

# Dial 9-11 For JASTA



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[On the Cover](#)

*Fifteen years on, 9/11 victims' families demand justice.*

By [Roshanak Taghavi](#)

Justice and security are on the minds of many Americans commemorating September 11 this week, as newly de-classified documents re-ignite the debate over Saudi Arabia's alleged involvement in the deadliest attacks in contemporary U.S. history — and congressional legislation is proposing to hold the Kingdom responsible in American courts.

JASTA, or the Justice Against Sponsors of Terrorism Act, would allow families of 9/11 victims to sue Saudi Arabia for the actions of its citizens, lower-level officials, and state-sponsored charities that may have aided and abetted the Al Qaeda operation.

Passed by the U.S. Senate in May and now under deliberation in the House of Representatives, the bill has sparked a debate in Washington over whether or not a civilian court system should be allowed to try a foreign country for a terror attack — and if doing so is the proper way to mete out justice.

Many — including families of 9/11 victims, congressional officials and former members of the 9/11 Commission tasked with investigating the attacks — are pushing for a deeper

**investigation into Saudi Arabia's potential role leading up to the attacks, and asking what security breaches might have been prevented to thwart the efforts of the 19 hijackers—15 of whom were Saudi citizens—from perpetrating the crime.**

With Congress back in session and a looming presidential election that has seen national **security take center stage, the question of Saudi Arabia's role as an ally of the U.S. has** increasingly come into question, as grieving families continue to seek closure and U.S. officials wonder how close of an ally Riyadh will be in the ongoing fight against global terrorism.

U.S. Families: Unanswered Questions, 15 Years On

**While families of many victims say they've come to terms with the loss of their loved ones, they still don't understand how the U.S. failed to stop the attacks from happening, and who exactly was at fault.**

Cynicism and frustration have replaced the grief of those who lost someone in the 3,000 victims of that day, and many are still searching for answers.

**"I [still] don't understand how it happened," says Talat Hamdani, whose 23-year old son, Salman, an Emergency Medical Technician and cadet with the New York Police Department, died during rescue efforts as the World Trade Center Towers fell. "The 9/11 Commission...connected the dots, but we are still missing some. Fifteen years later, I have healed, but you cannot let it go unpunished."**

Many families are pushing for the U.S. government to continue investigating the attack and determine what security breaches allowed it to happen.

**"It is still astounding to me that nearly 15 years later, not a single person was ever fired, reprimanded or held accountable for what happened on September 11. And it remains even more astounding to me that the five men on trial are still sitting in Guantanamo Bay, even after four years of pre-trial hearings," says Colleen Kelly, whose younger brother Bill was killed while attending a one-day breakfast conference in the World Trade Center's North Tower.**

JASTA – Righting A Moral Wrong, or Opening the Legal Floodgates?

Many hope that the JASTA legislation will bring some answers to light, and lay the burden of culpability at the feet of those responsible.

**"The September 11 attacks...took the lives of too many of my constituents," says Congressman Pete King of New York, who sponsored the version of JASTA now being considered by the House Judiciary Committee.**

**“Congress must finally pass this common sense legislation so that those who aid and abet terrorist attacks on U.S. soil are held accountable for their conduct.”**

**The concept of holding a foreign country accountable for a crime isn't new to the U.S. Under the country's 1976 Foreign Sovereign Immunities Act (FSIA), victims of terror or their families can sue a foreign government in a U.S. court if the planning and execution of that terror attack occurs wholly in the United States.**

JASTA would amend this law so that families can sue a government for actions taken outside the U.S. that may have aided or abetted a terrorist attack on American soil.

Supporters say some past cases have set a precedent for JASTA legislation.

For example, in 1976, a car bomb killed former Chilean government minister Orlando Letelier and his American colleague, Ronni Moffit, in Washington, D.C.

The case was allowed to proceed in U.S. civilian courts because the perpetrators were considered agents acting under direct orders from the regime of Augusto Pinochet in Chile.

Though the order for the assassination occurred outside the U.S., it was sufficient for only the deaths and injuries to have occurred on U.S. soil.

Lawyers representing the families argue that if the U.S. has allowed lawsuits for acts planned overseas, why not allow lawsuits for aiding and abetting acts overseas?

Immunity from supporting a terrorist attack should not depend on where support for that attack is provided, says Jack Quinn, a lawyer who represents more than 2,000 families of the 9/11 victims.

**“JASTA would allow our case to proceed and avoid the need to litigate this issue for several more years on appeal.”**

Thus, if Saudi Arabia were brought to trial under JASTA, Riyadh would become subject to jurisdiction in a U.S. court, even if the acts of 9/11 were conducted independently, and not under the direct orders of the Saudi state.

