism: Origins, Ideologies and Modern Myths* (2001)..

27 <sup>15</sup> Census of India, *Pub. No. T 00-005, Total Population, Population of Scheduled Castes and Scheduled*  
28 *Tribes and their proportions to the total population*, at [http://www.censusindia.net/t\\_00\\_005.html](http://www.censusindia.net/t_00_005.html) (2001)  
(Dalits and lower caste Hindus constitute more than 60 % of those classified as Hindus; Dalits alone  
constitute about 16%); *see also supra* text accompanying note 2 (Brahmins constitute no more than 5% of  
India’s population).

1 Purush Sukta Hymn of the Rgveda, one of the oldest texts of Hinduism, is the first known textual  
2 occurrence of the caste system, and can be dated back to the first millennium BC.<sup>16</sup> Manusmriti<sup>17</sup>  
3 and the Bhagvad Gita<sup>18</sup>, two texts to which upper-castes ascribe importance, clearly locate the  
4 caste system in the history of Hinduism. Thus, it is only in Hinduism that the caste system is  
5 considered to be divinely ordained and is legitimized by religious texts. For this reason, the

8 <sup>16</sup> David Keane, *Descent-based Discrimination in International Law: A Legal History*, 12, Int'l J. Minority  
9 & Group Rts. 93, 115 (2005) (quoting from the Rig Veda, X:90-12), available at  
10 <http://www.ingentaconnect.com/content/mmp/ijgr/2005/00000012/00000001/art00005>.

11 <sup>17</sup> B.R. Ambedkar, *Who were the Shudras? How they came to be the fourth Varna in the Indo-Aryan*  
12 *Society* § II (viii) (1946), <http://www.dr-ambekar.com/writings/38B1.%20Who%20were%20the%20Shudras%20PART%20I.htm> (quoting verses  
13 from the Manusmriti regarding caste:

14 "Now, for the sake of preserving all this creation, the most glorious (being) ordained separate  
15 duties for those who sprang from (his) mouth, arm, thigh and feet.

16 For Brahmins he ordered teaching, study, sacrifices and sacrificing (as priests) for others, also  
17 giving and receiving gifts.

18 Defence of the people, giving (alms), sacrifice, also study, and absence of attachment to objects of  
19 sense, in short for a Kshatriya.

20 Tending of cattle, giving (alms), sacrifice, study, trade, usury, and also agriculture for a Vaishya.

21 One duty the Lord assigned to a Shudra—service to those (before-mentioned) classes without  
22 grudging."

23 But a Shudra, whether bought or not bought (by the Brahmin) may be compelled to practice  
24 servitude, for that Shudra was created by the self-existent merely for the service of the Brahmin.

25 Even if freed by his master, the Shudra is not released from servitude; for this (servitude) is innate in him;  
26 who then can take it from him.).

27 <sup>18</sup> The Bhagvad Gita, available at [http://acharya.iitm.ac.in/cgi-bin/show\\_gita\\_ch.pl?1\\_4](http://acharya.iitm.ac.in/cgi-bin/show_gita_ch.pl?1_4) (verses on caste:

28 4.13: "The four orders of society (viz., the Brahman, the Kshatriya, the Vaisya and the Sudra) were  
created by Me, classifying them according to the qualities and skills, predominant in each and  
apportioning corresponding duties to them; though I am the author of the creation, know Me, the  
immortal Lord to be passive and immutable"

1.41: "With the prevalence of vice, O Krsna, the womenfolk become corrupt; and with the corruption  
of women, O Varshneya (Krsna), there ensues an admixture of castes" [Note that the slokha uses the  
term "varnasankarah"]

1.42: "Intermingling of castes leads the family of these family destroyers to hell. Deprived of  
ritualistic offerings, the spirits of their forefathers also fall"

1.43: "Through these evils bringing about an intermixture of castes, the age-old caste-traditions and family  
customs are destroyed").

1 rejection of the caste system has historically been a lightning rod for religious reform movements  
2 within Hinduism and the outright rejection of Vedic Hinduism by Dalits and “low” caste  
3 Hindus.<sup>19</sup> Consequently, by recommending elimination of references to the caste system in  
4 textbooks, the HEF, VF and HAF are misrepresenting Hinduism and its history.

5 Moreover, the HAF claim that the caste system unfairly targets Hinduism is also refuted  
6 by the fact that millions of Dalits, who fall outside the caste system and are otherwise known as  
7 ‘untouchables’, long discriminated against by the higher-caste Brahmanical social order, have  
8 politically linked their own emancipation with the rejection of Hinduism as a faith, opting to  
9 adopt various other faiths including Buddhism, Christianity or Islam instead.<sup>20</sup> This clearly  
10 highlights the oppression that Dalits (who constitute about 16% of the population)<sup>21</sup> have  
11 historically faced at the hands of upper castes.

