

118TH CONGRESS
1ST SESSION

H. R. 5855

To enshrine the legacy of Jamal Khashoggi by protecting activists and journalists, codifying the Khashoggi Ban, and introducing the Khashoggi Amendment to the Foreign Sovereign Immunities Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2023

Mr. SCHIFF (for himself, Ms. MCCOLLUM, Mr. CONNOLLY, and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To enshrine the legacy of Jamal Khashoggi by protecting activists and journalists, codifying the Khashoggi Ban, and introducing the Khashoggi Amendment to the Foreign Sovereign Immunities Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Jamal Khashoggi Pro-
5 tection of Activists and Press Freedom Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) A free and independent press is necessary
2 for citizens to make informed choices on issues of
3 public concern, to have the information necessary to
4 recognize truth from falsehood, and to hold the pow-
5 erful and Government officials to account.

6 (2) As reflected in the First Amendment to the
7 United States Constitution, a free press is essential
8 to safeguard democracy.

9 (3) The suppression of the press is historically
10 associated with authoritarian rule.

11 (4) As provided in article 19 of the United Na-
12 tions Universal Declaration of Human Rights and
13 the International Covenant on Civil and Political
14 Rights, all people enjoy the right to freedom of opin-
15 ion and expression, which includes the right to seek,
16 receive, and impart information.

17 (5) An informed public is fundamental to a free
18 society.

19 (6) In accordance with a long United States
20 history of championing freedom of the press around
21 the globe, the Daniel Pearl Freedom of the Press
22 Act of 2009 was enacted into law (Public Law 111–
23 166).

24 (7) Since the passage of the Daniel Pearl Free-
25 dom of the Press Act of 2009, the global environ-

1 ment for a free and independent press has become
2 more repressive.

3 (8) According to data from the Committee to
4 Protect Journalists, at least 363 journalists were im-
5 prisoned globally in relation to their work as of De-
6 cember 1, 2022, a new global high that overtakes
7 the prior year’s record by 20 percent and marks an-
8 other grim milestone in a deteriorating media land-
9 scapes. The Committee to Protect Journalists also
10 reported there was complete impunity in nearly 80
11 percent of the 263 cases of journalists murdered
12 globally between September 1, 2012, to August 31,
13 2022.

14 (9) According to Freedom House’s publication
15 “Freedom in the World 2023”, global freedom has
16 declined for 17 consecutive years, and over the past
17 year, media freedom came under pressure in at least
18 157 countries and territories assessed in the report.
19 Freedom House data also show that freedom of ex-
20 pression, for the media and individuals, has declined
21 more than any other civil liberty over the last 17
22 years, and infringement on free expression is one of
23 the biggest drivers of democratic backsliding glob-
24 ally.

1 (10) According to data from Reporters Without
2 Borders, 55 journalists were killed in 2022, an al-
3 most 15 percent increase over the prior year, and
4 since 2020, more journalists have been deliberately
5 targeted and killed in countries considered “at
6 peace” than in conflict zones.

7 (11) In 2018, the brutal murder of Jamal
8 Khashoggi at the hands of Saudi intelligence officers
9 acting on explicit orders of the Saudi Government
10 underscored the extent to which those in power will
11 go to stifle the freedom of expression, silence their
12 critics, and eliminate the threat they believe inde-
13 pendent journalists pose to their rule. The Office of
14 the Director of National Intelligence released a par-
15 tial, declassified intelligence report on February 26,
16 2021, which concluded that Khashoggi’s murder was
17 approved by Saudi Crown Prince Mohamed bin
18 Salman. However, impunity continues for the Saudi
19 officials involved in this crime.

20 (12) In March 2022, a Turkish judge, likely at
21 the behest of President Recep Tayyip Erdoğan,
22 issued a ruling that closed the criminal trial of the
23 perpetrators in Türkiye (Turkey) and transferred it
24 to Saudi Arabia, where the case against the per-

1 petrators was promptly dismissed, foreclosing the
2 prospect that they will ever be held accountable.

3 (13) In an effort to combat attacks against
4 journalists and others exercising their right to free-
5 dom of expression, Secretary of State Antony J.
6 Blinken in February 2021 announced the Khashoggi
7 Ban, a new policy allowing the Department of State
8 to impose visa restrictions on individuals who, acting
9 on behalf of a foreign government, are believed to
10 have been directly engaged in serious,
11 extraterritorial counter-dissident activities, including
12 activities that suppress, harass, surveil, threaten, or
13 harm journalists, activists, or other persons per-
14 ceived to be dissidents for their work.

15 **SEC. 3. KHASHOGGI BAN GROUND OF INADMISSIBILITY.**

16 Section 212(a)(3) of the Immigration and Nationality
17 Act (8 U.S.C. 1182(a)(3)) is amended by adding at the
18 end the following:

19 “(H) KHASHOGGI BAN.—

20 “(i) IN GENERAL.—An alien who is
21 determined by the Secretary of State, or
22 the Secretary of Homeland Security in
23 consultation with the Secretary of State, to
24 be engaged in counter-dissident activities is
25 inadmissible.

1 “(ii) DISCRETIONARY BAN.—Any alien
2 who is an immediate family member of an
3 alien who is inadmissible under clause (i)
4 may be inadmissible, as determined by the
5 Secretary of State or the Secretary of
6 Homeland Security, in consultation with
7 the Secretary of State.

