

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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**HINDU AMERICAN FOUNDATION,**

**Plaintiff,**

v.

**SUNITA VISWANATH, *et al.***

**Defendants.**

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: Case No. 1:21-cv-01268-APM  
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: Honorable Amit P. Mehta  
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**MOTION TO DISMISS THE COMPLAINT BY DEFENDANTS SUNITA VISWANATH  
AND RAJU RAJAGOPAL**

Defendants Sunita Viswanath and Raju Rajagopal (together, the “HfHR Defendants”) hereby move under Fed. R. Civ. P. 12(b)(2) and 12(b)(6) for dismissal of Plaintiff Hindu American Foundation’s Complaint.

For the reasons set forth more fully in the accompanying Memorandum of Points and Authorities, the Declaration of Sunita Viswanath, the Declaration of Raju Rajagopal, the Declaration of Thomas Sullivan, any reply the HfHR Defendants may file in support of this motion, and any oral argument the Court may hear, the Court lacks personal jurisdiction over the HfHR Defendants and Plaintiff has failed to state a claim against them. The Court accordingly should grant the motion, dismiss the Complaint, and enter judgment in favor of the HfHR Defendants.

**REQUEST FOR HEARING**

The HfHR Defendants respectfully request a hearing on their motion to dismiss.

Dated: August 27, 2021

Respectfully submitted,

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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
MOTION TO DISMISS THE COMPLAINT BY  
DEFENDANTS SUNITA VISWANATH AND RAJU RAJAGOPAL**

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### **PRELIMINARY STATEMENT**

This defamation action grows out of an intense, ongoing political conflict over human rights and religious freedom in India. Through this lawsuit, Plaintiff Hindu American Foundation (“HAF” or “Plaintiff”) seeks to punish overseas critics of the policies of the current Indian government led by the Bharatiya Janata Party (“BJP”) and Prime Minister Narendra Modi.

The Complaint lodged by HAF – a prominent booster of Modi and the BJP – asserts, *inter alia*, claims for defamation and civil conspiracy against two board members of Hindus for Human Rights (“HfHR”), a not-for-profit group that has vocally opposed the repressive policies of the BJP government. These claims arise out of two news reports published by *Al Jazeera*, which report on the receipt of U.S. government funds by organizations sympathetic to the BJP. Rather than sue the author or publisher of those allegedly defamatory reports, however, HAF has instead sued a number of individuals with whom it has existing and long-running political disagreements, including HfHR board members Sunita Viswanath and Raju Rajagopal (the “HfHR Defendants”), based on quotes allegedly attributable to these individuals that appear in the *Al Jazeera* reports. Viswanath and Rajagopal now move to dismiss this retaliatory and politically motivated Complaint pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure because this Court lacks personal jurisdiction over them, and Rule 12(b)(6) because Plaintiff has failed to state a claim against them, even if jurisdiction did exist.

As set forth below, Viswanath and Rajagopal are not subject to personal jurisdiction in this Court because they are not domiciled in the District of Columbia; nor are they alleged to have committed or been responsible for any acts within the District of Columbia related to Plaintiff’s claims. Plaintiff’s defamation claim fails in any event because the statements at issue

are non-actionable opinions, HAF has not pleaded that any facts allegedly conveyed are substantially and materially false, the statements are not “of and concerning” HAF, HAF has not plausibly alleged that Viswanath or Rajagopal made any statement with actual malice, and the Complaint fails to adequately allege special damages. Many of these statements are also not attributable to Viswanath or Rajagopal, but rather a “Coalition” of organizations including HfHR, and Plaintiff has not alleged any basis for holding Viswanath or Rajagopal liable for the statements they did not personally make. Finally, Plaintiff’s conspiracy claim fails, as Plaintiff has not alleged any viable underlying tort or facts plausibly supporting the existence of the alleged conspiracy.

### **STATEMENT OF FACTS<sup>1</sup>**

#### **A. The Political Conflict Underlying this Defamation Action**

In recent years, Hindu nationalism has emerged as a dominant force in Indian politics, particularly since the election of Narendra Modi as Prime Minister in 2014. The Hindu nationalist agenda he advocates, sometimes referred to as “Hindutva” (though, as discussed below, there is no one interpretation of the meaning of that term), privileges those who adhere to Hinduism or other religions that originated in India, at the expense of Christians, Muslims, and ethnic and cultural minorities.<sup>2</sup> In particular, in the eyes of their detractors, Hindutva-based

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<sup>1</sup> For purposes of this motion to dismiss only, the HfHR Defendants accept as true the Complaint’s well-pleaded allegations. In addition, “in determining whether a complaint states a claim, the court may consider the facts alleged in the complaint, documents attached thereto or incorporated therein, and matters of which it may take judicial notice. Judicial notice is properly taken of publicly available historical articles” that a defendant may attach to its motion to dismiss. *Farah v. Esquire Magazine*, 736 F.3d 528, 534 (D.C. Cir. 2013) (internal quotations and citations omitted). Such articles properly “illustrate the political and social context in which [defendants’] statements were made.” *Id.* at 533.

<sup>2</sup> See Lauren Frayer & Furkan Latif Khan, *The Powerful Group Shaping the Rise of Hindu Nationalism in India* (“Powerful Group”), NPR (May 3, 2019), <https://www.npr.org/2019/05/03/706808616/the-powerful-group-shaping-the-rise-of-hindu->

beliefs and policies seek to marginalize Muslims in Indian society.<sup>3</sup>

Modi first came to international political prominence in 2002 when, as Chief Minister of the Indian state Gujarat, he was widely viewed as condoning riots that led to the death of over 1,000 Muslims.<sup>4</sup> In the wake of the riots, Modi himself was refused a visa for entry into the U.S. due to his role.<sup>5</sup> Modi has also long been a proud and open member of Rashtriya Swayamsevak Sangh (“RSS”), “a violent right-wing organization that promotes Hindu supremacy” and that is closely linked with the BJP.<sup>6</sup> Between 2014, when Modi was elected, and 2017, incidents of violence against religious minorities and other marginalized communities in India increased by 28 percent.<sup>7</sup> To cite just one category of violence, there were 168 attacks by Hindu extremists against Muslims or other religious minorities in the name of protecting cows between 2012 and 2019, causing 46 people to die.<sup>8</sup> Public reporting further chronicles the Modi government’s

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[nationalism-in-india.](#)

<sup>3</sup> See Powerful Group.

<sup>4</sup> See, e.g., Aditya Chakraborty, *Narendra Modi, a man with a massacre on his hands, is not the reasonable choice for India*, The Guardian (Apr. 7, 2014), <https://www.theguardian.com/commentisfree/2014/apr/07/narendra-modi-massacre-next-prime-minister-india>

<sup>5</sup> Greg Myre, *Why The U.S. Shunned The Man Who Will Now Lead India*, NPR, <https://www.npr.org/sections/parallels/2014/05/16/313006934/why-the-u-s-boycotted-the-man-who-will-now-lead-india>

<sup>6</sup> See, e.g., Eliza Griswold, *The Violent Toll of Hindu Nationalism in India* (“Violent Toll”), New Yorker (Mar. 5, 2019), <https://www.newyorker.com/news/on-religion/the-violent-toll-of-hindu-nationalism-in-india>; Rajesh Joshi, *The Hindu hardline RSS who see Modi as their own*, BBC (Oct. 22, 2014), <https://www.bbc.com/news/world-asia-india-29593336>; see also Powerful Group.

<sup>7</sup> See Violent Toll.

<sup>8</sup> *Id.*

increased commitment to “pursu[ing] his party’s agenda of Hindu primacy in India” since his re-election in 2019.<sup>9</sup>

This agenda has unfolded on multiple fronts, and has been widely reported in the Indian and Western press. One policy that drew widespread condemnation involved “stripping Jammu and Kashmir state, India’s only Muslim-majority state, of the autonomy it had held since the 1940s” through a military crackdown that included shutting down the Internet, detaining thousands, and instituting a near-total lockdown of over 8 million citizens.<sup>10</sup> The Modi government also instituted an amendment to its citizenship laws titled the “Citizenship Amendment Act” (“CAA”) that “would give migrants of all of South Asia’s major religions a clear path to Indian citizenship — except Islam.”<sup>11</sup> Critics consider the CAA “glaring evidence that the government plans to turn India into a Hindu-centric state and marginalize the country’s 200 million minority Muslims.”<sup>12</sup> And the Modi government’s rhetoric matches its legislative and military actions – its Minister of Home Affairs publicly referred to Muslim undocumented immigrants as “termites” and “infiltrators” and pledged that the BJP would “throw them into the

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<sup>9</sup> Joanna Slater & Niha Masih, *What Delhi’s Worst Communal Violence in Decades Means for Modi’s India* (“Worst Communal Violence”), Washington Post (Mar. 2, 2020), [https://www.washingtonpost.com/world/asia\\_pacific/what-days-of-communal-violence-mean-for-modi-and-for-india/2020/03/01/3d649c18-5a68-11ea-8efd-0f904bdd8057\\_story.html](https://www.washingtonpost.com/world/asia_pacific/what-days-of-communal-violence-mean-for-modi-and-for-india/2020/03/01/3d649c18-5a68-11ea-8efd-0f904bdd8057_story.html).

<sup>10</sup> Jeffrey Gettleman & Atul Loke, *In Kashmir, Growing Anger and Misery*, N.Y. Times (Sept. 30, 2019), <https://www.nytimes.com/2019/09/30/world/asia/Kashmir-lockdown-photos.html>

<sup>11</sup> Jeffrey Gettleman & Suhasini Raj, *India Steps Toward Making Naturalization Harder for Muslims*, N.Y. Times (Dec. 9, 2019), <https://www.nytimes.com/2019/12/09/world/asia/india-muslims-citizenship-narendra-modi.html>.

<sup>12</sup> Kai Schultz, *Modi Defends Indian Citizenship Law Amid Violent Protests*, N.Y. Times (Dec. 22, 2019), <https://www.nytimes.com/2019/12/22/world/asia/modi-india-citizenship-law.html>.

Bay of Bengal.”<sup>13</sup>

The Modi government’s Hindu nationalist agenda has led to a climate of violence in India. In March 2020, for example, a local BJP leader’s threat to clear a protest against the CAA in New Delhi led to “the worst communal violence in decades.”<sup>14</sup> According to news accounts, the “violence in India’s capital [] left more than 40 dead and hundreds injured after a Hindu nationalist rampage, stoked by the rhetoric of Narendra Modi’s populist government.”<sup>15</sup>

#### **B. Plaintiff Hindu American Foundation**

Plaintiff HAF describes itself as an independent nonprofit dedicated to “educating the public about Hindus and Hinduism and advocating for policies and practices that ensure the well-being of all people and the planet.” Compl. ¶ 19. Notwithstanding this Hindu-centered advocacy, HAF states that its mission is “promoting dignity, mutual respect, pluralism, and the greater good of all.” *Id.* ¶ 1.

Publicly available reporting about HAF’s membership and activities paints a less flattering picture. HAF has long been charged with supporting “Hindu nationalism” and has consistently endorsed policies “which are seen as part of the Indian government’s nationalist agenda.”<sup>16</sup> HAF has authored statements supporting both the crackdown in Kashmir and the

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<sup>13</sup> Devjyot Ghoshal, *Amit Shah Vows to Throw Illegal Immigrants into Bay of Bengal*, Reuters (Apr. 12, 2019), <https://www.reuters.com/article/india-election-speech/amit-shah-vows-to-throw-illegal-immigrants-into-bay-of-bengal-idUSKCN1RO1YD>.

<sup>14</sup> *See* Worst Communal Violence.

<sup>15</sup> Hannah Ellis-Peterson, *Inside Delhi: Beaten, Lynched, and Burnt Alive*, The Guardian (Mar. 1, 2020), <https://www.theguardian.com/world/2020/mar/01/india-delhi-after-hindu-mob-riot-religious-hatred-nationalists>.

<sup>16</sup> Sonia Paul, *How Hindu Nationalism Could Shape the Election* (“Shape the Election”), Politico (Oct. 30, 2020), <https://www.politico.com/news/magazine/2020/10/30/hindu-nationalism-election-indian-american-voters-433608>.



citizenship laws advanced by the Modi government (including both the CAA and other laws widely seen as discriminatory such as the National Population Register and National Registrar of Citizens).<sup>17</sup>

In the U.S., the group has advocated in favor of “a revisionist version of ancient Indian history in American textbooks that downplays the role of the caste system in Hinduism and insists on referring to all of South Asia as India, in addition to defending India’s moves in Kashmir and [the] citizenship law.”<sup>18</sup> According to one India-based publication, HAF has “consistently lobbied in favor of the Sangh Parivar—a network of organizations connected to the Hindu-nationalist RSS.”<sup>19</sup> And HAF board member Rishi Bhutada was the official head spokesman for “Howdy, Modi,” a large-scale rally hosted in Texas to celebrate Prime Minister Modi.<sup>20</sup> In short, HAF has consistently aligned itself with and advocated on behalf of the BJP government headed by Prime Minister Modi.