12 The caste system is not doctrinally sanctioned in other religions; thus is there no issue as  
13 to parity of treatment with other religions. In fact, Buddhism grew out of a direct disenchantment  
14 with the priestly structure of Hinduism, and rejected the caste hierarchy. In ‘Buddhism and the  
15 Race Question’ published by UNESCO in 1968, Malalasekera and Jayatilleke of the University of  
16 Ceylon, while acknowledging the presence of caste structures in Buddhist society, compare it to  
17 Hinduism by saying that it had no religious sanction:

18 The Buddha, himself born into the warrior caste, was a severe critic of the caste system.  
19 He ridiculed the priests claims to be superior, he criticized the theological basis of the

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20 <sup>19</sup> See Gail Omvedt, *Dalits and the Democratic Revolution* 22 (1994) (“These theories of the non-  
21 Brahman and Dalit movement confronted two types of ideologies used to legitimize caste society.  
22 First were traditional religiously-based ideologies, developed primarily by Brahmans, harking  
23 back to the laws of Manu and the creation hymn of the Rig Veda, expressed, elaborated and  
24 ideologically glossed in the Puranic myths and renditions of the Ramayana and the Mahabharata.  
25 At this level they debated both the validity of the sacred texts ... and what they really meant.  
26 Upper-caste social reformers [e.g. Gandhi] tried to argue for scriptural justification for a change  
27 in or even abolition of the [caste systems], whereas social revolutionaries like Phule, Periyar, and  
28 Ambedkar agreed with conservatives that Hindu scriptures necessarily implied observation of  
caste hierarchy and used this to denounce them as irrational and exploitative.”)

<sup>20</sup> See, for example, “Five more Dalits convert,” *The Tribune*, Nov. 6 2002. (“In continued fallout  
of the Jhajjar lynchings, five more Dalits reportedly embraced Buddhism on Divali in protest  
against the Hindu practice of ‘casteism and untouchability’ at a conversion ceremony at a temple  
in Meham town of Haryana”), <http://www.tribuneindia.com/2002/20021106/main6.htm>.

<sup>21</sup> See *supra* note 15 (The census data refers to Dalits as Scheduled Castes).

1 system and he welcomed into the Sangha people of all castes, including outcasts.<sup>22</sup>

2 It is thus important for texts to address the system of untouchability and the caste based  
3 discrimination in light of continuing caste-based human rights violations. Caste-based atrocities  
4 still occur today and discrimination against Dalits is still rampant.<sup>23</sup> As noted by 109 South Asia  
5 faculty and scholars:

6 Hinduism is implicated in a complex system of social organization to which caste and  
7 gender hierarchies are integral. Social relations in the ancient period should not be elided  
8 or romanticized since they have an important bearing on how we understand South Asian  
9 society in subsequent historical periods.

10 (Faculty Decl. ¶ 6).

11 Unless California schoolchildren are made aware of the historical origin of these  
12 inequalities and sensitized about them, they will not have a full appreciation of the historical  
13 evolution of South Asian society.

#### 14 **d. Origins of Hinduism / Aryan Migration Theory**

15 Plaintiff makes the misleading claim that there is a genuine scholarly debate around the  
16 origins of Hinduism that is not reflected in the adopted textbook edits. (Motion at 20). The  
17 proposed textbooks, in fact, do not treat Aryan “invasion” as fact, and many of them discuss  
18 alternate theories of Aryan migration. Yet, the Aryan Migration Theory remains to date the  
19 scholarly consensus, as written by Title VI faculty to the SBE. (*See also* Faculty Decl. ¶ 6).  
20 “Academic scholarship in many disciplines—linguistics, anthropology, paleontology, history, and  
21 the history of religions—offers significant evidence for the migration of groups conventionally  
22 known as Indo-Europeans into South Asia (a process at times referred to as ‘Aryan  
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24 <sup>22</sup> <http://www.buddhanet.net/e-learning/dharmadata/fdd53.htm> (quoting G.P. Malalasekera & K. N.  
25 Jayatilleke, *Buddhism and the Race Question*, 1968)

26 <sup>23</sup> *See supra* note 3 (providing an extensive report on the continuing prevalence of caste-based  
27 violence, discrimination, and the practice of untouchability in India); *see also*  
28 <http://www.dalits.org/atrocities.html> (providing an extensive list of atrocities against Dalits, data compiled  
from police reports and non-governmental monitoring groups); *see also* Girish Agrawal & Colin  
Gonsalves, *Dalits and the Law* 223-26 (2005) (providing tabulated nationwide data on crimes against  
Dalits, committed by upper-castes, compiled from cases registered with the police).

1 migration’).”<sup>24</sup>

2 The theory of Aryan indigeniety, proposed by the Plaintiff is in fact, a highly controversial  
3 theory, which is grounded more in political ideology than in historical scholarship. In the  
4 presidential address of the Indian History Congress in 2006, noted historian D.N. Jha called this  
5 theory “indigenist propaganda” and a “frenzied hunt” and underlined its ideological basis.<sup>25</sup> Jha  
6 believes that the “quest for India’s national identity” began through the vehicle of Hindu religious  
7 nationalism, starting in the nineteenth century and continuing to present.<sup>26</sup> In recent years,  
8 however, “it has received an unprecedented boost from communal forces that brought a virulent  
9 version of Hindu cultural chauvinism to the centre stage of contemporary politics and produced a  
10 warped perception of India’s past.”<sup>27</sup> The impetus for advocating this theory is that the HAF  
11 wishes to “prove” that the Indian civilization is older than all others and was therefore “free from  
any possible contamination in its early formative phase.”<sup>28</sup>

12 The HAF also fails to substantiate its implied claim that the Aryan migration theory is in  
13 anyway derogatory to Hindus. (Motion at 20). It is widely recognized that the religion and  
14 society of the Aryans greatly contributed to the origins of Hinduism, but whether or not Aryans  
15 originated in present day South Asia, or came from outside is a matter of historical and  
16 archaeological inquiry, not a matter of faith of the practitioners. Amici, as representatives of  
17 groups with many practicing Hindus, challenge Plaintiff’s unfounded claim that “the origins of  
18 Hinduism are understandably a matter of great sensitivity to Hindus” (Motion at 20). Plaintiff’s  
19 position rather reflects the political agendas of the Hindu nationalists in India who argue that  
20 those who practice religions arriving later in the Indian subcontinent are less qualified to stake  
21 claims to India. Professor Romila Thapar, a prominent historian who held the first Kluge Chair in  
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25 <sup>24</sup> Report, Title VI Centers, *Biogenetic Data and Historical Scholarship: Sources of Evidence Regarding*  
26 *“Aryan Migration”* Exec. Summ. 2, at [http://southasiafaculty.net/catext/files/Faculty\\_biogenetics.pdf](http://southasiafaculty.net/catext/files/Faculty_biogenetics.pdf)

