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Walden University

College of Health Sciences and Public Policy

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Barbara L. Ahmed

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Review Committee
Dr. Anne Hacker, Committee Chairperson,
Public Policy and Administration Faculty

Dr. Raj Singh, Committee Member,
Public Policy and Administration Faculty

Dr. Michael Brewer, University Reviewer,
Public Policy and Administration Faculty

Chief Academic Officer and Provost
Sue Subocz, Ph.D.

Walden University
2022

Abstract

Decreasing Ambiguity for Public Administrators Implementing the Foreign Sovereign Immunities Act of 1976

by

Barbara L. Ahmed

MS, California University Pennsylvania, 2009

BS, Ashford University, 2006

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Public Policy and Administration

November 2022

Abstract

The U.S. Congress created and adopted the Foreign Sovereign Immunities Act (FSIA) to address foreign diplomatic immunity matters. The purpose of this generic qualitative study was to analyze the policy implications of implementing FISA by public administrators. Mettler and SoRelle's policy feedback theory provided the theoretical foundation for this study. The area of interest for this study was the 50 U.S. states with a focus on two metropolitan areas that include a large diplomatic contingent. Data collected were 180 legal cases brought against foreign diplomats from 2016-2021. In addition, legal cases were retrieved from a legal database and analyzed for triangulation purposes. The methodology used was document content analysis where data were analyzed using a continuous iterative process. The data provided input to the research question which included legal cases from 2016-2021 that highlighted arguments and decisions that addressed errors in granting FSIA immunity. Results revealed that the language of FISA and its subsequent amendments are ambiguous. Thus, five themes emerged from the data: (a) frivolous foreign diplomat FSIA immunity, (b) FSIA foreign diplomat immunity, (c) consulate employees' cases against foreign diplomats, (d) foreign diplomat human trafficking/abuse of domestic workers, and (e) remanded cases. The results of the study may lead to positive social change by encouraging policymakers to consider revising FSIA to account for continuous problems encountered and documented by public administrators when granting immunity to foreign diplomats.

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Acknowledgments

I would like to give a special thanks to Yahawah, the one above all, the omnipresent, omniscient, and omnipotent God, for giving me the strength and wisdom to complete this study. I would like to thank my committee members for their efforts and contributions to this work: Dr. Anne Hacker and Dr. Raj Singh. I also express my deepest gratitude to my family and friends for their unfailing support and continuous encouragement.

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Chapter 1: Introduction to the Study

Granting immunity to foreign officials under the Foreign Sovereign Immunities Act of 1976 (FSIA) has become problematic over time due to the ambiguous language of the law. Legal scholars such as Gilmore (2015), Tuninetti (2016), and Kurland (2019) have noted that the language of the law is vague. Tuninetti stated that the text of FSIA does not indicate that Congress intended to restrict courts' contempt power. Also, FSIA is silent on whether a court has authority to enforce contempt sanctions (Tuninetti, 2016). It is inferred that FSIA gives Congress the right to restrict contempt power by legislative authority that is clear and valid, but that language is not included in FSIA nor in its legislative history (Tuninetti, 2016). In addition, FSIA gives broad immunity to foreign sovereigns in the protection of property from attachment or execution, and then created exceptions to that immunity when these are pursued upon a judgment (Tuninetti, 2016).

The tort exception of FSIA allows victims of foreign diplomat crimes to sue in U.S. courts but is vague as to whether a victim can sue for statutory violations and does not define what constitutes a tort or wrongful action. Thus, Gilmore (2015) argued that the tort exception to FSIA permits cyber tort suits against foreign states that hack the U.S. and that no court has addressed the issue of whether tort exception to FSIA apply to statutory violations. Also, according to Gilmore, even though the statutory torts are well known, FSIA does not define the term tortious.