### **C. Defendants Viswanath and Rajagopal**

Defendants Sunita Viswanath and Raju Rajagopal are board members of the non-profit organization Hindus for Human Rights. *See* Compl. ¶¶ 8-9. HfHR is “a U.S.-based advocacy

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<sup>17</sup> Press Release, HAF, India’s Citizenship Amendment Act: A First Step Opportunity to Better Address Human Rights in South Asia (Dec. 14, 2019), <https://www.hinduamerican.org/press/india-citizenship-amendment-bill>; *What you need to know about the struggle for peace in Kashmir*, HAF, <https://www.hinduamerican.org/issues/kashmir-struggle> (last visited Aug. 24, 2021).

<sup>18</sup> *See* Shape the Election.

<sup>19</sup> Ram Vishwanathan, *Saffron, Red, and Blue: How the American Sangh Hopes to Win the 2020 US Elections*, *The Caravan* (Oct. 28, 2020), <https://caravanmagazine.in/politics/how-the-american-sangh-hopes-to-win-the-2020-elections>.

<sup>20</sup> Rashmee Kumar, *The Network of Hindu Nationalists Behind Modi’s “Diaspora Diplomacy” In the U.S.*, *The Intercept* (Sept. 25, 2019), <https://theintercept.com/2019/09/25/howdy-modi-trump-hindu-nationalism/>.

organization that is committed to the ideals of multi-religious pluralism in the United States, South Asia, and beyond.”<sup>21</sup> The group “provides a Hindu voice of resistance to caste, Hindutva (Hindu nationalism), racism, and all forms of bigotry and oppression.”<sup>22</sup> HfHR has vocally opposed the Hindu nationalism being promoted by the Modi government.

As alleged in the Complaint, Viswanath lives in Brooklyn, New York, and Taos, New Mexico. Compl. ¶ 8; *see* Decl. of Sunita Viswanath (“Viswanath Decl.”) ¶¶ 2-3.<sup>23</sup> Viswanath does not live or work in D.C., regularly travel to D.C., or conduct business in D.C., nor has Plaintiff alleged otherwise. *Id.* ¶ 4.

The Complaint further alleges that Rajagopal lives in Oakland, California. Compl. ¶ 9; Decl. of Raju Rajagopal (“Rajagopal Decl.”) ¶ 2.<sup>24</sup> Like Viswanath, Rajagopal neither lives nor works in D.C., does not regularly travel to D.C., and does not conduct business in D.C., and Plaintiff has not alleged otherwise. *Id.* ¶ 4.

#### **D. The Complaint and the *Al Jazeera* Reports**

The Complaint centers on two news reports published by the international news organization *Al Jazeera* on its website, [aljazeera.com](http://aljazeera.com) (the “Reports”).<sup>25</sup> The Reports generally

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<sup>21</sup> Our Mission, HfHR, <https://www.hindusforhumanrights.org/introduction> (last visited Aug. 24, 2021); Hindu Voices for Justice, HfHR, <https://www.hindusforhumanrights.org/en/our-vision> (last visited Aug. 24, 2021).

<sup>22</sup> *Id.*

<sup>23</sup> In considering the motion to dismiss for lack of personal jurisdiction, the Court may “receive and weigh affidavits and other relevant matter to assist it in determining the jurisdictional facts.” *United States v. Philip Morris Inc.*, 116 F. Supp. 2d 116, 120 n.4 (D.D.C. 2000).

<sup>24</sup> The Complaint alleges that Rajagopal also lives in Chennai, India. Compl. ¶ 9. This is factually incorrect. Rajagopal has not lived in India since 2012. Rajagopal Decl. ¶ 3.

<sup>25</sup> For the Court’s convenience, copies of the Reports, which Plaintiff did not file with its Complaint, are provided as Exhibits 1 and 2 to the Declaration of Thomas B. Sullivan (“T. Sullivan Decl.”), filed along with this motion. The Court may consider these documents as they

concern the payment of funds from the U.S. Small Business Administration’s Paycheck Protection Program (“PPP”) to non-profit groups aligned with the Modi government, including Plaintiff. Notably, Plaintiff has sued neither the author of the First Report, journalist Raqib Hameed Naik, nor the Reports’ publisher, *Al Jazeera*, choosing instead to advance claims against individuals quoted in the Reports who have opposed Hindu nationalism in the past, including Viswanath and Rajagopal.

*1. The First Al Jazeera Report*

The first *Al Jazeera* report was published on April 2, 2021 under the headline, “Hindu Right-Wing Groups in US Got \$833,000 of Federal COVID Fund.” Compl. ¶ 24 (the “First Report”); T. Sullivan Decl. Ex. 1. It cites data published by the U.S. Small Business Administration showing that five groups aligned with Hindu nationalist ideology received federal aid set aside for businesses experiencing distress due to COVID-19. T. Sullivan Decl. Ex. 1. The article reports that HAF received the “lion’s share” of federal funds allocated to the five groups listed, totaling \$388,064 in Paycheck Protection Program and CARES Act money. *Id.* It described HAF’s political activities on Capitol Hill, including its “vehement defense” of the Modi government’s citizenship law and policies in Kashmir. *Id.* The First Report also detailed ties between HAF and RSS, both in terms of financial contributions and personnel. *Id.*<sup>26</sup> The author quoted multiple researchers and scholars who expressed concern that federal relief

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are incorporated by reference in Plaintiff’s Complaint. *Libre by Nexus v. BuzzFeed, Inc.*, 311 F. Supp. 3d 149, 153 (D.D.C. 2018).

<sup>26</sup> Specifically, the First Report relates that HAF board member Rishi Bhutada is the son of Ramesh Bhutada, vice president of the U.S. wing of RSS, and that the Bhutada Family Foundation has supported HAF financially. *Id.*

funds were flowing toward "extremist groups" or groups that "have disturbing ties to those allegedly engaging in religious violence and bigotry overseas." *Id.*

HAF cites as defamatory one paraphrased statement and two direct quotations in the First Report attributed to Viswanath, Compl. ¶ 25:

- "Viswanath, co-founder of Hindus for Human Rights, expressed concern that the US pandemic relief funds might end up furthering hate campaign[sic] against Muslims and other minorities in India." *Id.*
- "All these organisations [including HAF] are sympathetic to the Hindu supremacist ideology. Their parent organisations continue to spread hatred in Hindu communities towards Muslims and Christians, '..." *Id.* (alteration by Plaintiff)
- "Any American nonprofit that perpetuates Islamophobia and other forms of hate should not receive federal relief funds in any form." *Id.*

The Complaint alleges that each of these statements refers to HAF and that each is false and defamatory. As the published statements reflect, Viswanath did not reference HAF directly in any of them, notwithstanding Plaintiff's alteration of the text in the Complaint to make it appear as though she did. *Id.* The Complaint further alleges that both Viswanath and Rajagopal participated in a "strategic and coordinated effort" to amplify the allegedly defamatory statements by posting a link to the First Report on HfHR's website and Twitter account. *Id.* ¶ 27.

## 2. *The Second Al Jazeera Report*

The second *Al Jazeera* news report was headlined "Call for US probe into Hindu Right-Wing Groups Getting COVID Fund." *Id.* ¶ 28 (the "Second Report"); *see also* T. Sullivan Decl. Ex. 2. It discloses that a group called the Coalition to Stop Genocide in India ("the Coalition") had requested the Small Business Administration to investigate the payments described in the First Report. *Id.* HAF attributes one allegedly false and defamatory statement to Rajagopal:

- "The rise of HAF and other organisations linked with Hindutva has emboldened Hindu supremacist organizations in India, while also stifling the moderate Hindu voices here in the US[.]" Compl. ¶ 29(b).

HAF broadly attributes several other allegedly false and defamatory statements in the Second Report to the Coalition, and not to any particular individual. *Id.* ¶ 29(d). HAF again alleges that Viswanath and Rajagopal participated in “strategic efforts” to amplify the supposedly defamatory statements by posting them to HfHR’s website. *Id.* ¶ 31.

### 3. *The Alleged Conspiracy*

Plaintiff contends that Viswanath and Rajagopal, as well as co-defendants Rasheed Ahmed, John Prabhudoss, and Audrey Truschke, “dislike the political party currently in power in India . . . and have political disagreements with the Indian government.” Compl. ¶ 4. Four of the individual Defendants are also alleged to be members of organizations that are, in turn, part of the Coalition—Viswanath and Rajagopal through HfHR, Ahmed through the Indian American Muslim Council, and Prabhudoss through the Federation of Indian American Christian Organizations. *Id.* ¶¶ 2, 20.

HAF’s Complaint portrays these Defendants’ alleged statements as a coordinated conspiracy to defame. *Id.* ¶ 4. Plaintiff contends that, rather than merely expressing their political views, the Defendants “concocted a scheme to defame groups,” including HAF, “whom they perceive to be “‘pro-Indian government’ and ‘pro-Hindu.’” *Id.* Plaintiff does not allege what the object of this “scheme” entailed, when the Defendants allegedly “concocted” their scheme, or what illegal goal they allegedly pursued. *Id.* Plaintiff also has not alleged any connection or meeting between the individual Defendants, other than their indirect involvement as members of organizations that participate in the Coalition. Instead, the Complaint relies on vague and conclusory allegations that the individual Defendants each have “substantial ties” to one another. *See id.* ¶¶ 20-22. The only related acts arguably alleged are “us[ing] each other as corroborating sources,” *id.*, working in organizations with similar missions, *see id.* at ¶ 20, and

each separately being quoted in the *Al Jazeera* Reports—all common acts of political speech and advocacy.

## ARGUMENT

### I. STANDARD OF REVIEW

To survive a motion to dismiss, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Nurridin v. Bolden*, 818 F.3d 751, 756 (D.C. Cir. 2016) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

“Determining whether a complaint states a plausible claim for relief . . . [is] a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Iqbal*, 556 U.S. at 679. In conducting this review, the Court should not “accept inferences drawn by a plaintiff if such inferences are unsupported by the facts set out in the complaint.” *Nurridin*, 818 F.3d at 756 (internal marks omitted). Nor should the Court “accept legal conclusions couched as factual allegations.” *Id.*

In the District of Columbia, a defamation plaintiff must plausibly allege facts establishing “(1) that the defendant made a false and defamatory statement concerning the plaintiff; (2) that the defendant published the statement without privilege to a third party; (3) that the defendant’s fault in publishing the statement amounted to at least negligence; and (4) either that the statement was actionable as a matter of law irrespective of special harm or that its publication caused the plaintiff special harm.” *Libre*, 311 F. Supp. 3d at 154. A public figure defamation plaintiff cannot rely on mere negligence – it “must plausibly allege that Defendants published the [statements] ‘with actual malice, that is, with knowledge that it was false or with reckless disregard of whether it was false or not.’” *Nunes v. WP Co. LLC*, No. 20-cv-01403 (APM), 2020 U.S. Dist. LEXIS 242227, at \*12 (D.D.C. Dec. 24, 2020) (quoting *Liberty Lobby, Inc. v. Dow Jones & Co.*, 838 F.2d 1287, 1292 (D.C. Cir. 1988)).

As the D.C. Circuit has emphasized, the district court’s obligation to evaluate claims targeting speech on a matter of public concern is a weighty one:

The First Amendment guarantees freedom of speech and freedom of the press. Costly and time-consuming defamation litigation can threaten those essential freedoms. To preserve First Amendment freedoms and give reporters . . . the breathing room they need to pursue the truth, the Supreme Court has [therefore] directed courts to expeditiously weed out unmeritorious defamation suits.

*Kahl v. Bureau of Nat’l Affairs, Inc.*, 856 F.3d 106, 109 (D.C. Cir. 2017). Because valuable speech can be chilled by the burdens of litigation “even if a defendant ultimately prevails,” courts in this jurisdiction and elsewhere have recognized that these cases should be resolved “through summary procedures when and as soon as possible.” *Mar-Jac Poultry, Inc. v. Katz*, 773 F. Supp. 2d 103, 111 (D.D.C. 2011) (citing *Coles v. Washington Free Weekly, Inc.*, 881 F. Supp. 26, 30 (D.D.C. 1995), *aff’d*, 88 F.3d 1278 (D.C. Cir. 1996), and *McBride v. Merrell Dow & Pharms., Inc.*, 717 F.2d 1460, 1466 (D.C. Cir. 1983)). Plaintiff’s Complaint fails to state a viable defamation or conspiracy claim for multiple, independent reasons, and it should therefore be dismissed now.

## **II. THE COURT DOES NOT HAVE PERSONAL JURISDICTION OVER VISWANATH OR RAJAGOPAL**

As an initial matter, the Complaint against Viswanath and Rajagopal should be dismissed because they are not subject to jurisdiction in this Court. *See* Fed. R. Civ. P. 12(b)(2). Plaintiff “bears the burden of plausibly alleging a factual basis for exercising personal jurisdiction” and “[c]onclusory statements . . . do not constitute the *prima facie* showing necessary to carry the burden.” *Triple Up, Ltd. v. Youku Tudou, Inc.*, No. 17-7033, 2018 U.S. App. LEXIS 19699, at \*4 (D.C. Cir. July 17, 2018) (per curiam) (affirming dismissal under Fed. R. Civ. P. 12(b)(2)); *accord Stark v. Swift*, No. 19-cv-01010 (APM), 2019 U.S. Dist. LEXIS 190530, at \*4 (D.D.C. Nov. 4, 2019) (“To establish personal jurisdiction, a plaintiff must allege specific acts connecting

the defendant with the forum and cannot rely on conclusory allegations.” (internal marks omitted)).

