



House Passes JASTA Amid White House Opposition: Implications for the US-Saudi Relationship

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The US House of Representatives passed by unanimous voice vote on September 9, **S2040, the Justice Against Sponsors of Terrorism Act (JASTA)**, a bill to allow family members of the 9/11 victims to sue the government of Saudi Arabia.

The US Senate passed the measure last May by voice vote. Despite an intensive lobbying effort by the Saudi Embassy and its lobbyists, supporters of the measure were able to force a vote. As late as Tuesday, September 6, former UN Ambassador John Bolton and former Attorney General Michael Mukasey wrote an op-ed in the [Wall Street Journal](#) expressing their “deep concerns” about the JASTA legislation. On Wednesday, the House Leadership announced the bill would come up for a vote. Earlier assumptions that the bill would work its way through the Judiciary Committee before coming to the House Floor for a vote, proved wrong.

Some will argue the vote was largely symbolic as the 15th anniversary of the 9/11 terrorist attacks approached last Saturday. The bill was brought up under the Suspension Calendar. Under the “suspension of the rules,” a two-thirds vote is needed for passage, and no amendments are allowed. The bill was presented to the President for his signature into law on Friday evening. The President now has 10 days to veto the bill, i.e., by September 20.

Consequences of Changing Sovereign Immunity

This legislation would change long standing international sovereign immunity law by allowing US district courts to hear cases related to attacks carried out by designated terrorist organizations on US soil with support from other countries. Currently only countries designated as state sponsors of terrorism – Iran, Sudan and Syria – can be sued in US courts by US victims of terrorist attacks. Although not designated a state sponsor of terrorism, many members of Congress believe that Saudi Arabia should be held responsible for the 9/11 terrorist attacks. Saudi Arabia denied any role in the

9/11 attacks, but victims' families have repeatedly tried to bring the matter to court. Their efforts have been unsuccessful because Saudi Arabia invoked legal immunity allowed under current law.

There is an ongoing debate between opponents and supporters of the legislation on the ramifications of the bill.

Opponents of the legislation worry that the bill possibly could lead to retaliatory legislation against US citizens. For example, lawsuits could be filed by family members of civilians killed by US drone strikes in local courts in countries like Pakistan and Yemen. Additionally, some European courts have shown an interest in lawsuits against the US due to its counterterrorism efforts, and against Israel for its policies and action in the West Bank and Gaza, which have led to Palestinian deaths.

Supporters argue that the 9/11 litigants must do more than show negligence on the part of Saudi Arabia. Under the legislation they must prove that Saudi Arabia – or any foreign government -- knowingly provided “direct” support to terrorist groups planning attacks against the US. The 9/11 Commission Report and the 2002 Congressional Investigation into the 9/11 attacks found no evidence of direct Saudi government involvement.

Likelihood for Veto and Congressional Override

President Obama has ten days to do veto the bill. A two-thirds vote in both the Senate and the House is needed to override the President's veto.

A presidential veto, however, presents a delicate political dilemma for the President. The President believes the bill could strain already tense relations with a key Gulf ally. US-Saudi relations have been tense in recent months resulting from the Iran nuclear agreement and the ongoing Saudi military campaign in Yemen. The President has no desire to further exacerbate these tensions. Saudi Arabia has threatened to sell off \$750 billion of US assets in retaliation if the bill is enacted into law, but it is questionable if the Kingdom would follow through on the threat. To do so would cause significant disruption in the global markets.

But, the bill has broad support in both parties and Democratic presidential nominee Hillary Clinton and Senator Charles Schumer (D-New York), the presumptive Democratic leader – should the Democrats win the Senate – both support the bill. Vetoing the legislation could very well jeopardize President Obama's relationship with Democrats whose support he will need in the upcoming lame duck session following the November elections.

The consensus is that the President will veto the bill and that Congress ultimately will override the veto. The question is one of timing.

Senate Majority Leader McConnell (R-Kentucky) and Minority Leader Harry Reid (D-Nevada) are working on Continuing Resolution (CR) to fund the US Government with the goal of passage this week. The Senate would then adjourn by Friday, September 15, weeks earlier than planned, so senators can return to the campaign trail.

The House will remain in session until the end of the month. This means the Senate would be gone before the President can send the veto message back to Congress. However, when the Congress returns for the lame duck session after the November 8 election, it could still veto the bill since, according to the “experts” there is no time limit on when the override can occur. Supporters (and opponents) of the bill believe there are enough votes to override the expected presidential veto.

Implications of Enactment into Law for US-Saudi Relations

If as expected the override stands, the already strained US-Saudi relationship is likely to worsen. The Obama Administration believes it needs Saudi cooperation on a number of issues, but primarily in the fight against ISIS. Suing the Saudi government in US courts may not be in the best interest of the US for all the reasons stated above and particularly when there is no proof that the Saudi government is actually guilty of providing direct support to the 9/11 terrorists.

The reality is that the US needs Saudi Arabia, not only to combat ISIS but also to resolve the conflicts in Syria and Yemen. Foreign policy experts contend the US would face far greater challenges in dealing with regional issues, and in particular with Turkey and Russia whose interests in Syria, for example, differ from those of the United States. Secondly, JASTA presents the risk of economic retaliation between the US and Saudi Arabia further damaging the relationship. Finally, even if the congressional veto override were to fail, Saudi Arabia will still see the bill as another point of friction in its relationship with the US. It will be up to the next administration to address these growing tensions.