27 <sup>25</sup> Dwijendra Narayan Jha, *Looking for a Hindu Identity* (2006), at  
[http://www.sacw.net/India\\_History/dnj\\_Jan06.pdf](http://www.sacw.net/India_History/dnj_Jan06.pdf)

28 <sup>26</sup> *Id.* at 1.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 3.

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1 Countries and Cultures of the South at the Library of Congress in 2003-2004, explains:

2 For those concerned with a Hindutva [Hindu Nationalism] ideology, the [Aryan]  
3 invasion had to be denied. The definition of a Hindu as given by Savarkar [the founder  
4 of Hindutva] was that India had to be his pitribhumi (ancestral land) and his  
5 punyabhumi (the land of his religion). A Hindu therefore could not be descended  
6 from alien invaders. Since Hindus sought a lineal descent from the Aryans, and a  
7 cultural heritage, the Aryans had to be indigenous. This definition of the Hindu  
8 excluded Muslims and Christians from being indigenous since their religion did not  
9 originate in India.<sup>29</sup>

10 The HAF cannot inculcate these historical inaccuracies, which are politically inspired, into  
11 the minds of California schoolchildren under the guise of education.

12 In summary, the textbook edits adopted by the SBE are legally sound. In fact, it is the  
13 changes proposed by HEF, VF and HAF which run afoul of the Ed. Code. They are factually  
14 incorrect and based on a narrow sectarian version of Hinduism that attempts to erase references to  
15 systematic discrimination sanctioned by upper caste Hindus through history. This narrow version  
16 of chauvinistic Hinduism is clearly not representative of the beliefs of all Hindus worldwide or  
17 even in California.

## 18 **2. The Textbook Edits Advocated By the HAF Are Politically Motivated and 19 Reflect the Agendas of Hindu Nationalists In India.**

20 California textbooks have become the latest battlefield in a politically motivated campaign  
21 of Hindu indoctrination that has been brewing for years in India. There are institutional and  
22 ideological ties between the various organizations allied in this endeavor, including the HAF,  
23 HEF and VF, and the broader U.S. branches of the Hindutva movement in India. Although the  
24 HAF, HEF and VF represent but a subset of Hindus, they are attempting to present their narrow,  
25 sectarian version of Hinduism as generally accepted by all Hindus. What makes this deception  
26 particularly dangerous is the fact that their views are fully consonant with the views of their  
27 Indian allies – an umbrella of Hindutva organizations called the Sangh Parivar<sup>30</sup> — which, as  
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29 Romila Thapar, *Hindutva and History*, Frontline, Oct. 5-19, 2000,  
25 <http://www.hinduonnet.com/fline/fl1720/17200150.htm>.

30 Hindutva is the Hindu Nationalist movement which advocates the formation of a Hindu *Rashtra* (Hindu  
26 nation) and rejects the pluralistic and syncretic traditions of Indian heritage and culture. At its core is the  
27 Rashtriya Swayamsevak Sangh (RSS), more commonly referred to as the Sangh—a mammoth but elusive  
28 organization, which has membership in hundreds of

1 described by an organization providing information about communal politics in India, celebrates  
2 caste as a “precious gift”, harps back to a mythical golden past of Hinduism, and demonizes  
3 religious minorities and their religions.<sup>31</sup> The HAF, HEF and VF are allies of the Sangh Parivar  
4 and pursue the same goals albeit less aggressively; they restrict themselves to propagating the  
5 myth of a Golden Hindu past and erasing any mention of caste in public fora.

6 Starting in 2002, when the Sangh Parivar’s political wing, the Bharatiya Janata Party  
7 (BJP), was in power in India, the Sangh Parivar made an abortive attempt to doctor school  
8 textbooks in India.<sup>32</sup> This effort was defeated by a coalition of scholars, intellectuals and secular  
9 activists in India and elsewhere.<sup>33</sup> The interventions in California are a continuation of the Sangh  
10 Parivar’s failed attempts in India; as a HEF volunteer proudly proclaimed in a recent gathering of  
11 Sangh Parivar activists from all over the world: “Through the Hindu Education Foundation run by  
12 the RSS in California, we have succeeded in correcting the misleading information in text books  
13 for primary and secondary classes.”<sup>34</sup>

#### 13 a. Affiliations of the HEF

14 The Hindu Swayamsevak Sangh (HSS) launched the HEF. According to its parent,  
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19 thousands, but no membership records. It seeks to achieve its objective of a Hindu nation by working  
20 through a large number of constantly mutating sister organizations, and together they are referred to as the  
21 *Sangh Parivar* (the Sangh Family). More information on Hindutva and the *Sangh Parivar* can be obtained  
22 from Agrawal et al., A Brief Outline of the Hindutva Movement, in *The Foreign Exchange of Hate: IDRF  
23 and the American Funding of Hindutva* (2002) <http://www.stopfundinghate.org/sacw/part2.html>

24 <sup>31</sup> Editorial, *Caste is a Precious Gift*, *Communalism Combat*, October 1999 available at:  
25 <http://www.sabrang.com/cc/comold/oct99/cover1.htm>.