Thus, interpreting statutory torts from FSIA's tort exception has caused chaos in immunity law because in many states tort law is a well-established statute that is contrary to FSIA immunity exception (Gilmore, 2015). Specifically, the text, history, and purpose

of FSIA confirm that statutory torts must be clearly presented (Gilmore, 2015). In addition, FSIA's text does not define personal injury to include physical and nonphysical injury and does not define right to privacy; therefore, illegal surveillance is considered a personal injury (Gilmore, 2015). This ambiguity of FSIA is a cause of confusion for public administrators, along with other confusions such as courts barring suit brought against the Wiretap Act.

The Wiretap Act should work in conjunction with FSIA and not against it where along with several loopholes in FSIA are causing ambiguity in international law, according to Kurland (2019). Specifically, Kurland stated that due to FSIA's vague and ambiguity text courts have barred suit brought under both the Wiretap Act's private cause of action and the common law tort of intrusion upon seclusion. The result is that governments around the world now have cause to avoid liability for hacking the computers of citizens of the United States, even when those computers are located in the United States (Kurland, 2019).

Also, Kurland (2019) suggested creating a new exception to FSIA to close its many loopholes and stated there is no general treaty of sovereign immunity which affects international law. Hence, even though the United Nations (U.N.) has adopted a proposed Convention of Jurisdictional Immunities of State and Their Properties, the United States is not a party, as the treaty has yet to be officially adopted (Kurland, 2019). Thus, due to the need for uniformity, ease of interpretation, and instigating changes, Kurland requested an amendment to FSIA to clear up specific ambiguities in the language. The following scholars in the next paragraph address the international law conflicts of FSIA.

To address immunity issues, Vanderberg and Bessell (2016) suggested international scholars rely on the Vienna Conventional Diplomatic Relations (VCDR) instead of FSIA. Also, according to Tuninetti (2016), FSIA ignores basic constitutional principles regarding role of the Executive Branch as being the governing authority of the United States in the conduct of foreign relations. Thus, FSIA should not be read to allow a broad contempt power that threatens the ability of the president to speak in tandem with the Department of State (DOS) and courts in the field of foreign affairs. Hence, in *Argentina v. Weltover, Inc*. (1992), Argentina argued that it is considered a foreign sovereign under both international law and FSIA; therefore, the Court did not have authority to hold it in contempt. Hence, according to Tuninetti , it is customary in international law to render immunity to sovereign states from suit in the courts of another sovereign state. Thus, there is no known global treaty in effect to codify customary international law in this area and each country should abide by its national laws when determining the law of foreign sovereign immunity.

This chapter highlights how public administrators and U.S. courts grapple with the wording and lack thereof of FSIA to assist in granting immunity to foreign diplomats. Thus, this chapter introduces several ambiguities of FSIA in hopes of gaining information that may be accepted as recommendations on how to correct them. Also, several scholars who have complained and wrote about FSIA are mentioned in this chapter. The following chapters will give detail accounting of the serious problems FSIA has caused for public administrators and the U.S. courts.

Background

In the United States diplomatic immunity started in 1961 when the Vienna Convention was enacted. Diplomats of foreign states have always been given certain rights and privileges (Kurland, 2019). Hence, in 1815 the Congress of Vienna attempted to codify these certain rights and privileges into law. In 1928, the Convention Regarding Diplomatic Officers was established (Roberts, 2017). The 1964 U.N. Conference on Diplomatic Intercourse and Immunities is presently in existence and is recognized as a governing body of foreign immunity (Roberts, 2017). In addition, the U.N. adopted the Vienna Convention on Consular Relations which contains 53 articles (Denza, 2016).

FISA is a public law enacted by the U.S. Congress in 1976 to define the jurisdiction of U.S. courts in suits against foreign nations. In addition, foreign states are immune from suit, and execution may not be levied on their property (Denza, 2016). Specifically, in the public policy and administration arena, FSIA governs civil actions against foreign states in U.S. courts (Kurland, 2019). The principle of sovereign immunity means that a sovereign state, minus a waiver of immunity, is immune to the jurisdiction of foreign courts and the enforcement of foreign court orders (Kurland, 2019). Initially, Congress adopted the restrictive theory of sovereign immunity at the signing of FSIA which offered foreign states immunity from prosecution in U.S. courts for their public acts but offered an exception for commercial activities (Denza, 2016).