Plaintiff’s entire jurisdictional theory is the single, unsupported allegation that the “Defendants” collectively “have minimum contacts” with the District, including “purposefully making and conspiring to publish defamatory statements.” Compl. ¶ 17. These conclusory allegations are insufficient, as a matter of law. *See Triple Up, Ltd.*, 2018 U.S. App. LEXIS 19699, at \*4; *see also Stark*, 2019 U.S. Dist. LEXIS 190530, at \*9 (granting motion where “plaintiff alleges nothing that could allow the court to plausibly conclude that [defendant] had a connection to, or engaged in a course of conduct with, the District of Columbia”).

The conclusory allegation of minimum contacts is also contradicted by Plaintiff’s own factual allegations: Viswanath and Rajagopal are domiciled in New York and California, respectively, Compl. ¶¶ 8, 9, and are not alleged to have taken any specific action that would give rise to jurisdiction in the District of Columbia. In fact, they have so few contacts with the District of Columbia that the exercise of jurisdiction in this case would offend due process.

**A. Viswanath and Rajagopal are Not Subject to General Jurisdiction in the District**

In evaluating personal jurisdiction, courts ask first whether there is “general” jurisdiction, that is, whether a defendant’s contacts with a state “are so ‘continuous and systematic’ as to render them essentially at home in the forum State.” *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011); *Livnat v. Palestinian Auth.*, 851 F.3d 45, 56 (D.C. Cir. 2017) (“Due process permits general jurisdiction based on ‘only a limited set of affiliations with a forum,’ all analogous to an individual’s domicile.”). Indeed, a “District of Columbia court may exercise general jurisdiction only over individuals who are domiciled in the District.” *Stark*, 2019 U.S. Dist. LEXIS 190530, at \*4. There is no allegation of general jurisdiction, nor could



there be, as Viswanath and Rajagopal are both domiciled and “at home” in other states—New York and California, respectively. See Compl. ¶¶ 8, 9.

**B. Viswanath and Rajagopal Are Not Subject to Specific Jurisdiction in the District**

In the absence of general jurisdiction, courts look to the underlying state’s long-arm statute to determine whether there is specific jurisdiction and, if so, ask whether a defendant has sufficient “minimum contacts” with the forum “that maintenance of the suit does not offend traditional notions of fair play and substantial justice.” *Brown v. Bountiful Blessing Temple of Deliverance*, No. 1:19-cv-03832 (UNA), 2020 U.S. Dist. LEXIS 16227, at \*3 (D.D.C. Jan. 23, 2020). Specific jurisdiction “requires an ‘affiliation between the forum and the underlying controversy.’” *Livnat*, 851 F.3d at 56 (citing *Walden v. Fiore*, 571 U.S. 277 (2014)) (affirming dismissal where Plaintiff provided only conclusory allegations in support of jurisdictional claims).

Plaintiff has not articulated a basis for jurisdiction under the long-arm statute or alleged that Viswanath or Rajagopal were in the District when they made the statements at issue or, for that matter, at any point during the events underlying this case. See Compl. ¶ 17 (referring only to “minimum contacts”). In a tort claim such as this one, D.C.’s long-arm statute allows for jurisdiction based on out-of-state actions only if the defendant “regularly does or solicits business, engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed, or services rendered, in the District of Columbia.” D.C. Code § 13-423(a)(4); see *Bourdon v. Mabus*, No. 12-5066, 2012 U.S. App. LEXIS 14329, at \*2 (D.C. Cir. July 12, 2012) (affirming dismissal for failure to allege “persistent course of conduct” or conspiracy theory of jurisdiction). As there is also no allegation that Viswanath or Rajagopal are engaged in any persistent course of conduct in the District (and in fact, neither is engaged in

ongoing conduct in the District), there is simply no basis for specific jurisdiction. *See id.*; Viswanath Decl. ¶ 4; Rajagopal Decl. ¶ 4.

To the extent Plaintiff purports to allege jurisdiction based on the posting of these statements online, the D.C. Circuit has explained that “personal jurisdiction . . . cannot be based solely on the ability of District residents to access the defendants’ websites, for this does not by itself show any persistent course of conduct by the defendants in the District.” *Copeland-Jackson v. Oslin*, 555 F. Supp. 2d 213, 216 (D.D.C. 2008) (citing *GTE New Media Servs. Inc. v. Bellsouth Corp.*, 199 F.3d 1343, 1349-50 (D.C. Cir. 2000)).

To the extent Plaintiff’s reference to “conspiring,” Compl. ¶ 17, is an attempt to allege “conspiracy jurisdiction”—jurisdiction over an out-of-state defendant based on the in-state acts of a co-conspirator at agent—Plaintiff still has not carried its burden. “Bald speculation or a conclusory statement that individuals are co-conspirators is insufficient to establish personal jurisdiction under a conspiracy theory.” *3M Co. v. Boulter*, 842 F. Supp. 2d 85, 112 (D.D.C. 2012) (citing *Jungquist v. Sheikh Sultan Bin Khalifa Al Nahyan*, 115 F.3d 1020, 1031 (D.C. Cir. 1997)). Instead, a plaintiff must provide specific factual allegations showing “1) the existence of a civil conspiracy; 2) the defendant’s participation in the conspiracy, and 3) an overt act by a co-conspirator within the forum, subject to the long-arm statute, and in furtherance of the conspiracy.” *Id.*

As demonstrated in Section VII below, Plaintiff has not alleged a civil conspiracy, and this alone bars Plaintiff’s attempt to rely on conspiracy jurisdiction. *See Second Amendment Found. v. U.S. Conference of Mayors*, 274 F.3d 521, 524 (D.C. Cir. 2001) (affirming dismissal for lack of personal jurisdiction where plaintiff could not allege civil conspiracy claim, as necessary prerequisite to conspiracy theory of jurisdiction); *Bourdon*, 2012 U.S. App. LEXIS

14329, at \*2 (same). Plaintiff also has not alleged any facts that would suggest Viswanath or Rajagopal participated in any such conspiracy or identified any overt act within the District in furtherance of such a conspiracy, and its “bald speculation” that the Defendants conspired to defame HAF is insufficient. *See Livnat*, 851 F.3d at 57.

Finally, although the Court need not consider due process in light of Plaintiff’s failure to allege specific jurisdiction, it bears mention that the exercise of personal jurisdiction over Viswanath and Rajagopal would also “offend traditional notions of fair play and substantial justice.” *Brown*, 2020 U.S. Dist. LEXIS 16227, at \*3. “Due process requires that a defendant be haled into court in a forum State based on his own affiliation with the State, not based on the ‘random, fortuitous, or attenuated’ contacts he makes by interacting with other persons affiliated with the State.” *Walden*, 571 U.S. at 286. Plaintiff has alleged, at most, that Viswanath and Rajagopal made statements outside the District that were later published online and available on the Internet within the District. Courts routinely reject jurisdiction based on allegations such as these, because jurisdiction based on online publications would allow jurisdiction to “almost always be found in any forum in the country,” in violation of “long-held and inviolate principles” of due process. *GTE New Media Servs.*, 199 F.3d at 1350.

Therefore, this Court should dismiss this case with respect to Viswanath and Rajagopal due to lack of personal jurisdiction.

### **III. NONE OF THE STATEMENTS ALLEGEDLY MADE BY VISWANATH AND RAJAGOPAL ARE ACTIONABLE AS DEFAMATION**

Even if this Court could properly exercise personal jurisdiction over the HfHR Defendants, HAF has failed to plausibly allege a defamation claim based upon the statements allegedly made by Viswanath and Rajagopal. This is true for four separate and equally dispositive reasons: (1) the alleged statements are non-actionable opinions, (2) to the extent the

statements could be construed as making factual assertions, HAF has not pleaded that the facts conveyed are substantially and materially false, (3) the alleged statements are not “of and concerning” HAF, and (4) Plaintiff fails adequately to allege that either Viswanath or Rajagopal made any statement with actual malice, as it is required to do as a public figure.

**A. The Statements Allegedly Made by Viswanath and Rajagopal are Opinions, Which Cannot Sustain a Claim for Defamation**

None of the statements allegedly made by Viswanath or Rajagopal are actionable because, under the First Amendment, “a statement of opinion is actionable only if it has an explicit or implicit factual foundation and is therefore ‘objectively verifiable.’” *Washington v. Smith*, 80 F.3d 555, 556 (D.C. Cir. 1996); accord *White v. Fraternal Order of Police*, 909 F.2d 512, 522 (D.C. Cir. 1990); *Armstrong v. Thompson*, 80 A.3d 177, 184 (D.C. 2013). “[I]f it is plain that a speaker is expressing a subjective view, an interpretation, a theory, conjecture, or surmise, rather than claiming to be in possession of objectively verifiable facts, the statement is not actionable.” *Rosen v. Am. Isr. Public Affairs Comm., Inc.*, 41 A.3d 1250, 1256 (D.C. 2012) (internal marks omitted); accord *Farah*, 736 F.3d at 534-35 (“Where a statement is so imprecise or subjective that it is not capable of being proved true or false, it is not actionable in defamation.” (internal citations omitted)). This is because “there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas.” *Bose Corp v. Consumers Union*, 466 U.S. 485, 504 (1984) (internal marks omitted). Moreover, the First Amendment provides protection for the use of “rhetorical hyperbole” and other language used in a “loose, figurative sense” where no “factual representation can reasonably be inferred.” *Old Dominion Branch No. 496 v. Austin*, 418 U.S. 264, 284-86 (1974); see *Greenbelt Coop. Publ’g Ass’n v. Bresler*, 398 U.S. 6, 13-14 (1970).

Following *Ollman v. Evans*, 750 F.2d 970 (D.C. Cir. 1984) (en banc), courts in this Circuit consider four factors in determining whether a statement amounts to such a nonactionable opinion: (1) “the common usage or meaning of the specific language of the challenged statement itself,” (2) whether “the statement [is] capable of being objectively characterized as true or false,” (3) “the full context of the statement,” and (4) “the broader context or setting in which the statement appears.” *Id.* at 979; see *Fairbanks v. Roller*, 314 F. Supp. 3d 85, 90 (D.D.C. 2018); *Deripaska v. Associated Press*, 282 F. Supp. 3d 133, 147 (D.D.C. 2017); *McCaskill v. Gallaudet Univ.*, 36 F. Supp. 3d 145, 159 (D.D.C. 2014). None of the statements allegedly made by Viswanath and/or Rajagopal are actionable under the *Ollman* test.

### **1. The Alleged Statements in the First Report Are Non-Actionable for Multiple Reasons**

*First*, while the Complaint breaks a single section of the First Report into three separate statements, Viswanath’s comments must be evaluated together in the context in which they appeared. See *Klayman v. Segal*, 783 A.2d 607, 614 (D.C. 2001) (“a statement in an article may not be isolated and then pronounced defamatory”). The challenged statements attributed to Viswanath in the First Report appeared as follows:

New York-based Sunita Viswanath, co-founder of Hindus for Human Rights, expressed concern that the US pandemic relief funds might end up furthering hate campaign against Muslims and other minorities in India.

“All these organisations are sympathetic to the Hindu supremacist ideology. Their parent organisations continue to spread hatred in Hindu communities towards Muslims and Christians,” she told Al Jazeera.

“Any American non-profit that perpetuates Islamophobia and other forms of hate should not receive federal relief funds in any form.”

T. Sullivan Decl. Ex. 1 at 4; see also Compl. ¶ 25(a).

Viswanath’s entire statement is couched as one of “concern” that “pandemic relief funds might end up furthering hate campaigns against Muslims and other minorities in India.” As

other courts in this District have found in similar contexts, “the inclusion of cautionary language . . . weighs in favor of treating the statement that follows as an expression of opinion.” *Bauman v. Butowsky*, 377 F. Supp. 3d 1, 11 (D.D.C. 2019) (internal marks omitted) (use of word “finds” in statement suggests defendant was expressing opinion); *see Deripaska*, 282 F. Supp. 3d at 147 (use of word “if” in statement “suggest[s] anything but certainty”); *Q Int’l Courier, Inc. v. Seagraves*, No. 95-1554, 1999 U.S. Dist. LEXIS 23355, at \*18 (D.D.C. Feb. 26, 1999) (same where author began statement with word “apparently”). Here, the inclusion of the word “concern” makes it clear that the entire statement is conjecture, not fact. *Cf. Abbas v. Foreign Policy Grp.*, 783 F.3d 1328, 1338 (D.C. Cir. 2015) (finding that “questions indicate a defendant’s lack of definitive knowledge about the issue” (internal quotation marks omitted)).