26 <sup>32</sup> Attempts to alter the texts have been carefully documented by the International Religious Freedom  
27 reports on India that were submitted to Congress each year starting from 2002 till the most recent one in  
28 2005. These reports are annual submissions to the Congress through which the Department of State  
provides additional detailed information regarding matters involving international religious freedom.  
Relevant excerpts are available at

[http://www.friendsofsouthasia.org/textbook/US\\_IRF\\_Reports\\_2002\\_2005\\_Excerpts.html](http://www.friendsofsouthasia.org/textbook/US_IRF_Reports_2002_2005_Excerpts.html)

<sup>33</sup> *Id.*

<sup>34</sup> *RSS Abroad: 'We are striving to keep our culture alive'*, *Times of India*, Ahmedabad Edition, Dec 31,  
2005, available at [http://www.friendsofsouthasia.org/textbook/TimesOfIndia\\_Article\\_RSSAbroad.html](http://www.friendsofsouthasia.org/textbook/TimesOfIndia_Article_RSSAbroad.html)

1  
2 “Hindu Education Foundation, an educational project of Hindu Swayamsevak Sangh, strives to  
3 replace these various misconceptions with a correct representation of India and Hinduism.” On its  
4 part, the HSS is the U.S. based affiliate of the Rashtriya Swayamsevak Sangh (RSS), an  
5 organization that promotes Hindu ideology, and acknowledges to be “ideologically inspired by  
6 the RSS vision of a progressive and dynamic Hindu society that can deal with its internal and  
7 external challenges, and contribute to the welfare of the whole world.”

8 **b. Affiliations of the VF**

9 The VF works closely with Hindutva groups like the Vishwa Hindu Parishad of America  
10 (VHPA), a U.S. affiliate of the RSS, and hosts numerous events, meetings and youth camps that  
11 are attended by senior RSS functionaries from India. The VF’s view of history is  
12 indistinguishable from its theology, and the nationalist ideas it propagates are not very different  
13 from those of the Sangh Parivar. For instance, in stating that Hinduism “is universal and applies  
14 not only to Hindus but to the entire world,” the VF’s spiritual leader echoes sentiments expressed  
15 by the RSS Chief, K. Sudarshan, that “every individual was born as Hindu and it was the  
16 religious rituals of various religions like sunnat or baptism that made one Muslim or Christian.”<sup>35</sup>

17 **c. Affiliations of the HAF**

18 The HAF is a creation of the VHPA, and its president and founder, Mihir Meghani, is a  
19 former governing council member of the VHPA. As a body allegedly representing Hindu  
20 Americans, the HAF’s activities have included strong support for Gujarat Chief Minister  
21 Narendra Modi <sup>36</sup> and a suppression of any discussion of caste.<sup>37</sup>

22 \_\_\_\_\_  
23 <sup>35</sup> *Call to face the war on Hinduism*, Organizer, January 8, 2006, available at

24 [http://www.organiser.org/dynamic/modules.php?name=Content&pa=showpage&pid=112&page=](http://www.organiser.org/dynamic/modules.php?name=Content&pa=showpage&pid=112&page=31)  
25 [31](http://www.organiser.org/dynamic/modules.php?name=Content&pa=showpage&pid=112&page=31)

26 <sup>36</sup> Narendra Modi is widely acknowledged to be the architect of the anti-Muslim violence that swept  
27 Gujarat in March 2002, resulting in the deaths of 2000 people, mainly Muslims and the displacement of  
28 over 150,000 people from their homes and occupations. Mr. Modi has been repeatedly admonished by the  
Indian Supreme Court for his shielding of the perpetrators of the pogroms. [Human Rights Watch Report:  
“We have no orders to save you: State participation and complicity in communal violence in Gujarat”  
Vol14, No. 3(C), May 2002 Available at: <http://hrw.org/reports/2002/india/gujarat-sumrec.pdf>] and also  
had his US visa revoked by the US State Department for his role in inciting anti-minority violence. [U.S.  
Refuses Visa To Hindu



1                   **d.       Agenda of the HAF, HEF, and VF in the United States**

2                   The efforts of the HAF, HEF and VF are related directly to efforts by the broader network  
3 of Hindutva organizations based in the U.S. coordinating with the India-based RSS. Specifically,  
4 the textbook campaign of the Hindutva organizations in the U.S. is linked to largely unsuccessful  
5 efforts by the RSS to do the same in India. Several key players involved in the textbook effort are  
6 also leaders and officials of various Hindutva organizations. Ved Nanda, advisor to the HEF is  
7 the founder and supreme leader of the HSS, which created the HEF. (See Charts detailing key  
8 organizations and individual ties between the HAF, HEF, and VF and Hindutva Groups, attached  
9 as Exhibits A and B, respectively).

10                  In 2003 the Hindu Students Council (HSC), a project of the VHPA, organized the  
11 “Dharma Conference.”<sup>38</sup> A large number of U.S. based Hindutva luminaries participated along  
12 with the BJP’s Human Resources and Development Minister, Murli Manohar Joshi.<sup>39</sup> Mr. Joshi  
13 led the efforts by the RSS to write new school textbooks, produced by the National Council of  
14 Educational Research and Training (NCERT),<sup>40</sup> with highly offensive anti-minority  
15 propaganda.<sup>41</sup> These social studies texts produced by the NCERT, under the direction of Mr.