This would include prosecuting lower-level Saudi officials, employees of state charities that gave money or aided any of the 9/11 hijackers, or donated money to a state charity knowing it could end up with Al Qaeda.

But while JASTA seems to present a path of retribution for 9/11 victims, it presents a host of legal challenges that will make it a difficult legislation to uphold.

For one, the question of who bears responsibility for the hijackers is difficult to answer.

Experts say it comes down to **a question of “agency.” Who had effective control over the 9/11 hijackers and Al Qaeda?** Were the hijackers acting as agents of the Saudi state, or were they independent actors supported, but not directly instructed, by Saudi officials to carry out the attack?

**Moreover, JASTA would also only allow U.S. citizens to sue foreign governments if the state’s actions are deemed to be the “proximate cause” of a terrorist attack. For instance, a case would have to be made that had Saudi authorities prevented money flows to Al Qaeda, then the 9/11 attacks would not have happened. However, such speculative arguments may be difficult to uphold.**

Perhaps most significantly, JASTA blurs the lines between the executive power of a federal government and the individual rights of a citizen. Under JASTA, foreign citizens could, in theory, sue the U.S. for acts they deem illegal, such as drone strikes against non-state actors, or covert activities carried out by U.S. intelligence operators.

Those opposing JASTA say allowing individuals to sue governments in civilian courts would **take power away from the office of the U.S. president and effectively “privatize” the national security of the U.S.**

**“Such a grave matter as identifying states that are mortal threats to U.S. interests should not be left to private lawsuits,” says Paul Stephan, a former counselor on international law at the U.S. State Department.**

**The language of JASTA, which doesn’t specifically target Saudi Arabia, also creates a broad exception that would effectively allow U.S. citizens to sue countries not traditionally considered “rogue” states for injuries suffered by their families there.**

An American citizen who lost a family member during an Israeli military operation in Gaza or the West Bank could use JASTA to sue Israel for damages.

If an ally such as Turkey were to reciprocate such legislation, the family member of a Turkish national killed during the recent coup attempt in Istanbul could sue Washington in a Turkish court for its alleged support of Pennsylvania-based lead Turkish opposition figure, Fethullah Gülen.

**“Plaintiffs will be able to sue countries directly, asking our courts to adjudicate the line between self-defense and unlawful use of force,” says Paul Stephan.**

David Ottaway, a Saudi Arabia specialist at **the Wilson Center's Middle East Program**, also agrees that the lines become blurry when enacting legislation that holds foreign governments accountable for actions deemed immoral by their counterparts.

**“There are a lot of countries that are totally opposed** to American activities promoting **democracy in their countries...** [So] **in terms of government to government relations, I don't see** where this goes. Because if you start using this against one government, then other governments are going to start using it **against you.**”

But senators who have sponsored the bill have reassured the Obama administration that **JASTA is “as narrow and targeted as possible.”**

**Amendments to the FSIA seek “to strike the proper balance between our interests abroad and the rights of our citizens to obtain redress when they are victims of terrible wrongdoing,”** Senator Chuck Schumer of New York said in May after the bill was unanimously passed in the Senate.

### **Saudi Arabia's Response**

For its part, Riyadh has sought to stem the flow of terrorist financing and eliminate money laundering by enacting new controls within its banking system and money-exchange networks.

Mosques can no longer independently collect money, and cash smuggling has declined considerably.

Senior financial advisers say while it may still be possible for individuals to find ways to smuggle cash, the Saudi government is working hard to eliminate any remaining private methods of smuggling and has imposed strict controls over formal financial channels.

Officials have vociferously denied any governmental support of Al Qaeda or terrorism. In 2003, Adel Al Jubeir, the then-spokesman for the Kingdom, told the Los Angeles Times **that “while an internal government investigation had uncovered ‘wrongdoing by some,’ such lapses were certainly not part of any government conspiracy.”**

They also object to the continued accusation that Wahhabism, a stricter form of Islam, is directly connected to violent fundamentalist groups — an accusation Republican and Democratic lawmakers have levied onto the Saudi government in recent months, accusing the Kingdom of fueling extremism by financing and encouraging the proselytization of Wahhabism.

**“The Wahabbi sect is extremely conservative—there is no question on this. But to expand that to say that the Saudi government is involved in terrorism is unfair,”** says **Abdulaziz Al Dukhail**, a former senior financial official who is now a prominent businessman in the country.

In July, the last 28 pages of a 2002 congressional report on Saudi Arabia's involvement in the 9/11 attacks were declassified.

**They reaffirmed the 9/11 Commission's findings that the Saudi government was not complicit in the attacks.** Since then, Saudi officials have sought to move forward.

**"The time is long overdue to set aside these speculations and conspiracy theories and focus on what is of critical importance to the world—the end of the scourge of terrorism,"** the Saudi Embassy said in a July 15 statement.