Similarly, Viswanath’s worry about something that “might” happen cannot be proven false, as a “prediction about a possible future event is an opinion, not a factual assertion.” *Harrington v. Hall Cty. Bd. of Supervisors*, No. 4:15-CV-3052, 2016 U.S. Dist. LEXIS 43541, at \*26 (D. Neb. Mar. 31, 2016); *accord Lluberes v. Uncommon Prods.*, 740 F. Supp. 2d 207, 226 (D. Mass. 2010) (statement at issue “was plainly conjecture about a future event and an expression of fear, the validity of which cannot be proved to be true or false”); *Cenveo Corp. v. Celumsolutions Software GmbH*, 504 F. Supp. 2d 574, 579 (D. Minn. 2007) (a “statement about future events . . . does not imply the existence of a fact”); *Uline, Inc. v. JIT Packaging, Inc.*, 437 F. Supp. 2d 793, 803 (N.D. Ill. 2006) (“a prediction of future events can neither be true nor false”).

In addition, the statement is rife with terms subject to varying interpretations and definitions – “hate campaigns,” “Hindu supremacist ideology,” “hatred,” “Islamophobia,” and “forms of hate” – and, as such, cannot support a defamation action. *See, e.g., Ollman*, 750 F.2d

at 987 (finding unverifiable “a loosely definable, variously interpretable statement of opinion made inextricably in the contest of political, social or philosophical debate” (alterations and citation omitted)); *Arpaio v. Cottle*, 404 F. Supp. 3d 80, 85 (D.D.C. 2019) (finding words like “sadist” and “true American villain” were “too imprecise or subjective to be verifiably false facts”). Many courts in this District and elsewhere have found similar terms inherently ambiguous. *See, e.g., McCaskill*, 36 F. Supp. 3d at 159 (statement characterizing the plaintiff’s petition as “anti-gay” is opinion because the term “carries a host of definitions and numerous connotations”); *Thomas v. News World Commc’ns*, 681 F. Supp. 55, 63 (D.D.C. 1988) (“A charge that plaintiffs’ signs are ‘unAmerican,’ for example, is not objectively capable of proof or disproof.”); *Guilford Transp. Indus. v. Wilner*, 760 A.2d 580, 598 (D.C. 2000) (“[T]o say of one: you are reactionary, you are undemocratic, you are a nationalist. . . , is similarly to express an opinion.”); *see also, e.g., Brimelow v. New York Times Co.*, No. 20 Civ. 222, 2020 U.S. Dist. LEXIS 237463, at \*17 (S.D.N.Y. Dec. 17, 2020) (“the description of Plaintiff as a ‘white nationalist’ is properly interpreted as opinion because the term has a ‘debatable, loose and varying’ meaning in contemporary discourse”); *Coral Ridge Ministries Media, Inc. v. Amazon.com, Inc.*, 406 F. Supp. 3d 1258, 1277 (M.D. Ala. 2019) (term “‘hate group’ has a highly debatable and ambiguous meaning” and therefore cannot be proven false); *cf. Ctr. for Immigration Studies v. Cohen*, 410 F. Supp. 3d 183, 190 (D.D.C. 2019) (explaining, in RICO context based on defamation claim, that a decision to designate an organization as a “hate group is an entirely subjective inquiry”).<sup>27</sup>

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<sup>27</sup> HAF itself acknowledges that substantially similar terms are not subject to uniform definitions, writing that the terms “Right-Wing, Hindutva, Hindu nationalist, or Hindu Fundamentalist[,] have been weaponized in order to discredit Hindu American individuals, organizations, and legitimate efforts, rather than constructively engaging the principle or position they may be maintaining.” Suhag Shukla, *The Weaponization of ‘Hindutva’: Same Words, Different*

*Second*, even if those terms were capable of a precise meaning, “[w]hen used in political discourse, terms of relation and association often have meanings that are ‘debatable, loose, and varying,’ rendering the relationships they describe insusceptible of proof of truth or falsity.” *Egiazaryan v. Zalmayev*, 880 F. Supp. 2d 494, 512 (S.D.N.Y. 2012). What it means to “further,” be “sympathetic to,”<sup>28</sup> or “perpetuate” Hindu supremacy or Islamophobia will itself differ from person to person. *Cf. Ollman*, 750 F.2d at 1015 (MacKinnon, J., concurring) (“the argument here is that its meaning is variable, unverifiable, controversial, a matter of opinion, whom you listen to, and whose side you are on, among other things”); *Buckley v. Littell*, 539 F.2d 882, 895 (2d Cir. 1976) (“The issue of what constitutes an ‘openly fascist’ Journal is as much a matter of opinion or idea as is the question what constitutes ‘fascism’ or the ‘radical right . . . .’”).

Both the narrower and broader contexts of the statement also confirm that it is non-actionable. Viswanath’s comment appears as part of a news report disclosing that various groups, including the HAF, have received pandemic relief funds, and explaining their ties to Hindu nationalist groups. T. Sullivan Decl. Ex. 1. HAF notably does not challenge the truth of any of this reporting in its Complaint. Viswanath is quoted as responding to the reported facts. Moreover, as the Complaint acknowledges, the statements were made as part of a broader dispute between the defendants and “the political party currently in power in India (which is often labeled a ‘Hindu nationalist’ party),” along with groups like the HAF “whom they perceive to be ‘pro-Indian government’ and ‘pro-Hindu.’” Compl. ¶ 5; *see supra* at 2-7. This “atmosphere of charged political debate” would suggest to a reader that Viswanath was

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*Meanings – Part 1*, Hindu American Foundation, Sept 4, 2019, (“*Weaponization of ‘Hindutva’*”), available at <https://www.hinduamerican.org/blog/the-weaponization-of-hindutva-part-1>.

<sup>28</sup> The DC Circuit noted in a different context that the term “sympathize” lacks a concrete definition. *See United States v. Lattimore*, 215 F.2d 847, 849 (D.C. Cir. 1954).



expressing an opinion, not making a statement of fact. *Thomas*, 681 F. Supp. at 64; *see Buckley*, 539 F.2d at 893 (terms such as “fascist,” “fellow traveler” and “radical right” “cannot be regarded as having been proved to be statements of fact, among other reasons, because of the tremendous imprecision of the meaning and usage of these terms in the realm of political debate”); *see also Ollman*, 750 F.2d at 998 (Bork, J., concurring) (noting “the kind of hyperbole that must be accepted in the rough and tumble of political argument”).

*Third*, Viswanath’s statement is not actionable for the further reason that it constitutes an expression of opinion based on disclosed facts. The First Report states that:

- HAF received \$378,064 in PPP loans and \$10,000 in EIDLA loans;
- HAF was co-founded by Mihir Meghani, a former activist with Vishwa Hindu Parishad of America, a group that “shares the ‘same values and ideals’” of its Indian counterpart, which is affiliated with a “far-right Hindu nationalist organization,” “has campaigned to turn India into a Hindu nation and stands accused of orchestrating numerous attacks on Muslims and Christians in hundreds of riots”;
- Rishi Bhutada, a member of HAF’s board of directors and its treasurer, is the son of the national vice president of the US wing of a Hindu nationalist organization;
- HAF received \$30,000 in funding from the Bhutada Family Foundation, which also funded other groups identified as having ties with Hindu supremacism; and
- HAF “lobbies to deflect any criticism of [Indian Prime Minister Narendra] Modi government’s policies on Capitol Hill,” including regarding Indian legislation “which the United Nations described as ‘fundamentally discriminatory’ . . . and India’s scrapping of the special constitutional status of Indian-administered Kashmir.”

T. Sullivan Decl. Ex. 1 at 2-4. Where the factual basis for a conclusion is outlined in the publication itself, the conclusion is protected by the First Amendment as a non-actionable expression of opinion. *Abbas v. Foreign Policy Grp., LLC*, 975 F. Supp. 2d 1, 16 (D.D.C. 2013), *aff’d*, 783 F.3d 1328 (D.C. Cir. 2015); *see also Moldea v. New York Times Co.*, 22 F.3d 310, 317 (D.C. Cir. 1994) (where “the reader understands that such supported opinions represent the

writer’s interpretation of the facts presented, and because the reader is free to draw his or her own conclusions based upon those facts, this type of statement is not actionable in defamation” (citation omitted)). Other people or groups, including the HAF, may disagree with Viswanath’s interpretation of these facts, but that does not make her analysis challengeable as defamation.

## **2. The Alleged Statement in the Second Report Is Non-Actionable for Much the Same Reasons**

Rajagopal’s statement in the Second Report that “[t]he rise of HAF and other organisations linked with Hindutva has emboldened Hindu supremacist organizations in India, while also stifling the moderate Hindu voices here in the US,” Compl. ¶ 29(b), similarly cannot ground a defamation claim. Here too, the terms “Hindutva” and “Hindu supremacist” are ambiguous expressions lacking a precise meaning. *See Ollman*, 750 F.2d at 987; *McCaskill*, 36 F. Supp. 3d at 159.<sup>29</sup> Moreover, whether the ties between HAF and Hindutva are sufficient to constitute a “link,” whether HAF’s prominence “has emboldened” supremacist groups, and whether moderate voices have been “stifl[ed]” are all subjective assessments that cannot be verified. *See Buckley*, 539 F.2d at at 894; *Ollman*, 750 F.2d at 987.

The context of the statement also supports a finding that Rajagopal was expressing an opinion. HfHR is presented as part of a “broad coalition of Indian American activists and United States-based civil rights organisations” calling for a government probe of the receipt of pandemic relief funds. T. Sullivan Decl. Ex. 2 at 1. The reader of such an “overt work[] of advocacy” would expect Rajagopal to be expressing an opinion. *See Egiazaryan*, 880 F. Supp. 2d at 512-13. Indeed, courts in this District have recognized that statements to the effect that a plaintiff’s

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<sup>29</sup> As noted above, HAF itself publicly takes the position that the term Hindutva lacks “any real, widely-agreed upon meaning”. *See* Weaponization of Hindutva. As recently as August 22, 2021, HAF Executive Director Suhag Shukla tweeted that there is no “consistent definition” of that term. *See* <https://twitter.com/SuhagAShukla/status/1429653483624480768>

activities “deserved serious scrutiny,” *Bauman*, 377 F. Supp. 3d at 11, or were “worth investigating,” *Deripaska*, 282 F. Supp. 3d at 147, were unverifiable opinions. And, again, this statement was made in the broader context of a political dispute. *See Thomas*, 681 F. Supp. at 64; *Buckley*, 539 F.2d at 893. This was expressly acknowledged in the Second Report, which described HfHR as “a Hindu organisation that exemplifies the distinction between Hinduism and Hindutva.” T. Sullivan Decl. Ex. 2 at 2.

Finally, again, the factual bases for Rajagopal’s opinion were fully outlined in the Second Report. It cited to and linked to the First Report describing the various connections between HAF and other groups. *Id.* at 1; *see Agora, Inc. v. Axxess, Inc.*, 90 F. Supp. 2d 697, 705 (D. Md. 2005) (factual support for opinion provided by hyperlink). It is thus non-actionable as a matter of law.

In short, all of the challenged statements attributed the Viswanath or Rajagopal are non-actionable expressions of opinion or opinion based on disclosed facts.

### **B. The Complaint Does Not Allege that the Challenged Statements Are Substantially False**

A core element of any defamation claim is material falsity. Plaintiff must allege more than a “minor inaccuracy;” the statement must have “a different effect on the mind of the reader from that which the pleaded truth would have produced.” *Masson v. New Yorker Magazine, Inc.*, 501 U.S. 496, 517 (1991). To survive a motion to dismiss, a plaintiff must “allege[] sufficient facts to plausibly establish that the allegedly defamatory statement is false.” *Libre*, 311 F. Supp. 3d at 156; *accord Myers v. D.C. Hous. Auth.*, No. 1:20-cv-00700-APM, 2021 U.S. Dist. LEXIS 57805, at \*21 (D.D.C. Mar. 26, 2021) (plaintiff “must assert factual allegations that give rise to the inference that the challenged publication is false”). For all the reasons explained above, the challenged statements the Complaint attributes to Viswanath and Rajagopal are neither factual

nor opinions based on undisclosed facts. *See* Section III.A, *supra*. But even assuming (counterfactually) that the challenged statements were subject to empirical proof of falsity, Plaintiff would still have failed to state a claim for defamation because it has neither alleged that Viswanath and Rajagopal’s specific statements *are* in fact materially false nor stated the facts establishing why this is so. Plaintiff therefore has failed to establish a basic element of its claim.

The only aspects of the Reports that the Complaint alleges are false relate to HAF’s purported lack of financial ties or formal affiliations with other organizations that promote Hindu nationalism. *See, e.g.*, Compl. ¶ 3 (alleging falsity of statements that HAF is “a US-based front organization for India-based Hindu nationalist organizations;” that HAF “is a subsidiary of those organizations;” and that HAF has “misappropriated and funneled” PPP funds to those organizations). But none of the statements attributed to Viswanath and Rajagopal in the Complaint make any such claims. To the extent those statements can be read to reference Plaintiff at all, they at most state only that Plaintiff is “sympathetic to” or “linked with” Hindu nationalist ideology. *Id.* ¶¶ 25(a), 29(b). Plaintiff never claims that these statements are false. Nor does Plaintiff challenge in any way the First Report’s claims about HAF’s support for the policies of the BJP government, or the facts cited in the First Report establishing ties between HAF’s leaders and donors and other Hindu nationalist groups, which are precisely the facts upon which Viswanath’s and Rajagopal’s opinions rely. Plaintiff has therefore failed to adequately allege the basic element of material falsity with respect to the HfHR Defendants, and its defamation claim should consequently be dismissed as against them.