Since the inception of FSIA, public administrators have had serious discussions and have done several studies about its effectiveness and ineffectiveness. The reason FSIA was created is that the United States had encountered some major commercial

disputes with foreign countries (Kurland, 2019). Specifically, owners of *The Schooner Exchange* made their claim under absolute foreign sovereign immunity where that ruling has been intact since the decision of the *McFaddon* case in 1812 (Roberts, 2017). In this study, I examined the policies of FSIA regarding the various immunities available to foreign officials.

There are exceptions to the FISA, but these exceptions are limited in scope as foreign governments use clever schemes to circumvent them. Specifically, FSIA presumptively grants jurisdictional immunity to a foreign state from suit in the United States. Nevertheless, the commercial exception exempts a foreign immunity when the action is based upon commercial activity (Roberts, 2017). These FSIA previous exceptions were created for private parties to provide judicial remedies when engaged in commercial activities (Kurland, 2019). Thus, FSIA gives foreign states immunity from the U.S. courts' jurisdiction and prosecution unless there is an exception (Kurland, 2019).

The first definitive statement of the doctrine of state/foreign immunity was a court decision (Roberts, 2017). During this time, the courts had been unwilling to find jurisdiction without action by the political branches of government, along with some explicit dicta. This led to a tradition of great deference by the courts to official and individual determinations of immunity by the DOS (Roberts, 2017). Thus, the policy feedback theory will assist this study in highlighting needed changes to FSIA to bring it up to 21st century standards.

There is literature related to the scope of this study. Pemer and Skiolsvik (2018) advocated the implementation of policies and regulations to form a central theme within

public policy and administration research. Other scholars have stated that policy implementation is a contribution to the politics of policymaking when dealing with top actors in governmental agencies (Wegrich, 2015). Stone and Ladi (2016) stated that implementation research is all about changing a policy by paying attention to detail and following established instructions.

In addition, diplomatic immunity started as far back as 1400 BC in the Near East states where the means of accepting or rejecting a diplomatic agreement by the Persian empire of Syria in 1700 BC was a simple pull of the helm of a garment or a hit on the throat (Denza, 2016). By the end of the 16th century Ayrault and Gentillis (1585) adopted the earliest diplomatic treaty (Denza, 2016). In the latter part of the 18th century, inviolability of ambassadors was misconstrued under the doctrine of exterritoriality where diplomatic missions were lawfully considered as being a part of the foreign state and was required to follow its laws (Denza, 2016). The 19th century is when the doctrine of exterritoriality declined in popularity and was not used to justify immunity privileges (Denza, 2016).

Confusion by public administrators as to immunity privileges was rampant at this time, and the trend was that diplomats often became involved in conspiracies against the host state (Denza, 2016). Thus, the custom of states was to expel the diplomat because the diplomat could not be tried or punished (Denza, 2016). Often in the past, the offenses of diplomats were kept quiet where the diplomats were returned back to the foreign state for punishment or labeled as *persona non grata* (Roberts, 2017). From that time on, the rule of immunity from criminal prosecution while on unofficial or official duty continued

without a challenge up until it was incorporated into the Vienna Convention (Roberts, 2017).

Prior to the enactment of FSIA, the rules of FSIA were dictated by public administrators of the Executive Branch. Thus, when the DOS noticed that FSIA immunity had begun to be exploited by different factions, the DOS solicited the courts for guidance (Denza, 2016). These public administrators were often criticized to the point that separation of powers became an issue. Critics argued that the DOS FSIA determinations were political and not made in the spirit of FSIA. Hence, Congress addressed these constitutional concerns by taking action to clarify the role of the courts in construing FSIA (Denza, 2016).