## A Delicate Balance

**Accusations against the Kingdom's involvement in September 11 have long been tempered by the reliance on Saudi Arabia for intelligence—a relationship that is viewed as a vital counterbalance to Iran in the Middle East.**

The Saudi Kingdom has been an intimate, albeit behind-the-scenes, ally of the U.S. for decades. Relations peaked in the 1980s under the Reagan administration, when Riyadh supported guerrilla operations against the Soviet occupation of Afghanistan and helped finance Contra rebel groups fighting the leftist Sandanista government of Nicaragua.

Saudi Arabia still relies heavily on the U.S. for its security and as a political ally. Washington has sold the Kingdom roughly \$48 billion in weapons in the last six years—almost three times **the level of arms sold during the Bush administration and more than any of President Obama's predecessors,** according to Reuters.

**Yet these days, there's an overriding fear that Washington may abandon this relationship under domestic U.S. pressure, the way it severed ties with the Shah of Iran after Tehran's 1979 Revolution and with Egypt's Hosni Mubarak as he was deposed.**

Recent rhetoric from the U.S. executive branch, traditionally closer to the Saudi Kingdom than Congress, has exacerbated these worries.

In an interview with *The Atlantic*, President Obama called Saudi Arabia and other allies of the Persian Gulf **"free riders,"** who push America to pursue their security goals without putting **"any skin in the game."**

Democratic Presidential Nominee Hillary Clinton, who has said she would support JASTA, **followed suit months later, stating that it's long overdue for Saudi Arabia to stop its citizens from "funding extremist organizations."**

**"Until now, it's been said that the U.S. has had a close relationship with the Saudi government because the U.S. provides security. But not anymore,"** Al Dukhail tells *Newsweek Middle East*.

**“The American government is going to pursue its interests, and likewise, our government should pursue the interests of the Saudi people. It will [be] a relationship of mutual respect, but at an arm’s length.”**

Despite the harsh rhetoric, security experts say that the longtime relationship of intelligence sharing and security cooperation will remain intact.

**Though Obama’s words** against Saudi Arabia may be harsh, his administration has opposed the JASTA measure, and strongly lobbied against the legislation.

If JASTA becomes law and the FSIA is amended to allow lawsuits against the Kingdom to proceed, a public Saudi-American dialogue may be inevitable.

**“This is not just a 9/11 problem of fifteen years ago; it’s a current issue,”** Tim Roemer, a former ambassador who co-authored the 9/11 Commission Report, tells *Newsweek Middle East*.

**“We said on the 9/11 Commission that both sides need to be able to publicly defend the relationship and be honest about what’s working and what’s not. We need to get to the bottom of it; we need to reset and rebuild...an honest and transparent relationship with the Saudis based upon counterterrorism cooperation and success.”**

#### U.S. Public Response

Still, aside from the hot-and-cold relationship that seems to characterize U.S. and Saudi political ties, domestic suspicions linger over how Saudi Arabia may have been linked to Al Qaeda’s **traumatizing terror attacks** of 2001.

**Two congressional investigations have concluded that the Arab Kingdom “as an institution”** was neither directly nor officially involved with those attacks.

But questions linger over the possible role that lower-level officials or affiliates played, as well as Saudi charities that could have funneled money to Al Qaeda.

Hundreds of millions of dollars in financing American security operations abroad and years of cooperation between Washington and Riyadh have not stemmed the anger of the American public.

**“The only folks we know that came into our country and did us some damage came from there,”** said Congressman Steve Cohen at a House hearing on JASTA in July.

As attendees burst into loud applause, Cohen added: “Saudi Arabia is not on the list of state sponsors of terror. If we change the FSIA and they’re subject to liability, might they find out they should have been?”

Many families of victims are still haunted by a lack of closure and no longer believe their government plans to launch any further formal investigations.

**“At this point, we believe that an independent judiciary is the only way to [determine] Saudi Arabia’s role in 9/11,” says Terry Strada, whose husband, Tom, was killed in the World Trade Center attacks four days after their third child was born.**

**“If JASTA is passed and we are allowed to bring them in a courtroom, then justice will be served and accountability will happen. Then I can say we did something that can really make a difference.”**



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FIFTEEN YEARS  
ON, 9/11 VICTIMS'  
FAMILIES DEMAND  
JUSTICE



USA DHC5	LEBANON LP10270	IRAQ ID8100
BAHRAIN BD2.5	EGYPT EP55	IRAN IR204000
OMAN OR2.8	MOROCCO MD66	INDIA INR445
KUWAIT KD2.3	UK GBP 5	PAK PKR725
QATAR QR25	US \$ 6.99	SRILANKA S1960
SAUDI SR25	SYRIA SP1500	BANGLADESH BT1330
JORDAN JD 5	YEMEN YR1500	PHILIPPINES PP320