**C. The Statements Allegedly Made by Viswanath Are Not “Of and Concerning” HAF**

It is a bedrock requirement of defamation law that the statements in question must be “of and concerning” the plaintiff. *Jankovic v. Int’l Crisis Grp.*, 494 F.3d 1080, 1088-89 (D.C. Cir.

2007). In order to state a claim for defamation, the statements at issue must at the very least “lead the listener to conclude that the speaker is referring to the plaintiff.” *Croixland Props. L.P. v. Corcoran*, 174 F.3d 213, 216 (D.C. Cir. 1999).

Plaintiff’s own Complaint demonstrates that the allegedly defamatory statements attributed to Viswanath fail to satisfy this basic requirement. As an initial matter, it is indisputable that Viswanath never mentions HAF by name in any of her quotes in the First Report. *See* T. Sullivan Decl. Ex. 1 at 4. Obviously mindful of this fact, the Complaint proactively modifies Viswanath’s statement – where the First Report quotes Viswanath as saying “All these organisations are sympathetic to the Hindu supremacist ideology,” *id.*, the Complaint inserts the bracketed language “all these organisations [*including HAF*] are sympathetic to the Hindu supremacist ideology.” Compl. ¶ 25(a)(ii) (emphasis added). But the mere fact that Plaintiff felt the need to insert this clarifying language is proof that the actual statement does not clearly lead the reader to conclude it refers to HAF, and therefore is not “of and concerning” it.

Nor is there any reasonable argument that Viswanath’s other statements are specifically “of and concerning” Plaintiff. The first statement only “express[es] concern” in a general sense about government funds “furthering hate campaign[s],” and the second statement simply opines that “any American non-profit” which engages in such campaigns should not receive government funds, Compl. ¶ 25(a)(i) & (iii). Such broad and generalized opinions cannot reasonably be read as “of and concerning” any particular person or entity. *Cf. Alexis v. Williams*, 77 F. Supp. 2d 35, 40 (D.D.C. 1999) (absent special circumstances, a statement about a group cannot support a defamation claim about a specific member of that group).

**IV. PLAINTIFF HAS NOT ADEQUATELY ALLEGED THAT EITHER VISWANATH OR RAJAGOPAL MADE ANY STATEMENT WITH THE “ACTUAL MALICE” REQUIRED BY THE FIRST AMENDMENT**

As a separate and independent basis for dismissing the Complaint, Plaintiff fails to allege facts that, if proven, could plausibly establish that Vishwanath and Rajagopal published the statements attributed to them with “actual malice;” that is, with knowledge of falsity or serious doubts as to truth. *Nunes*, 2020 U.S. Dist. LEXIS 242227, at \*12. This is the standard of fault Plaintiff must meet because it is a “public figure” for purposes of this defamation action. *Id.* While Plaintiff acknowledges that it must meet this burden insofar as the Complaint alleges facts intended to demonstrate actual malice, *see* Compl. ¶¶ 37-40, the allegations are insufficient as a matter of law.

It is well-established that, for purposes of defamation suits, the First Amendment imposes a higher standard of fault on “public figures” than on private individuals. Public figures include those “who, by reason of the notoriety of their achievements or the vigor and success with which they seek the public’s attention,” assume a place on the public stage and thereby both “run[] the risk of closer public scrutiny” and achieve “access to the channels of effective communication” to correct alleged falsehoods published about them. *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 342-44 (1974). In light of this country’s “profound national commitment” to the debate of public issues, *Jankovic v. International Crisis Group*, 822 F.3d 576, 584 (D.C. Cir. 2016) (quoting *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964)), those who have chosen to engage in public endeavors or participate in public debate accept a greater risk of critical public comment and scrutiny. *See, e.g., Lohrenz v. Donnelly*, 350 F.3d 1272, 1279 (D.C. Cir. 2003).

To succeed on a defamation claim, a public figure must demonstrate that each statement at issue was made with “actual malice,” a term of legal art meaning “knowledge that it was false or with reckless disregard of whether it was false or not.” *Sullivan*, 376 U.S. at 280. A

defamation plaintiff's status as a public figure "is a question of law for the court to resolve." *Waldbaum v. Fairchild Publ'ns, Inc.*, 627 F.2d 1287, 1293 n.12 (D.C. Cir. 1980). Courts in this District regularly resolve the issue on preliminary motions on the basis of the pleadings and records subject to judicial notice. *See, e.g., Deripaska*, 282 F. Supp. 3d at 138 (finding plaintiff to be a public figure on motion to dismiss); *Hourani v. PsyberSolutions LLC*, 164 F. Supp. 3d 128, 142-44 (D.D.C. 2016) (same); *Boley v. Atl. Monthly Grp.*, 950 F. Supp. 2d 249, 260-62 (D.D.C. 2013) (same).

#### **A. Plaintiff Is a Public Figure for Purposes of this Defamation Action**

As an initial matter, there is no doubt that the actual malice standard applies. Long-standing precedent in this Circuit holds that a corporate plaintiff, such as the Plaintiff here, is presumptively a public figure for purposes of determining whether the actual malice standard applies. Moreover, even if HAF was not a corporate entity, it would still be subject to the actual malice standard because it is a limited purpose public figure with respect to the issues addressed in the Reports and in the challenged statements made by Viswanath and Rajagopal.

##### **1. Under the Law of This Circuit, Corporate Entities Are Treated as Public Figures**

Courts in this Circuit have long held that "[c]orporate plaintiffs are treated as public figures as a matter of law in defamation actions brought against mass media defendants involving matters of legitimate public interest." *Oao Alfa Bank v. Ctr. for Pub. Integrity*, 387 F. Supp. 2d 20, 47-48 (D.D.C. 2005); *see Metastorm, Inc. v. Gartner Grp., Inc.*, 28 F. Supp. 2d 665, 670 (D.D.C. 1998) (same); *Martin Marietta Corp. v. Evening Star Newspaper Co.*, 417 F. Supp. 947, 955-956 (D.D.C. 1976) (same). This rule obtains because, at its most basic level, defamation law exists to compensate people for injury to their reputation, but the interest that corporate plaintiffs have in their reputation is very different than the interest that individuals

have – “a libel action brought on behalf of a corporation does not involve ‘the essential dignity and worth of every human being’ and, thus, is not ‘at the root of any decent system of ordered liberty.’” *Martin Marietta*, 417 F. Supp. at 955 (quoting *Gertz*, 418 U.S. at 341). Thus, “it makes no sense to apply” the public figure/private figure distinction “to a corporation, which, regardless of its activities, never has a private life to lose.” *Id.*

Here, there is no question that Plaintiff is a corporate entity.<sup>30</sup> Nor is there any serious question that the Reports and the specific statements attributed to Viswanath and Rajagopal address issues of legitimate public interest, *i.e.*, the use of public funds to support organizations with controversial political viewpoints. *Cf. Oao Alfa Bank*, 387 F. Supp. 2d at 48 (“the relationship between United States politicians and Russian banks accused of engaging in corrupt activities . . . are a matter of legitimate public interest”). Viswanath and Rajagopal are not themselves members of the mass media, but *Al Jazeera*, the news source to which they gave their comments, indisputably is, and a distinction between a media and nonmedia defendants in the actual malice context has been repeatedly been rejected by both the Supreme Court and the D.C. Court of Appeals. *See Bannum, Inc. v. Citizens for a Safe Ward Five, Inc.*, 383 F. Supp. 2d 32, 42 n.5 (D.D.C. 2005) (collecting sources).

Accordingly, the law of this Circuit dictates that Plaintiff must be treated as a public figure and as a result must adequately plead actual malice to state a claim for defamation.<sup>31</sup>

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<sup>30</sup> See [https://www.hinduamerican.org/wp-content/uploads/2021/03/HAF-2019\\_2020-July-2019-June-2020-Public-Disclosure.pdf](https://www.hinduamerican.org/wp-content/uploads/2021/03/HAF-2019_2020-July-2019-June-2020-Public-Disclosure.pdf) (HAF 2019 Form 990 identifying the organization as “Hindu American Foundation, Inc.”); *see also* T. Sullivan Decl. Exs. 3-4 (HAF corporate registrations in Florida and D.C.). While HfHR Defendants’ counsel is not aware of any case addressing the precise issue, there is no reason to think that the reasoning of *Marietta* and its progeny is not equally applicable to non-profit as well as for-profit corporations.

<sup>31</sup> The HfHR Defendants are aware of one case that rejected the application of the actual malice standard to a public corporation, *MiMedx Grp., Inc. v. DBW Partners LLC*, No. 17-1925 (JDB), 2018 U.S. Dist. LEXIS 166970, at \*18-19 (D.D.C. Sep. 28, 2018). There, unlike here, the



## 2. Plaintiff Is a Limited-Purpose Public Figure Regardless of Its Corporate Status

Even setting aside Plaintiff's corporate status, it is still a "limited purpose" public figure in relation to the subject matter of the Reports – that is, the use of U.S. government funds to assist organizations supportive of the Hindu nationalist political movement in India. *See Tavoulaareas v. Piro*, 817 F.2d 762, 772 (D.C. Cir. 1987) (describing the Supreme Court's identification of two types of public figures: "general purpose" and "limited purpose."). This Circuit applies a three-factor test to determine whether a defamation plaintiff is a limited purpose public figure, taking into consideration whether: (1) there is a pre-existing public controversy, (2) the plaintiff played a significant role in that controversy, and (3) the challenged statements are germane to plaintiff's participation in the controversy. *Waldbaum*, 627 F.2d at 1296-98. Plaintiff is plainly a limited purpose public figure under this three-part test.

*First*, there is clearly a pre-existing controversy regarding the subject matter of the Reports. As HAF acknowledges, there is an ongoing dispute about "the political party currently in power in India (which is often labeled a "Hindu nationalist" party)" and "its alleged treatment of Muslims and other religious minorities." Compl. ¶ 4. This dispute includes HAF and other groups "outside India" who the defendants and others "perceive to be 'pro-Indian government' and 'pro-Hindu.'" *Id.* Indeed, the rise of Hindu nationalism in India, particularly since the election of Modi as Prime Minister in 2014, has been extensively chronicled in both the Western and Indian press. *See supra* at 2-5. Likewise, the receipt of PPP loans by organizations with

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plaintiff disputed that a media organization was involved and had not attempted to plead the existence of actual malice.

questionable needs or controversial views has also been the subject of widespread scrutiny in the press and elsewhere.<sup>32</sup>

*Second*, there is little question that Plaintiff has played an active and substantial role in speaking, writing, and advocating in support of the BJP government and its Hindu nationalist bent. The Complaint itself acknowledges that HAF “works directly with educators and journalists to ensure accurate understanding of Hindus and Hinduism, and with policymakers and key stakeholders to champion issues of concern to Hindu Americans.” Compl. ¶ 19. Among many other activities, HAF has: issued public statements supportive of the Modi government’s controversial Citizenship Amendment Act which is widely seen as discriminatory against Muslims;<sup>33</sup> maintained an entire page on its website dedicated to supporting the Indian government’s military occupation and total lockdown of 8 million people in the disputed territory of Kashmir, including a specific link encouraging users to “Write to U.S. Congress and the President to support the Indian government;”<sup>34</sup> and advocated for textbooks used in U.S. schools to refer to the region encompassing India, Pakistan, and Nepal as “India” rather than

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<sup>32</sup> See, e.g., April Glaser & Olivia Solon, *Accused hate groups receive pandemic aid*, NBC News (Dec. 9, 2020), <https://www.nbcnews.com/business/business-news/accused-hate-groups-receive-pandemic-aid-n1250474>; Roger Sollenberger, *Hate groups cashed in on pandemic relief before millions of Americans protested for social change*, Salon (July 10, 2020), <https://www.salon.com/2020/07/10/hate-groups-cashed-in-on-pandemic-relief-before-millions-of-americans-protested-for-social-change/>; Robert Frank, *The billionaires and country clubs that received small business loans from the government*, CNBC (July 7, 2020), <https://www.cnbc.com/2020/07/07/the-billionaires-and-country-clubs-that-received-ppp-loans.html>

<sup>33</sup> Press Release, HAF, *India’s Citizenship Amendment Act: A First Step Opportunity to Better Address Human Rights in South Asia* (Dec. 14, 2019), <https://www.hinduamerican.org/press/india-citizenship-amendment-bill>.

<sup>34</sup> *What you need to know about the struggle for peace in Kashmir*, HAF, <https://www.hinduamerican.org/issues/kashmir-struggle> (last visited Aug. 24, 2021).

“South Asia.”<sup>35</sup> In short, there is no doubt that Plaintiff is actively engaged in “trying to influence the outcome” of the controversy that led to the Reports’ publication, and therefore satisfies the second prong of the test. *Waldbaum*, 627 F.2d at 1297.<sup>36</sup>

*Third*, it is abundantly clear that the challenged statements are germane to that controversy. The Reports speak directly to the issue of American Hindu groups’ connections with nationalist groups in India, T. Sullivan Decl. Ex. 1-2, and the Complaint expressly pleads that the defendants’ statements are an “attempt[] to discredit HAF’s educational and advocacy efforts.” Compl. ¶ 4. Plaintiff is thus a public figure for purposes of this action and must plead and prove actual malice.