Thus, Congress passed an amendment to transfer the immunity determination powers away from DOS and onto the courts. This transfer of power caused a conflict between the courts and the Executive Branch. Pre-FSIA the courts and the Executive Branch had the responsibility to determine FSIA immunity for foreign states (Denza, 2016). The Vienna Convention on Consular Affairs was the guidebook that these two entities used to make these determinations. This is at a time when the United States was faced with only commercial/maritime issues of foreign state and personal torts committed by foreign diplomats and using FSIA as a defense were very rare (Denza, 2016).

The invoking of FSIA as a defense by foreign diplomats has led to confusion for public administrators where the only punishment for the foreign diplomat is to order the return to the country of origin (Diplomatic and Consular Immunity, 2018). The DOS stated that FISA diplomatic immunity is granted to individuals depending on their rank

and the amount of immunity that is needed to carry out official duties without any scrutiny (Diplomatic and Consular Immunity, 2018).

If a person with immunity status should commit a crime or face a civil lawsuit in the United States, the DOS has the duty to step in and contact the government of the foreign diplomat and ask for a waiver of immunity (Diplomatic and Consular Immunity, 2018). But, if the waiver is not granted, the United States cannot act and the diplomat is dubbed untouchable. However, the DOS stated that the outcome of these situations is that the diplomat is asked to abort the mission, give up the visa, and the diplomat and family are barred from returning to the U.S. (Diplomatic and Consular Immunity, 2018).

Thus, in *Samantar v. Yousuf* (2010), it was held that FSIA does not immunize former foreign officials. By excluding individuals, FSIA preserved the common law doctrine of foreign official immunity and the Executive Office's traditional power of suggested immunity (Bergmar, 2014). Yet, human rights cases against foreign states have proliferated in recent decades. FSIA was created as a statue in the spirt of the Vienna Convention on Consular Relations. Article 22 of the Vienna Convention grants absolute immunity to the diplomatic mission where the host state has a duty to protect and ensure its safety (Vienna Convention, 1963). As a result, the diplomatic section of the DOS operates under the assumption that a procedure must be found to try a foreign diplomat if a crime has been committed.

In addition, for the first time after *Samantar* and perhaps for the first time ever, the DOS has stated that individual immunity does extend to acts that are not part of official duty, which is contrary to the decision of *Samantar* and FSIA immunity

principles (Diplomatic and Consular Immunity, 2018). Article 41 of the Vienna Convention does state that any consular official may be arrested or detained only in the case of a grave crime (Vienna Convention, 1963). The grave crimes phase has been understood to mean any felony, and this grants public administrators the authority to arrest, detain, and hold these foreign diplomats for prosecution. FSIA does not grant such authority (Diplomatic and Consular Immunity, 2018).

A senate bill was introduced in Congress in 1988 which stated that diplomats are not entitled to immunity from criminal prosecution of the United States for any crime of violence, drug trafficking, or for driving under the influence of alcohol or drugs (Senate Bill 1437). Also, at that time, it was determined that Congress had the authority to pass a law in the spirit of the Vienna Convention, and a U.S. diplomat has protection abroad under Article 41 from an unreliable foreign justice system that would readily condemn an innocent U.S. diplomat (Vienna Convention, 1963).

In conclusion, previous research has shown that foreign diplomats are, indeed, committing crimes in the United States and taking advantage of the ambiguity of the immunity offered by FSIA (Denza, 2016). This research also will show that public administrators are aware of this FSIA defense. Hence, U.S. citizens and businesses are often at a disadvantage when filing civil claims against them. These foreign officials are using the defense, especially in cases of unpaid debts, such as rent, alimony, and child support. The bulk of diplomatic debt lies in the rental of office space and living quarters and range from a minimum of $1,000 to $1 million (Bergmar, 2014).