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17                  Politician, New York Times, March 19, 2005 available at  
18 <http://query.nytimes.com/gst/fullpage.html?res=9500EFD9113CF93AA25750C0A9639C8B63>

19 <sup>37</sup> The HAF’s reports on “Hindu human rights” have shied away from any mention of caste.

20 <sup>38</sup> Hindu Students Council was started by the VHPA in the 1987 as documented on the VHPA’s webpage  
21 <http://www.vhp-america.org/whatvhp/history.htm> and [http://www.vhp-](http://www.vhp-america.org/whatvhp/significantevents.htm)  
22 [america.org/whatvhp/significantevents.htm](http://www.vhp-america.org/whatvhp/significantevents.htm) . Hindu Students Council was the “primary organiser” for the  
23 Dharma Conference 2003 as quoted in Tanmaya Kumar Nanda, Dharma for the new generation, Rediff  
24 News, July 26, 2003 <http://www.rediff.com/us/2003/jul/26tan.htm>

25 <sup>39</sup> *Id.*

26 <sup>40</sup> NCERT – “The National Council of Educational Research and Training (NCERT) is an apex resource  
27 organisation set up by the Government of India, with headquarters at New Delhi, to assist and advise the  
28 Central and State Governments on academic matters related to school education... The NCERT publishes  
textbooks for different school subjects for Classes I to XII. It also brings out workbooks, teachers guides,  
supplementary readers, research reports, etc. In addition, it publishes instructional materials for the use of  
teacher educators, teacher trainees and in-service teachers. These instructional materials, produced through  
research and developmental work, serve as models to various agencies in States and Union Territories.  
These are made available to state level agencies for adoption and/or adaptation. The textbooks are  
published in English, Hindi and Urdu.” <http://www.ncert.nic.in/sites/organisation/organisation.aspx>

<sup>41</sup> These changes have been largely removed and replaced by a reconstituted NCERT under the  
successor United Progressive Alliance (UPA) government since 2004.

1 Joshi and the RSS, badly distorted Indian history with arguments and omissions shaped by the  
2 RSS's Hindu supremacist ideology.<sup>42</sup> The Dharma Conference of 2003 led to the creation of a  
3 new organization called Educators Society for the Heritage of India (ESHI), which itself held a  
4 conference in 2004 to mobilize supporters from the VHPA's Hindu University.<sup>43</sup>

5 A parallel initiative "Hindu-International.org" launched an unsuccessful textbook rewrite  
6 campaign in Virginia.<sup>44</sup> This organization headed by S. Kalyanaraman and Abhinav Dwivedi,  
7 both advisors to the HEF, used the above-mentioned NCERT textbooks as its resource, with a  
8 publication prepared by the VHP's UK branch titled "Explaining Hindu Dharma - A guide for  
9 Teachers."<sup>45</sup> Hindu-International's website also includes images of the cover page of the  
10 textbook and the VHP publication.

11 The HSC/VHPA co-sponsored a "Dharma Summit" with the Hindu International Council  
12 Against Defamation (HICAD) in August 2005.<sup>46</sup> This event served as the immediate impetus  
13 behind the launch of the HEF and VF's campaign in September 2005. At this conference,  
14 Hindutva luminaries, including RSS Chief K. Sudarshan<sup>47</sup> participated and launched the "Hindu

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15 <sup>42</sup> "The NCERT social science/history textbooks are not only shockingly low on both grammar  
16 and fact, but also reflect many of the RSS's pet themes – e g, the urge to prove that Indian  
17 civilisation is synonymous with Hinduism, which in turn is synonymous with the 'Vedic  
18 civilization.' This Vedic civilisation is portrayed as the fount of all things great in the world,  
19 while all the evils that beset India are traced to foreigners – Muslim invaders and Christian  
20 missionaries." Teaching to Hate - RSS' Pedagogical Programme, Nandini Sundar, Economic &  
21 Political Weekly, April 17, 2004  
22 (<http://www.epw.org.in/showArticles.php?root=2004&leaf=04&filename=7070&filetype=html>)

23 <sup>43</sup> The press release from the Dharma Conference announcing the formation of ESHI is available at  
24 <http://www.dharmaconference.org/ESHI.htm> .

25 <sup>44</sup> HISTORY, ANALYSIS AND RESULT OF FCPS TEXTBOOK REVIEW PROCESS :  
26 ISSUES AT STAKES, [website down, cache available only?] [http://www.hinduvoice.net/cgi-  
27 bin/dada/mail.cgi?flavor=archive&id=20050419204925&list=NL](http://www.hinduvoice.net/cgi-bin/dada/mail.cgi?flavor=archive&id=20050419204925&list=NL)

28 <sup>45</sup> *Id.* ("Rakeshji and KalyanRamanji did a lot of research in finding the many references to  
support comments made on the contents of text book. Initially 'A teachers guide on Hinduism' a  
UK approved text book prepared by a committee headed by VHPA, UK and the NCERT social  
studies books of India, released in India during year 2003 were used to prepare the comments.").

<sup>46</sup> HICAD is an entity founded and led by Ved Chaudhary, who is also a founding member of  
ESHI, which he leads along with Kanchan Bannerjee, co-founder of HSC and the VHPA's "Vice  
President for Youth."