### **B. The Complaint Fails to Adequately Allege Actual Malice**

A complaint must contain “enough facts to state a claim to relief that is plausible on its face,” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007), including state-of-mind fault, *Iqbal*, 556 U.S. at 686-87. Because Plaintiff is a public figure, to survive a motion to dismiss it must “plead sufficient facts supporting the element of actual malice.” *Arpaio*, 404 F. Supp. 3d at 84; *accord Nunes*, 2020 U.S. Dist. LEXIS 242227, at \*12 (“Plaintiff must plead facts that would render it plausible that Defendants ‘in fact entertained serious doubts as to the truth of [their] publication’” (quoting *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968))). Actual malice must “be individually shown as to each defendant,” *Secord v. Cockburn*, 747 F. Supp. 779, 788

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<sup>35</sup> Jennifer Media, *Debate Erupts in California Over Curriculum on India’s History*, New York Times (May 6, 2016), <https://www.nytimes.com/2016/05/06/us/debate-erupts-over-californias-india-history-curriculum.html>

<sup>36</sup> To the extent the controversy also includes the receipt of government funds by organizations with controversial political views, HAF does not dispute that it applied for and received nearly \$400,000 in PPP funds, notwithstanding its extensive political advocacy in support of the Modi government.

(D.D.C. 1990), as well as with respect to each challenged statement, *see Dongguk Univ. v. Yale Univ.*, 734 F.3d 113, 131 (2d Cir. 2013).

The Complaint expressly recognizes that Plaintiff must plead actual malice to sustain its defamation claim. The core of its theory, spread out over four paragraphs, is that, as a non-profit corporation, HAF is required to publicly disclose certain information about its activities, and that the various defendants' failure to make reference to that information in the Reports constitutes actual malice. Compl. ¶¶ 37-40. It does not hold up to even the most basic scrutiny.

*First*, the Complaint does not even attempt to plead actual malice as to any individual defendant or any individual statement. There is not a single specific allegation as to why Viswanath or Rajagopal would have entertained serious doubts about the truth of what they said. It instead argues about intent for the group as a whole, which cannot meet plaintiff's burden.

*Second*, even considered in relation to the group as a whole, Plaintiff's allegations are not sufficient as a matter of law to establish actual malice. Plaintiff's theory is that defendants should have reviewed HAF's financial documents before commenting, but the law has long held that such a "failure to investigate" cannot support a claim for defamation. *See Arpaio v. Cottle*, No. 18-cv-02387 (APM), 2019 U.S. Dist. LEXIS 236331, at \*3-4 (D.D.C. Dec. 3, 2019); *see also Lohrenz*, 350 F.3d at 1284 (*citing St. Amant*, 390 U.S. at 733). Moreover, while the allegations suggest that a review of those documents would have shown "that no funds were provided by HAF to any alleged Indian nationalist or supremacist organizations," Compl. ¶ 37, none of the comments the Complaint attributes to Viswanath or Rajagopal say anything about how HAF spends its money.

*Third*, to the extent Plaintiff's theory is that its own statements in its financial and other documents "directly contradict the Defamatory Statements," *See* Compl. ¶ 37, that too is

insufficient to establish actual malice. The Supreme Court – and the D.C. Circuit – have long held that mere denials by the subject of an allegedly defamatory statement are insufficient to establish actual malice. *See, e.g., Lohrenz*, 350 F.3d at 1285 (“[P]ublishers need not accept ‘denials, however vehement; such denials are so commonplace in the world of polemical charge and countercharge that, in themselves, they hardly alert the conscientious reporter to the likelihood of error.’” (quoting *Harte-Hanks Commc ’ns, Inc. v. Connaughton*, 491 U.S. 657, 691 n.37 (1989))). Plaintiff’s position that its own statements contradict Defendants’ characterization of the situation is no different than a denial, and equally unable to support a finding of actual malice.

*Finally*, to the extent the Complaint can be read to assert that Viswanath and/or Rajagopal acted with actual malice based on their alleged “dislike [of] the political party currently in power in India,” Compl. ¶ 4, that allegation too is legally insufficient to support a finding of actual malice. *See, e.g., Nunes*, 2020 U.S. Dist. LEXIS 242227, at \*14 (“caselaw resoundingly rejects the proposition that a motive to disparage someone is evidence of actual malice”); *Arpaio*, 2019 U.S. Dist. LEXIS 236331, at \*4-5 (“actual malice cannot be inferred from Defendants allegedly having a political or ideological animus towards Plaintiff”). Indeed, as this Court has observed, “[i]t would be sadly ironic for judges in our adversarial system to conclude. . . that the mere taking of an adversarial stance is antithetical to the truthful presentation of facts.” *Arpaio*, 404 F. Supp. 3d at 85 (quoting *Tavoulaareas*, 817 F.2d at 795).

For these reasons as well, the Complaint should be dismissed.

**V. PLAINTIFF ALLEGES NO PROPER BASIS FOR IMPOSING LIABILITY ON VISWANATH AND RAJAGOPAL FOR STATEMENTS MADE BY OTHERS**

Perhaps sensing the infirmity of its claims against Viswanath and Rajagopal based on their actual statements in the Reports, Plaintiff also attempts to construct several alternative

theories of liability based on: (a) statements appearing in the Second Report and attributed to the Coalition to Stop Genocide in India (the “Coalition Statements”), Compl. ¶ 29(d); and (b) the “republishing” of the statements of others based on Viswanath and Rajagopal’s “caus[ing]” HfHR “to post a link to” the Reports on its website and on Twitter. *Id.* ¶¶ 27, 31. These secondary theories of liability are meritless.

**A. The Complaint Does Not Adequately Allege that Viswanath and Rajagopal Republished the Coalition Statements**

A basic element of any claim for defamation is “publication” – that is, the requirement that a defendant has “published or knowingly participated in publishing” the allegedly defamatory statements. *Zimmerman v. Al Jazeera Am., LLC*, 246 F. Supp. 3d 257, 273 (D.D.C. 2017) (citing *Tavoulareas v. Piro*, 759 F.2d 90, 136 (D.C. Cir. 1985)). “Publication is an infrequent issue in defamation cases, because normally it is fairly clear who wrote, edited, or published the statement in question.” *Id.* at 286 (internal marks omitted). Nevertheless, to state a claim for defamation, there must be “sufficient facts in the complaint to support an inference that [the defendant] actually published or knowingly participated in publishing the defamatory statements.” *Id.*

There are simply no such allegations in the Complaint with respect to the publication of the Coalition Statements. Plaintiff alleges only that “[o]n information and belief, Defendants caused these statements to be attributed to the Coalition[.]” Compl. ¶ 28. That is exactly the kind of vague, conclusory allegation that is insufficient as a matter of law to satisfy the publication element of a defamation claim. *See, e.g., Mattiaccio v. DHA Grp., Inc.*, 908 F. Supp. 2d 136, 138 (D.D.C. 2012) (dismissing defamation claim where complaint “allege[d] only that . . . the Defendants ‘caus[ed] the [defamatory statement] to be published’” and failed to allege any meaningful, underlying facts regarding the circumstances of publication); *see also Browning v.*

*Clinton*, 292 F.3d 235, 247 (D.C. Cir. 2002) (complaint failed to adequately allege publication where it failed to “link[]” the publication of the statements to defendant). Plaintiff’s information and belief pleading, devoid of any specific facts connecting Viswanath or Rajagopal to the publication of the Coalition Statements, is simply insufficient.

**B. Even Had the Complaint Alleged Republication by Viswanath and Rajagopal, It Fails To State a Claim Against Them Based on the Coalition Statements**

**1. The Alleged Coalition Statements Are Non-Actionable Opinion or Rhetorical Hyperbole**

Any claim based on the Coalition Statements would fail because they are unverifiable statements of opinion, for reasons similar to those discussed in detail above in connection with the statements actually attributed to Viswanath and Rajagopal.

The statements by the Coalition that various groups have “existential links” to RSS, and that RSS is the “fountainhead” or “ideological parent” of other ideologies or political groups, or that HAF is “affiliated” with it, are not provable true or false. All of those terms lack a defined meaning and whether such a link or tie exists would require a subjective assessment by the reader. *See Ollman*, 750 F.2d at 980 (statement about “intangible” deficiency is expression of opinion). An accusation that HAF and others are “front organisations” is rhetorical hyperbole in the context of a political dispute, *see Buckley*, 539 F.2d at 894, and its underlying suggestion – that HAF has ties to Hindutva or Hindu supremacist ideologies – cannot be the basis for a defamation claim because, as HAF has acknowledged, those terms themselves lack a clear, provable meaning. *See Ollman*, 750 F.2d at 987; *McCaskill*, 36 F. Supp. 3d at 159. Finally, a call for “a comprehensive probe and corrective action” is by definition not a factual statement. *See Bauman*, 377 F. Supp. 3d at 11; *Deripaska*, 282 F. Supp. 3d at 147.

The context of the Coalition Statements, an “overt work[] of advocacy,” would lead the reader to expect the Coalition to be expressing an opinion. *See Egiazaryan*, 880 F. Supp. 2d at

512-13. As discussed extensively above, HAF also expressly claims that all of the statements were made in the background of a political disagreement between it and the Defendants. *See Thomas*, 681 F. Supp. at 64; *see Buckley*, 539 F.2d at 893.

**2. Several of the Alleged Coalition Statements Are Not “Of and Concerning” Plaintiff**

As explained above, a given statement must be “of and concerning” a defamation plaintiff in order to be actionable. *See supra*, Section III.C. On their face, at least two of the Coalition Statements have nothing to do with HAF, but rather relate only to the RSS or to no entity in particular. Compl. ¶ 29(d)(iv)-(vi). There is simply no basis on which HAF can claim it was defamed by these statements, which do not mention and say nothing about HAF.

**3. The Complaint Does Not Adequately Allege Actual Malice with Respect to the Alleged Coalition Statements**

Plaintiff’s attempts to impose liability on Viswanath and Rajagopal based on the Coalition Statements fail for another, independent reason: Plaintiff relies on the same allegations of actual malice with respect to these statements as it does with respect to the other statements identified in the Complaint. As explained above, those allegations are simply insufficient as a matter of law, regardless of which statements are at issue. *See supra*, Section IV.

Indeed, the allegations are even *more* inadequate with respect to the Coalition Statements because the Complaint does not suggest that Viswanath or Rajagopal had any direct role in authoring or distributing them. *See Secord*, 747 F. Supp. at 788 (rejecting actual malice theory based on allegations of defendant having a “close working relationship” or “aiding and abetting” the author). Viswanath and Rajagopal cannot have had “serious doubts” about statements they did not actually make.



**C. Plaintiff Fails to Adequately Allege Republication of Others' Statements by Viswanath and Rajagopal**

In addition to attempting to impose liability on Viswanath and Rajagopal for the Coalition Statements, Plaintiff also appears to be asserting that they are liable for “republishing” of *all* of the challenged statements in the Reports based on the allegation that they “caused” HfHR “to post a link to” the Reports on its website and on Twitter. Compl. ¶¶ 27, 31. This half-baked theory fails for three independent reasons.

*First*, every federal appellate court to consider the issue has concluded that the mere provision of a hyperlink to a prior publication does not constitute republication. *See, e.g., Likhova v. Halper*, 995 F.3d 134, 142 (4th Cir. 2021); *Clark v. Viacom Int'l Inc.*, 617 F. App'x 495, 505-07 (6th Cir. 2015); *In re Phila. Newspapers*, 690 F.3d 161, 174 (3rd Cir. 2012). But that is all – at most – Plaintiff alleges Viswanath and Rajagopal have done here.

*Second*, the Complaint alleges only that Viswanath and Rajagopal “caused” Hindus for Human Rights to republish links to the Reports. But as noted above, absent any specific factual allegations regarding that publication, it is simply not enough to assert that a defendant “caused” some other entity to publish an allegedly defamatory statement. *See Mattiaccio*, 908 F. Supp. 2d at 138.

*Third*, the Complaint fails to offer specific factual assertions to support a finding that Viswanath and Rajagopal published the Reports with actual malice, for the reasons discussed above.

*Fourth*, even setting aside these issues, the challenged statements in the Reports attributable to the other defendants are themselves not actionable as defamation, for all of the reasons explained in those Defendants' motions to dismiss. To the extent the Complaint can be read to attribute the other Defendants' statements to Viswanath and Rajagopal, they hereby

incorporate by reference all of the other Defendants' arguments as to why those statements are not actionable.

## VI. PLAINTIFF FAILS ADEQUATELY TO ALLEGE SPECIAL DAMAGES

All apart from its failure to identify any actionable statement attributable to Viswanath or Rajagopal, the Complaint fails to state a claim for defamation because it does not include any cognizable allegations that HAF has suffered special damages attributable to the challenged statements. Under D.C. defamation law, a plaintiff must allege that "either that the statement was actionable as a matter of law irrespective of special harm or that its publication caused the plaintiff special harm." *Rosen*, 41 A.3d at 1256.<sup>37</sup> To satisfy the special damages element of the defamation tort, "actual pecuniary loss . . . must be specially pleaded and proved." *Xereas v. Heiss*, 933 F. Supp. 2d 1, 19 (D.D.C. 2013) (quoting *Fed. Aviation Admin v. Cooper*, 566 U.S. 284, 295–96 (2012)). A plaintiff's "boilerplate recitation, unaccompanied by factual detail, that [the plaintiff] . . . ha[s] suffered pecuniary damage" cannot survive dismissal. *Smith v. Clinton*, 886 F.3d 122, 128 (D.C. Cir. 2018).