8 “(iii) NOTIFICATION OF DETERMINA-
9 TIONS.—If an alien is determined to be in-
10 admissible under clause (i) or (ii), the Sec-
11 retary of State, or the Secretary of Home-
12 land Security in consultation with the Sec-
13 retary of State, shall notify Congress, and
14 may also make a public statement, identi-
15 fying the alien and the reasons for the de-
16 termination.

17 “(iv) CLARIFICATION.—For the pur-
18 poses of clause (iii), the records of the De-
19 partment of State and of diplomatic and
20 consular offices of the United States per-
21 taining to the issuance or refusal of visas
22 or permits to enter the United States shall
23 not be considered confidential.

24 “(v) NATIONAL INTEREST WAIVER.—
25 The Secretary of State or the Secretary of

1 Homeland Security, in consultation with
2 the Secretary of State, may waive the re-
3 quirements of this subparagraph, or any
4 part thereof, if such Secretary determines
5 that such a waiver—

6 “(I) is necessary to permit the
7 United States to comply with the
8 Agreement Regarding the Head-
9 quarters of the United Nations,
10 signed at Lake Success June 26,
11 1947, and entered into force Novem-
12 ber 21, 1947 (TIAS 1676), or any
13 other applicable international obliga-
14 tion of the United States; or

15 “(II) is in the national interest of
16 the United States.

17 Such waiver shall be made in writing to
18 Congress and shall include a brief descrip-
19 tion of the how such waiver relates to a
20 reason described in subclause (I) or (II).

21 “(vi) DEFINITION.—In this subpara-
22 graph, the term ‘counter-dissident activi-
23 ties’ means actions taken by a foreign gov-
24 ernment or an individual who operates sub-
25 ject to the direction or control of a foreign

1 government or official, to silence, suppress,
2 harass, surveil, threaten, or harm journal-
3 ists, activists, or other persons perceived to
4 be dissidents by the foreign government,
5 which may include extrajudicial executions,
6 physical attacks, digital stalking, abduc-
7 tions, illegal deportations, or other forms
8 of aggression, threats, or intimidation to-
9 ward the targeted individual or close asso-
10 ciates or family members of that indi-
11 vidual.”.

12 **SEC. 4. KHASHOGGI AMENDMENT TO THE FOREIGN SOV-**
13 **EREIGN IMMUNITIES ACT.**

14 (a) GENERAL EXCEPTIONS TO THE JURISDICTIONAL
15 IMMUNITY OF A FOREIGN STATE.—Section 1605(a) of
16 title 28, United States Code, is amended—

17 (1) in paragraph (5)(B), by striking “or” at the
18 end;

19 (2) in paragraph (6), by striking the period and
20 inserting “; or”; and

21 (3) by adding at the end the following:

22 “(7) in which money damages are sought
23 against a foreign state for the personal injury or
24 death of a United States person (as such term is de-
25 fined in section 1637(d)(10) of the Carl Levin and

1 Howard P. ‘Buck’ McKeon National Defense Au-
2 thorization Act for Fiscal Year 2015 (50 U.S.C.
3 1708(d)(10)), which personal injury or death oc-
4 curred—

5 “(A) outside of the territory of that foreign
6 state on or after October 2, 2017; and

7 “(B) as a direct result of actions taken
8 outside of the territory of that foreign state by
9 a foreign state or an individual who operated
10 subject to the direction or control of a foreign
11 state or official, to silence, suppress, harass,
12 surveil, threaten, or harm the United States
13 person because of that person’s role as a jour-
14 nalist, activist, or other perceived dissidence.”.

15 (b) EXCEPTIONS TO THE IMMUNITY FROM ATTACH-
16 MENT OR EXECUTION.—Section 1610 of title 28, United
17 States Code, is amended by striking “section 1605(a)(2),
18 (3), or (5)” and inserting “paragraph (2), (3), (5), or (7)
19 of section 1605(a)”.

20 **SEC. 5. REPORT TO CONGRESS.**

21 (a) REPORT.—Not later than 180 days after the date
22 of enactment of this Act, and every year thereafter for
23 three years, the Secretary of State shall submit to the
24 Committee on Foreign Affairs of the House of Representa-
25 tives, the Committee on Foreign Relations of the Senate,

1 and the Committees on the Judiciary of the House of Rep-
2 resentatives and of the Senate, a report, including a classi-
3 fied annex if necessary, describing, for the previous year,
4 each act of serious counter-dissident activity committed
5 by—

6 (1) each individual determined to be inadmis-
7 sible under section 212(a)(3)(H) of the Immigration
8 and Nationality Act (8 U.S.C. 1182); and

9 (2) each individual with respect to whom a
10 waiver was granted under clause (v) of such section
11 212(a)(3)(H) and a justification for each such waiv-
12 er.

13 (b) POSTING OF REPORT.—The Secretary of State
14 shall make the unclassified version of the report required
15 under subsection (a) publicly available on the website of
16 the Department of State.

17 **SEC. 6. RULE OF CONSTRUCTION.**

18 Nothing in this Act or an amendment made by this
19 Act may be construed to alter or affect any sanction im-
20 posed with respect to violations of human rights under any
21 other provision of law or to limit the authority of the
22 President to impose sanctions with respect to violations
23 of human rights.

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