<sup>47</sup> Lakshmi Ravu, Report on the Dharma Summit 2005, at  
[http://www.vedicfriends.org/reports\\_on\\_the\\_dharma\\_summit.htm](http://www.vedicfriends.org/reports_on_the_dharma_summit.htm) ("Some of the most important  
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1 Council Initiative.” This “initiative” explicitly ties the India efforts of the Hindutva movement to  
2 efforts in the U.S. – as evidenced in this excerpt from a report prepared by the Hindu Press  
3 International, the media wing of a publication entitled *Hinduism Today* which supports the VF’s  
4 textbook efforts:

5 Youth education and guidance were foremost on most speakers’ minds, with a secondary  
6 issue being the treatment Hinduism receives in the dozens of textbooks used in American  
7 schools and colleges.... Textbooks were rapidly prepared to cover these new courses,  
8 which have been incorporated in most schools. However, the books have given shabby  
9 treatment to Hinduism. Different speakers explained how to approach the local school  
10 board at the time the books were up for adoption, how to influence the selection and even  
11 future editions of the books. There was, many noted, a lot of room for improvement!  
12 Rajiv Malhotra explained at length the way in which the American and European  
13 academics had thoroughly distorted the understanding of Hinduism and ways Hindu  
14 communities and leaders can correct this situation.”

15 *Hindu Press International*, August 16, 2005.<sup>48</sup>

16 In support of the HEF/VF efforts in California December 5, 2005 “ESHI also contacted  
17 Prof. J.S. Rajput, former President of the National Council for Educational Research (NCERT),  
18 India, to write about the efforts of textbook corrections in India.”<sup>49</sup> Rajput’s central role in the  
19 NCERT textbook rewrite campaign led by the RSS was widely condemned not only for the crude  
20 insertion of RSS propaganda into textbooks, but also for harassment of NCERT scholars  
21 unwilling to toe the RSS line.<sup>50</sup>

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22 Hindu leaders in the world were present for this event. Including: Sri Swami Dayananda Saraswatiji (the  
23 inspiration behind the Dharma Summit, and convener of the event), Sri Chidananda Muniji (the creator of  
24 the Hindu Encyclopedia project), Sri Bodhinatha Veylanswami (Publisher of *Hinduism Today* Magazine)  
25 and several of his sannyasis, Sri K. S. Sudarshan (leader of the Rashtriya Swayamsevak Sangh, the largest  
26 Hindu service organization on earth), Dr. Pranav Pandya (leader of the several million members of the  
27 Gayatri Pariwar), Sri Swami Jyotirmayananda (Ramakrishna Order), Dr. David Frawley (Vamadeva  
28 Shastriji), Dr. Frank Gaetano Morales (the well-respected American Hindu intellectual and philosopher),  
Sri Steven Knapp (a prolific American Hindu author), and many others. These Hindu lights and  
dignitaries all filled the first row of the auditorium. Several Jain, Buddhist, and Sikh leaders were also  
present.”).

<sup>48</sup> [http://www.vedicfriends.org/reports\\_on\\_the\\_dharma\\_summit.htm](http://www.vedicfriends.org/reports_on_the_dharma_summit.htm)

<sup>49</sup> ESHI Press Release, December 5, 2005

([http://www.eshiusa.org/PressRelease/ESHI\\_Press\\_Release\\_120605.pdf](http://www.eshiusa.org/PressRelease/ESHI_Press_Release_120605.pdf)).

<sup>50</sup> “Rajput ran a reign of terror,” stated Anil Sadgopal, BJVJ (what is this – spell out) vice-  
president and education professor at Delhi University. “Nobody dared speak his mind at his  
meetings. People at NCERT refer to that period as a bawander (whirlpool), a toofan (cyclone)  
that has now hopefully passed. So many who asserted

1 This Court should stop Plaintiff from its attempts to inject its politically inspired agenda  
2 into California textbooks under the rubric of claiming that the SBE has failed in its duties to  
3 present Hinduism in a historically accurate and non-derogatory manner. Indeed, to force the SBE  
4 to adopt the edits proposed by the HAF and other groups which are clearly linked to Hindu  
5 supremacy efforts in India would itself be tantamount to multiple violations of the very Ed. Code  
6 provisions at issue in this case.

7 **B. PLAINTIFF HAS NOT ESTABLISHED THAT THE BALANCE OF**  
8 **HARMS TIPS IN ITS FAVOR**

9 The HAF asserts that “[p]ublication of these texts ... will cause irreparable injury to  
10 petitioners and the public.” (Motion at 10). Yet, it fails to identify what this injury will be if the  
11 March 8, 2006 textbook edits are incorporated into the sixth grade textbooks and published for  
12 dissemination into classrooms for the 2006-2007 academic year.

13 On the other hand, the issuance of an injunction in this case would cause great harm to  
14 sixth grade students in California, because the proposed textbooks are a quantum improvement  
15 over the current textbooks. The current textbooks have not been reviewed since 1999, and their  
16 adoption was meant to last for a period of 6 years, i.e. only through the academic year 2004-2005.  
17 Thus, updated textbooks are long overdue. If the Court orders an injunction preventing these  
18 textbooks from being published for the next academic year, there would be no other option but to  
19 continue using the old textbooks pending the final judgment of the Court. As the publishers have  
20 stated, a postponement in the scheduled printing of the textbooks would “result in significant  
21 delays that could jeopardize publishers’ ability to deliver books in a timely manner”. (See