Here, with respect to damages, the Complaint alleges only that "Defendants' conduct has injured, and will cause further substantial injury, to HAF's reputation and ability to fundraise." Compl. ¶ 6; *see also id.* ¶ 35 (same). These purely conclusory allegations, bereft of any actual facts demonstrating that HAF has suffered any actual pecuniary loss, are precisely the kind of

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<sup>37</sup> Statements that are actionable without a demonstration of special damages, also known as statements which are defamatory *per se*, are traditionally limited to those which "impute to the subject a crime, a repugnant disease, a matter adversely affecting the person's ability to work in a profession, or gross sexual misconduct." *Franklin v. Pepco Holdings, Inc.*, 875 F. Supp. 2d 66, 75 (D.D.C. 2012). The statements at issue here self-evidently do not fall into any of those categories, and Plaintiff makes no allegation that any statement is defamatory *per se*.

“boilerplate recitation” that the D.C. Circuit rejected in *Smith*. This Court should do the same.<sup>38</sup>

## VII. PLAINTIFF’S CONSPIRACY CLAIM FAILS AS A MATTER OF LAW

HAF’s claim for civil conspiracy fails as a matter of law, because Plaintiff cannot allege an underlying tort and has not alleged facts plausibly supporting a claim. “Under District of Columbia law, civil conspiracy is not an independent tort but only a means for establishing vicarious liability for an underlying tort.” *Nader v. Democratic Nat’l Comm.*, 567 F.3d 692, 697 (D.C. Cir. 2009) (internal citations and marks omitted). “A claim for civil conspiracy thus fails unless the elements of the underlying tort are satisfied.” *Id.*; *Nyambal v. AlliedBarton Sec. Servs., LLC*, 153 F. Supp. 3d 309, 319 (D.D.C. 2016) (dismissing civil conspiracy claims where plaintiff failed to allege an underlying tort). As Plaintiff has not alleged a viable defamation claim against Viswanath or Rajagopal, its claim for civil conspiracy fails as a matter of law.

Even if that were not the case, the conspiracy claim fails because Plaintiff has not alleged facts plausibly suggesting that Viswanath and Rajagopal reached “(1) an agreement between two or more persons (2) to participate in an unlawful act, and (3) an injury caused by an unlawful overt act performed by one of the parties to the agreement in furtherance of the common scheme.” *Harvey v. Kasco*, 109 F. Supp. 3d 173, 178 (D.D.C. 2015) (internal marks and citation omitted). “Conspiracy allegations must be specific, as ‘bald speculation or a conclusory statement that individuals are co-conspirators is insufficient to establish’ a claim for conspiracy,” and Plaintiff has not met this standard. *See id.* (dismissing conspiracy claim); Compl. ¶ 4.

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<sup>38</sup> Contrary to the allegations in the Complaint, HAF appears to be using this lawsuit as an opportunity to *increase* its fundraising. *See* Press Release, *Our reputation is on the line & we will defend it*, Hindu Am. Found., <https://www.hinduamerican.org/hindu-american-foundation-legal-action-fund> (last visited Aug. 27, 2021).

Plaintiff's theory is that Viswanath and Rajagopal, by sharing political views with other defendants and providing statements to the same news outlet, have "concocted a scheme to defame" HAF and other groups. *See id.*<sup>39</sup> A court in this District rejected a nearly identical theory in *Dowd v. Calabrese*, 589 F. Supp. 1206, 1213 (D.D.C. 1984). There, the plaintiff sued a news reporter and his source for civil conspiracy, based on the source's provision of allegedly false information. *Id.* The Court dismissed the claim, explaining that "[c]ollaboration between individuals with an axe to grind and reporters eager for a story is not uncommon," and this sort of collaboration "to produce a news story does not represent a sufficient basis for an actionable conspiracy," because there is no "improper object or purpose." *Id.* The same is true here: Viswanath's and Rajagopal's statements to the press—even if based on a shared ideology or disagreement with Plaintiff's political views, as Plaintiff contends—cannot give rise to a conspiracy claim because there is no improper object or purpose.

### **CONCLUSION**

For each and all the foregoing reasons, Defendants Viswanath and Rajagopal respectfully request that this Court grant their motion and enter an order dismissing the Complaint as against them, with prejudice, and grant such other and further relief as the Court deems just and proper.

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<sup>39</sup> To the extent Plaintiff's conspiracy allegation could be taken to allege a conspiracy between Viswanath and Rajagopal alone, that claim would fail under the intra-corporate conspiracy doctrine. Because they are both officers and agents of Hindus for Human Rights, they are presumed to act as a single enterprise and may not be found to have conspired with one another. *See Wesley v. Howard Univ.*, 3 F. Supp. 2d 1, 3 (D.D.C. 1998); *Weaver v. Gross*, 605 F. Supp. 210, 214-15 (D.D.C. 1985).

Dated: August 27, 2021

Respectfully submitted,

**BALLARD SPAHR LLP**

/s/ Thomas B. Sullivan

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Thomas B. Sullivan

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*Attorneys for Defendants Sunita Viswanath and  
Raju Rajagopal*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of August 2021, I caused the foregoing to be filed and served electronically via the Court's CM/ECF system upon counsel of record.

Dated: August 27, 2021

/s/ Thomas B. Sullivan  
Thomas B. Sullivan

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>HINDU AMERICAN FOUNDATION,</b>	:	
	:	
<b>Plaintiff,</b>	:	
	:	Case No. 1:21-cv-01268-APM
<b>v.</b>	:	Honorable Amit P. Mehta
	:	
<b>SUNITA VISWANATH, et al.</b>	:	
	:	
<b>Defendants.</b>	:	
	:	
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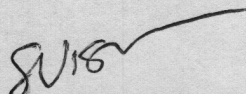
**DECLARATION OF SUNITA VISWANATH**

Sunita Viswanath, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a Defendant in the above-referenced action. I have personal knowledge of the matters set forth herein, and if called as a witness, I can competently testify to them.
2. I currently live in and maintain my permanent residence in Brooklyn, New York.
3. I also have a second residence in Taos, New Mexico.
4. I do not live or work in the District of Columbia, own or rent property in the District, or regularly travel to or conduct business in the District.
5. When I communicated with Raqib Hameed Naik in connection with an article by him published in *Al Jazeera* on April 2, 2021, I was not in the District of Columbia; I was in Brooklyn, New York.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 26, 2021.  
Brooklyn, New York

  
\_\_\_\_\_  
SUNITA VISWANATH





I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 26, 2021.  
Oakland, California



RAJU RAJAGOPAL

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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**HINDU AMERICAN FOUNDATION,**

**Plaintiff,**

**v.**

**SUNITA VISWANATH, et al.**

**Defendants.**

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: Case No. 1:21-cv-01268-APM  
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: Honorable Amit P. Mehta  
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**DECLARATION OF THOMAS B. SULLIVAN**

Thomas B. Sullivan, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a partner in the law firm of Ballard Spahr LLP, which represents Sunita Viswanath and Raju Rajagopal in the above-referenced action. I have personal knowledge of the matters set forth herein, and if called as a witness, I can competently testify to them.

2. The original version of the article “Hindu Right-Wing Groups in US Got \$833,000 of Federal COVID Fund,” written by Raqib Hameed Naik and published by the international news organization *Al Jazeera* on its website, [aljazeera.com](http://aljazeera.com), on April 2, 2021 (the “First Report”) is no longer available on the *Al Jazeera* website. An updated version is now on the site in its place. Attached as Exhibit 1 to this Declaration is a true and correct copy of the text of the First Report as originally published, which was obtained from the Internet Archive on August 26, 2021. It is available at <https://web.archive.org/web/20210402034127/https://www.aljazeera.com/news/2021/4/2/hindu-right-wing-groups-in-us-got-833000-of-federal-covid-fund>.

3. The original version of the article “Call for US probe into Hindu Right-Wing Groups Getting COVID Fund,” published by *Al Jazeera* on its website, [aljazeera.com](http://aljazeera.com), on April

8, 2021 (the “Second Report”) is also no longer available online. An updated version is now on the site in its place. Attached as Exhibit 2 to this Declaration is a true and correct copy of the text of the Second Report as originally published, which was obtained from the Internet Archive on August 26, 2021. It is available at <https://web.archive.org/web/20210408083931/https://www.aljazeera.com/news/2021/4/8/call-for-us-probe-into-hindu-right-wing-groups-getting-covid-fund>.

4. A true and correct copy of the corporate registration of Plaintiff Hindu American Foundation (“HAF”) in the District of Columbia, obtained from the District of Columbia Department of Consumer and Regulatory Affairs’ website, <https://corponline.dhra.dc.gov/Home.aspx/Landing>, on August 26, 2021, is attached as Exhibit 3.

5. A true and correct copy of the corporate registration for HAF in Florida, obtained from the State of Florida, Division of Corporation’s official website, <https://dos.myflorida.com/sunbiz/search/>, on August 26, 2021, is attached as Exhibit 4.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 27, 2021  
Amagansett, New York

/s/ Thomas B. Sullivan  
THOMAS B. SULLIVAN

# Exhibit 1

# Hindu right-wing groups in US got \$833,000 of federal COVID fund

Five groups linked to Hindu nationalist organisations in India received direct payments and loans in federal relief fund.



People in New York celebrate the groundbreaking for a Hindu temple in the Indian city of Ayodhya [File: Alba Vigaray/EPA]

**Washington, DC, United States** – Five organisations with ties to Hindu supremacist and religious groups have received COVID-19 relief funding amounting to \$833,000, according to data released by the United States’ Small Business Administration (SBA), a federal agency that helps small business owners and entrepreneurs.

SBA gave the funds as part of its Coronavirus Aid, Relief, and Economic Security (CARES) Act’s Economic Injury Disaster Loan Advance (EIDLA), Disaster Assistance Loan (DAL) and Paycheck Protection Program (PPP).

All three programmes aimed to provide economic relief to distressed businesses and keep their workforce employed during the COVID-19 crisis in the worst-hit nation in the world.

## Vishwa Hindu Parishad of America

Massachusetts-based Vishwa Hindu Parishad of America (VHPA) **received** more than \$150,000 under PPP and a further \$21,430 under EIDLA and DAL programmes.

VHPA's Indian counterpart, Vishwa Hindu Parishad (VHP), was [designated as a religious militant organisation](#) by the World Factbook of the Central Intelligence Agency (CIA) for years.

VHP is an affiliate of Rashtriya Swayamsevak Sangh (RSS), a far-right Hindu nationalist organisation formed in 1925 along the lines of hardline nationalist groups in Europe, which aims to create an ethnic Hindu-majority state in India.

RSS is the ideological mentor of India's governing Bharatiya Janata Party (BJP) and boasts of having Prime Minister Narendra Modi among millions of its members across India.

Although the VHPA, which now has 23 chapters in the US, claims to be legally separate from its Indian counterpart, its website [mentions](#) the group shares the "same values and ideals".

*Any American non-profit that perpetuates Islamophobia and other forms of hate should not receive federal relief funds in any form.*

*Sunita Viswanath, Hindus for Human Rights co-founder*

For decades, VHP has campaigned to turn India into a Hindu nation and stands accused of orchestrating numerous attacks on Muslims and Christians in hundreds of riots in various parts of the country.

The VHPA's membership in the US swelled in the late 1980s after right-wing Hindu groups in India intensified their [campaign to build a temple](#) dedicated to Lord Ram at the exact site where a Mughal-era mosque stood in the north Indian town of Ayodhya.

Hindu groups claimed the 16th-century Babri Mosque, demolished by a mob in 1992, stood at the birthplace of Lord Ram. In a [controversial judgment](#) in 2019, India's Supreme Court handed over the disputed site to a government-run trust to build a Ram temple.

The [Muslim litigants were allotted](#) five acres (two hectares) of land at an alternative site in a village 25km (15 miles) away to construct a mosque.

## **Ekal Vidyalaya Foundation of USA**

Ekal Vidyalaya Foundation of USA, an organisation affiliated with the RSS, obtained direct payment of \$7,000 and a loan of \$64,462 under PPP.

Through its network of schools mainly in India's tribal and rural areas, Ekal Vidyalaya [has been accused of spreading](#) the RSS agenda of Hindu supremacy and of promoting anti-minority hate among young children.

"The training to the teachers of Ekal schools was mainly to spread communal disharmony in the communities and also to inculcate a fundamentalist political ideology ... creating enmity amongst communities on the basis of religion," said a 2009 report by a committee set up by India's Ministry of Human Resource Development.

## Infinity Foundation

Infinity Foundation, another Hindu nationalist organisation with ties to the RSS, received \$51,872 in US federal funds in the wake of the coronavirus pandemic according to SBA data.

Infinity Foundation's founder Rajiv Malhotra, a right-wing author, is often [referred to](#) as the “Ayn Rand of Internet Hindutva”, as the Hindu nationalist movement is known as.

Malhotra, 70, has been accused of targeting academics and scholars critical of right-wing Hindu groups and issuing divisive statements. He has also faced [accusations](#) of plagiarism, though that did not stop him from being appointed an honorary professor at the prestigious Jawaharlal Nehru University in New Delhi.

Malhotra's foundation gives grants to researchers and universities to promote the Hindu nationalist ideology espoused by the RSS in academic spaces.

## Sewa International

Sewa International, an old RSS affiliate, also received \$150,621 in COVID-19 relief.

Sewa International funds several RSS-run projects across India. In fact, in the older RSS literature, Sewa International's address was the same as the RSS headquarters in New Delhi.

Ramesh Bhutada, an Indian-American businessman from Texas and national vice president of Hindu Swayamsevak Sangh (HSS), the US wing of RSS, also holds the position of board chairperson at Sewa International.

## Hindu American Foundation

Of the five organisations, the Hindu American Foundation (HAF), a Washington-based advocacy group co-founded by former VHPA activist Mihir Meghani, received the lion's share of federal funds with \$378,064 in PPP loans and another \$10,000 in EIDLA.

HAF lobbies to deflect any criticism of Modi government's policies on Capitol Hill, the most recent being its vehement defence of the Citizenship Amendment Act (CAA), which the United Nations [described as “fundamentally discriminatory”](#), and India's scrapping of the special [constitutional status of Indian-administered Kashmir](#) – both in 2019.

Though the HAF claims to be a “non-partisan organisation”, it has open links with RSS members. Ramesh Bhutada's son Rishi is a member of the HAF board of directors and its treasurer.

According to the most recent [tax returns](#) of the Bhutada Family Foundation, it donated \$47,500 to Sewa International and \$30,000 each to HAF and HSS in 2018.



People in New York celebrate the groundbreaking for a Hindu temple in the Indian city of Ayodhya [File: Alba Vigaray/EPA]

Al Jazeera reached out to the five organisations for their comments on receiving the US federal fund for COVID relief. The HAF and Ekal Vidyalaya Foundation declined to comment, while Infinity Foundation did not respond to repeated calls, emails and text messages.

Only VHPA and Sewa International responded to the allegations of supporting right-wing groups in India and how they plan to spend the pandemic funds they received from the US government.

“Almost every non-profit applied for these funds, and so did we. We will spend them as mandated by the CARES Act. We do not allocate money from the government funds to any activity outside the US,” VHPA president Ajay Shah told Al Jazeera.

When asked if his organisation financially supports groups affiliated to RSS, Shah said, “We comply with the government regulations and send money to several approved charitable organisations in India.”

However, many non-profits that feature in the list of Indian organisations VHPA supports under its Support A Child project have links with RSS. It also funds the VHP Foundation in New Delhi.

Sewa International’s communication director, Vidyasagar Tontalapur, said the organisation plans to use the federal funds to keep its “workers employed during the COVID-19 crisis”.

When asked about its RSS links, Tontalapur told Al Jazeera they collaborate with all “registered non-profit organisations across the world”.

*Americans should be highly concerned that taxpayer-funded stimulus relief is being used by organisations and affiliates that have disturbing ties to those allegedly engaging in religious violence and bigotry overseas.*

*Brian Levin, California State University professor*

New York-based Sunita Viswanath, co-founder of Hindus for Human Rights, expressed concern that the US pandemic relief funds might end up furthering hate campaign against Muslims and other minorities in India.

“All these organisations are sympathetic to the Hindu supremacist ideology. Their parent organisations continue to spread hatred in Hindu communities towards Muslims and Christians,” she told Al Jazeera.

“Any American non-profit that perpetuates Islamophobia and other forms of hate should not receive federal relief funds in any form.”

## History of funding Hindu nationalists

In 2014, South Asian Citizen Web (SACW), an online platform that promotes dialogue on South Asia, released a report on Hindu non-profits in the US that

were linked to Sangh Parivar – the umbrella term that refers to all the Hindu supremacist organisations linked to RSS.

The SACW report, based on an analysis of official tax records between 2001-2014, found that charity groups based in the US sent millions of dollars to RSS-affiliated organisations.

Between 2001-2012, both Ekal Vidyalaya Foundation and VHPA sent \$27m and \$3.9m respectively, according to the SACW report.

SEWA International spent \$3.3m during the same period on various activities of right-wing groups in various parts of India, while Infinity Foundation gave \$1.9m in grants to universities and researchers to promote the Hindu supremacist agenda.

Arvind Rajagopal, professor of media studies at New York University and author of *Politics After Television: Hindu Nationalism and the Reshaping of the Public in India*, said the RSS has been receiving foreign funding through its affiliates for a long time.

“An income tax officer in the 1990s alleged that large sums of money were flowing from the US and elsewhere into VHP in India, and from there to the RSS,” Rajagopal told Al Jazeera.

Rajagopal was referring to Vishwa Bandhu Gupta, a former income tax officer in India who in 1990 issued a notice to the VHP to disclose its income and expenditure.

The officer was transferred and later suspended by the government, allegedly following pressure from the BJP, which then was a coalition partner of the federal government.

“It is hard to doubt that Hindu organisations did not receive money from their foreign affiliates and other sources abroad,” added Rajagopal.

## **‘Americans should be concerned’**

Brian Levin, professor of criminal justice and director of Center for the Study of Hate and Extremism at California State University, San Bernardino, raised concerns about COVID relief funds and loans being extended to organisations with ties to hardline groups.

“Americans should be highly concerned that taxpayer-funded stimulus relief is being used by organisations and affiliates that have disturbing ties to those allegedly engaging in religious violence and bigotry overseas,” Levin told Al Jazeera.

“Even more disturbing is that these funds could be replacing decking donation revenues caused by the pandemic.”

The SBA declined to comment on individual borrowers. It, however, said the PPP is a delegated lending process where participating lenders act as an agent of the government to approve and disburse loans.

“The SBA does not have detail on PPP loan disbursements. That is a third-party transaction between lender and borrower,” Shannon Giles, public affairs officer at SBA told Al Jazeera in an emailed statement.

Christian Picciolini, a former white supremacist and founder of Free Radicals Project, termed the disbursement of pandemic relief funds to right-wing Hindu groups as a “troubling example” of how extremists find ways to exploit the crisis and systems that are put in place to mitigate it.

“America certainly should not be funding, inadvertently or not, extremist groups or any groups or individuals tied to extremism or polarisation,” he told Al Jazeera.

# Exhibit 2

# Call for US probe into Hindu right-wing groups getting COVID fund

Following an Al Jazeera report, US-based Coalition to Stop Genocide in India demands investigation into federal funds given to ‘sponsor hate’.



People in New York celebrate the groundbreaking for a Hindu temple in the Indian city of Ayodhya [File: Alba Vigaray/EPA]

Following an [Al Jazeera investigation](#), a broad coalition of Indian American activists and United States-based civil rights organisations has called on the US Small Business Administration (SBA) to probe how Hindu right-wing groups received hundreds of thousands of dollars in federal COVID-19 relief funds.

A statement issued by the Coalition to Stop Genocide in India this week said the Hindu groups that received the funds have “existential links” with the [Rashtriya Swayamsevak Sangh](#) (RSS), the “fountainhead of Hindu supremacist ideology” and “ideological parent” of Prime Minister Narendra Modi’s Bharatiya Janata Party (BJP).

Last week, Al Jazeera reported how five Hindu right-wing groups with links to Hindu nationalist organisations in India received more than \$833,000 in direct payments and loans, according to data released by the Small Business Administration (SBA), a US federal agency that helps small business owners and entrepreneurs.

The SBA gave the funds as part of its Coronavirus Aid, Relief, and Economic Security (CARES) Act’s Economic Injury Disaster Loan Advance (EIDLA), Disaster Assistance Loan (DAL) and Paycheck Protection Program (PPP) – programmes aimed at providing economic relief to distressed businesses and

keeping their workers employed during the COVID-19 crisis in the world's worst-hit country.

The coalition's statement said the five groups – Vishwa Hindu Parishad of America (VHPA), Ekal Vidyalaya Foundation, Infinity Foundation, Sewa International and Hindu American Foundation (HAF) – are “US-based front organisations for Hindutva, the supremacist ideology that is the driving force behind much of the persecution of Christians, Muslims, Dalits and other minorities in India”.

“US taxpayers' money being used to keep hate groups in business is absolutely unacceptable and should concern all who believe in fairness, justice and government accountability,” said Rasheed Ahmed, executive director of Indian American Muslims Council (IAMC).

“There are families across America still reeling from the human and economic toll of COVID-19, while groups that seem to be essentially serving as front organizations for a violent and supremacist ideology are raking in the windfall from federal COVID funding.”

The coalition's statement said the RSS has been “directly involved in orchestrating anti-Christian and anti-Muslim pogroms and instigating terror attacks, as part of a relentless campaign to subvert India's secular moorings and turn it into a Hindu authoritarian state where minorities are relegated to the status of second class citizens”.

“Its members and affiliated organisations have been implicated in countless acts of massacres, ethnic cleansing, terrorism, forced-conversions and other forms of violence against religious minorities in India,” said the statement.

Raju Rajagopal is a member of Hindus for Human Rights, which describes itself as “a Hindu organisation that exemplifies the distinction between Hinduism and Hindutva”, as the Hindu nationalist movement is known as in India.

“The rise of HAF and other organisations linked with Hindutva has emboldened Hindu supremacist organizations in India, while also stifling the moderate Hindu voices here in the US,” said Rajagopal.

The coalition of US-based rights groups and activists asked the Office of the Inspector General, which probes fraud, waste and abuse of SBA programmes, to “take cognisance of the expose published by Al Jazeera and open a formal investigation into the matter”.

“Government watchdog groups as well as human rights organisations need to take serious note of the misappropriation of COVID funding by Hindu supremacist groups the United States,” said John Prabhudoss, chairman of Federation of Indian American Christian Organisations (FIACONA).

“A comprehensive probe and corrective action is needed to ensure that hard-working American taxpayers' money is not funneled towards sponsoring hate, persecution and the slow genocide of minorities and marginalised communities in India.”



# Exhibit 3





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Mayor Muriel Bowser

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# HINDU AMERICAN FOUNDATION Inc. - Initial File Number: N0000001012

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## Entity Info

**Business Name**

HINDU AMERICAN FOUNDATION

**Suffix**

Inc.

**Registration / Effective Date**

8/01/2011

**Commencement Date**

8/01/2011

**Entity Status**

Active

**Foreign Name**

Hindu American Foundation, Inc.

**Date of Organization**

9/22/2003

**State**

Florida

**Country**

USA

## Business Address

**Line1**

910 17th St NW Ste 316A

**Line2**

<b>City</b>	<b>State</b>	<b>Zip</b>
Washington	District of Columbia	20006

**Agent**

**Is non-commercial Registered Agent?**

No

**Name**

REGISTERED AGENTS INC.

**Address**

**Line1**

1717 N STREET NW, SUITE 1

**Line2**

<b>City</b>	<b>State</b>	<b>Zip</b>
Washington	District of Columbia	20036

**Email**

report@registeredagentsinc.com

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# HINDU AMERICAN FOUNDATION Inc. - Initial File Number: N0000001012

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## Beneficial Owners

Business Contact Type	Name	Address	Executing Officer	File Number
Governor	Shukla, Suhag	910 17th St. NW Ste 316A Washington, DC 20006	Is Executing Officer?: Yes Executing Officer Type: ExecutingOfficer	000005512724
Governor	Prather, Deidra	910 17th ST NW Ste 316A Washington, DC 20006	Is Executing Officer?: Yes Executing Officer Type: ExecutingOfficer	000005512731



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# Exhibit 4



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## Detail by Entity Name

Florida Not For Profit Corporation  
HINDU AMERICAN FOUNDATION, INCORPORATED.

### Filing Information

<b>Document Number</b>	N03000008162
<b>FEI/EIN Number</b>	68-0551525
<b>Date Filed</b>	09/22/2003
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<b>Event Date Filed</b>	12/17/2018
<b>Event Effective Date</b>	NONE

### Principal Address

910 17TH ST NW  
SUITE 316 A  
WASHINGTON, DC 20006-2601

Changed: 01/08/2015

### Mailing Address

910 17TH ST NW  
SUITE 316 A  
WASHINGTON, DC 20006

Changed: 01/08/2015

### Registered Agent Name & Address

REGISTERED AGENTS INC.

7901 4TH STREET NORTH  
SUITE 300  
ST.PETERSBURG, FL 33702

Name Changed: 12/17/2018

Address Changed: 03/25/2019

**Officer/Director Detail**

**Name & Address**

Title Secretary

PANDIT, RAJIV  
910 17TH STREET NW #316A  
WASHINGTON, DC 20006

Title President, Director

MEGHANI, MIHIR  
910 17TH STREET NW #316A  
WASHINGTON, DC 20006

Title T

BHUTADA, RISHI  
910 17TH STREET NW #316A  
WASHINGTON, DC 20006

Title Director

Kalra, Samir  
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SUITE 316 A  
WASHINGTON, DC 20006-2601

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<b>Report Year</b>	<b>Filed Date</b>
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2020	04/27/2020
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