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22 themselves were abruptly transferred.” Operation Wipe Out, *The Week*, 20 June, 2004, available  
23 at [http://www.the-week.com/24jun20/currentevents\\_article10.htm](http://www.the-week.com/24jun20/currentevents_article10.htm). See also “Communalization  
24 of Education, The History Textbook Controversy: An Overview,” Mridula Mukherjee and Aditya  
25 Mukherjee, Professors of History, Centre for Historical Studies, Jawaharlal Nehru University, 22  
26 December, 2001 <http://www.sacw.net/HateEducation/MridulaAditya122001.html> (“If this is not  
27 bad enough the NCERT has appointed to its Executive Committee and Departmental Committee  
28 ... a self proclaimed RSS activist whose only claim to fame is his confession that he killed a  
Muslim woman during a riot”); “Hindutva Ire: The NCERT's censorship of history textbooks  
represents a Hindutva attack on the ideas of pluralism and tolerance,” Praful Bidwai, *Frontline*  
*Magazine*, Volume 18 - Issue 25, Dec. 08 -21, 2001, available at  
<http://www.hinduonnet.com/fline/fl1825/18251120.htm>

1 Declaration of Stephen Driesler in Support of Respondent’s Opposition to Motion for Preliminary  
2 Injunction (“Driesler Dec.”) ¶ 7). As a result, sixth grade schoolchildren would suffer.

3  
4 Moreover, the current books are, by Plaintiff’s own admissions<sup>51</sup>, nowhere as detailed and  
5 informative as the new books, and it would ill-serve sixth-grade schoolchildren to use the current  
6 books for another year. Indeed, 109 South Asia faculty and scholars have unequivocally stated  
7 that the edits approved by the SBE are an “important and positive step in providing California  
8 school children with more accurate information on Hinduism and Indian history than in the  
9 current textbooks.” (Faculty Decl. ¶ 4). These faculty and scholars have reached consensus that  
10 the textbook edits approved by the SBE are “sensitive and respectful of religious sentiments while  
11 observing principles of responsible scholarship.” Id. ¶ 7.

12 The harm that would ensue from the issuance of an injunction is not confined to California  
13 schoolchildren. Collectively, the publishers have invested “tens of millions of dollars” in  
14 developing and producing new instructional materials programs expressly for the California  
15 History-Social Science adoption, which are consonant with California frameworks and adoption  
16 criteria. (Driesler Dec. ¶ 11). Halting publication of the new textbooks would deny the  
17 publishers the ability to recover “a substantial portion of invested capital.” Id. In addition, the  
18 larger Hindu community also stands to suffer the harms attendant to a narrow, sectarian reading  
19 of Hinduism in its name. The HAF cannot speak on behalf of 7,66,,000 Americans who are  
20 Hindus, or for the global Hindu community, which has a membership of nearly 900 million  
21 individuals worldwide. (Faculty Decl. ¶ 5).

22 Finally, even if this Court were to acknowledge some undefined harm to Hindu  
23 schoolchildren because of the new textbooks, there is an adequate remedy within the Education  
24 Code. Indeed, the new textbooks are clearly superior to the old textbooks, but even if the Court  
25 determines that they are inadequate and need additional changes, or that certain procedural steps

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<sup>51</sup> The publication *India West* reports “HEF organizers told India-West they were pleased that 70 percent of their changes had been accepted.” Further HEF spokesperson Khanderao Kand also claimed that, “On behalf of the Hindu community, we have done significant progress to correct the biases and distortions in the textbooks.” “Panel Accepts Some Textbook Edits After Compromise,” Ashfaq Swapan, *India West*, March 3, 2006. Mr. Kand also told the *Cupertino Courier*, “We [were] able to correct a number of distortions and inaccuracies.” “State says no to major changes in textbooks,” Hugh Biggar, *Cupertino Courier*, March 22, 2006.

1 need to be repeated, California Education Code section 60047 specifies that the textbooks can be  
2 recalled after one year.<sup>52</sup> Therefore, the HAF’s claim that in the absence of injunctive relief, “any  
3 judgment ultimately granted in favor of petitioners on this issue will be rendered ineffectual”  
4 (Motion at \_\_\_) is patently false.

5  
6 **CONCLUSION**

7 For the foregoing reasons, Amici curiae respectfully request that this Court deny  
8 Plaintiff’s Motion for a Preliminary Injunction.

9 DATED: April 17, 2006

Respectfully Submitted,

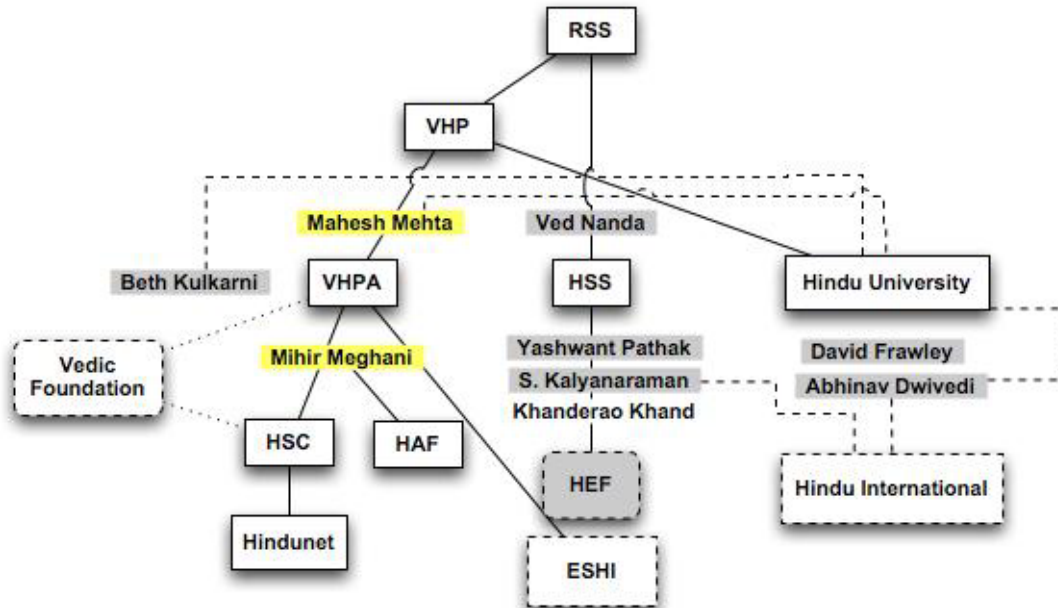
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11 \_\_\_\_\_  
12 MEETALI JAIN  
13 Attorney for Amici Curiae.  
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24 <sup>52</sup> That section provides:

25 In the event that after the good faith acquisition of instructional materials by a governing  
26 board, the instructional materials are found to be in violation of this article and the  
27 governing board is unable to acquire other instructional materials which meet the  
28 requirements of this article in time for them to be used when the acquired materials were  
planned to be used, the governing board may use the acquired materials but only for that  
academic year.

Ed. Code § 60047.

**EXHIBIT A**



- Greyed names** - advisors to HEF
- - Organizational tie
- ..... - Close relations with
- - - - - - Board of Directors

**RSS** - Rashtriya Swayamsevak Sangh  
**HSS** - Hindu Swayamsevak Sangh  
**VHP** - Vishwa Hindu Parishad  
**VHPA** - Vishwa Hindu Parishad America  
**HEF** - Hindu Education Foundation  
**HSC** - Hindu Students Council  
**HAF** - Hindu American Foundation  
**Hindunet** - Primary Hindutva network, started as a project of the HSC. Mahesh Mehta, founder and former President of the VHPA is Vice Chairman of Hindunet. All major Hindutva organizations' websites are hosted by Hindunet (including rss.org, vhp.org, organiser.org, panchjanya.org, sewa, idrf, ekal, hscnet.org, etc.)  
**[ESHI]** - Educators Society for the Heritage of India, created at VHPA/HSC's Dharma Conference 2003  
**[Hindu-International]** - Project to rewrite textbooks in Virginia, 2005, draws extensively on RSS imposed NCERT textbooks published by the BJP led government in 2003, and a VHP's publication.

**EXHIBIT B**

	<b>HAF</b>	<b>Sangh Affiliation</b>
Mihir Meghani	Founder	Coordinator (VHPA), Co-Founder(HSC); also a member of the HSS
Suhag Shukla	Legal Counsel	Founder U-Florida Ch. (HSC)
Aseem Shukla	Executive Council, Director	Co-Founder U-Florida Ch. (HSC)
Vinay Vallabh	Executive Council, Director	Ex Pres.UIUC Ch. (HSC)
Sheetal D. Shah	Executive Council, Director	Ex SE Regional Coordinator. (HSC)
	<b>HEF</b>	<b>Sangh Affiliation</b>
Ved Nanda	Advisor	Founder (HSS)
Khanderao Khand	Coordinator, Spokesperson	HSS – National Joint Secretary
Yashwant Pathak	Advisor	Africa Zone Pracharak & Intl. Jt. Coordinator (HSS)
Abhinav Dwivedi	Advisor	Advisor for Fundraising (ESHI), VP Hindu University, Hindu-International
Beth Kulkarni	Advisor	VP-Texas (VHPA), Advisor for Training & Education (ESHI)



1	S. Kalyanaraman	Advisor	Hindu-International
2		<b>VF</b>	<b>Sangh Affiliation</b>
3			
4	Chirag Patel	Director of Research	S.E. Regional Coordinator (HSC)
5			
6			
7		<b>ESHI</b>	<b>Sangh Affiliation</b>
8			
9	Mahesh Mehta	Advisor	Founder (VHPA)
10	Abhinav Dwivedi	Advisor for Fundraising	Advisor (HEF), Hindu- International
11			
12	Beth Kulkarni	Training & Education	VP-Texas (VHPA), Advisor (HEF)
13			
14	Kanchan Banerjee	Co-Founder, VP Public Relations	VP for Youth (VHPA), Co- Founder (HSC), HICAD
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16	Nikunj Trivedi	VP for Students/New Generation Outreach	VP (HSC)
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**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is \_\_\_\_\_. On April \_\_, 2006, I caused to be served the within document(s):

BRIEF OF AMICI CURIAE ON BEHALF OF AMBEDKAR CENTER FOR JUSTICE & PEACE, CAMPAIGN TO STOP FUNDING HATE, COALITION AGAINST COMMUNALISM, EKTA, FEDERATION OF TAMIL SANGAMS OF NORTH AMERICA, FRIENDS OF SOUTH ASIA, AND GURU RAVIDASS GURDWARAS OF CALIFORNIA IN SUPPORT OF DEFENDANT CALIFORNIA STATE BOARD OF EDUCATION’S OPPOSITION TO PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION; & PROOF OF SERVICE THEREOF

- BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- BY HAND:** by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Sacramento, California addressed as set forth below.
- BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- BY PERSONAL DELIVERY:** by causing personal delivery by \_\_\_\_\_ of the document(s) listed above to the person(s) at the address(es) set forth below.

Deborah B. Caplan  
N. Eugene Hill  
Richard C. Miadich  
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555 Capitol Mall, St. 1425  
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California Department of Education  
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Sacramento, CA 95814  
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*Attorneys for Respondents/Defendants*

*Attorneys for Petitioners/Plaintiffs*

I am readily familiar with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April \_\_, 2006, at Sacramento, California.

\_\_\_\_\_  
[INSERT NAME]