A group of diplomats and the office space in which they work are referred to as a mission, and creditors cannot sue missions individually to collect this debt (Denza, 2016). Landlords and creditors have found that the only thing they can do is contact a city agency to see if they can try to get some money back (Bergmar, 2014). These landlords and creditors are forbidden to enter the offices or apartments of diplomats to affect an eviction because FSIA states that "the property in the United States of a foreign state shall be immune from attachment, arrest and execution" (28 U.S.C.A. § 1609). This statute has led creditors who are owed money by diplomats to become more cautious about their renters and to change their rental or payment policies. These landlords and creditors have created their own insurance policies by refusing to rent to foreign missions unless there is a way of guaranteeing advanced payment.

Problem Statement

FSIA was enacted in 1976 by the U.S. Congress as a federal law that have authority over diplomatic matters (Tuninetti, 2016). The specific problem of interest is that the policy implications for implementing FSIA by public administrators are not well understood. Consequently, public administrators may be faced with ambiguity as to what crimes and actions of foreign diplomats are considered immune under FSIA (Denza, 2016). Hence, foreign diplomats are not granted immunity for personal torts, and immunity is lost once a diplomat is no longer on duty (Diplomatic and Consular Immunity, 2018). FSIA has caused uncertainty and confusion as written since it adopts both a subject matter and personal jurisdiction (Roberts, 2017). In its present state, FSIA protects foreign nations from prosecutions in courts in the U.S. even if an individual is

not officially a foreign diplomat (Roberts, 2017). Also, if a foreign diplomat performs illegal acts while working in the capacity of a diplomat, those acts are considered immune under FSIA (Denza, 2016).

The ambiguity in FSIA is problematic since public administrators are responsible for interpreting FSIA to grant the appropriate immunity. The ambiguity of FSIA regarding unofficial and official duties of foreign states has led to an overwhelming number of cases in the lower courts because public administrators, specifically law enforcement, were not able to determine the appropriate immunity (Roberts, 2017). The granting of immunity to individuals depends on the rank and the amount of immunity that is needed to carry out official duties without any interference (Diplomatic and Consular Immunity, 2018).

Public administrators are also encountering family members and others without an official rank who invoke FSIA as a source of immunity (Denza, 2016). Thus, greater immunity is granted to diplomatic agents, while embassy and consular employees are afforded the lowest level of protection which is immunity for acts that are part of their official duties (Diplomatic and Consular Immunity, 2018). These diplomats and their instrumentalists are aware that in the majority of immunity cases, full immunity is erroneously afforded to diplomats whether on or off duty (Roberts, 2017). This error contributes to the uncertainty of public administrators as to whether personal crimes committed by foreign diplomats should or should not be classified as immune (Roberts, 2017).

Evidence that FSIA as written offers immunity for personal torts as well as official duty incidents and other crimes can be found in Denza (2016), Roberts (2017), and Kurland (2019). Kurland expanded on a certain part of FSIA that deals with cyber-terrorism and suggested an additional amendment like the recent enacted terrorism exception. Furthermore, Kurland stated that FSIA does not go far enough to correct the ambiguity that has caused millions of dollars in court costs for actions brought forth in court and most often than not have been dismissed. Public administrators in this study, specifically law enforcement, DOS, and U.S. Congress, are dealing with ambiguous situations when granting FSIA immunity.

In addition, there is no distinction in titles as to diplomats in today's diplomatic environment. Specifically, all types of people are claiming diplomatic immunity such as staff, family members, friends, and others related to foreign diplomats (Denza, 2016). Thus, there are different titles and lower ranks where these public administrators, law enforcement, are not sure which ones are legitimate (Denza, 2016). Hence, a common aspect of ambiguity is uncertainty, and when encountered with a situation where there is more than one solution to the problem and there is no clarification as to which one to use creates ambiguity (Cairney et al., 2019). Also, it might be when a situation such as granting FSIA immunity to foreign diplomats, but a new diplomatic title has been presented before the previous one can be acted on. Thus, when there is no clear guideline, that public administrator goes ahead and grants the immunity (Denza, 2016).

There is a problem in diplomatic policy due to the ambiguity of FSIA. That problem, specifically, is public administrators are not consistent in interpreting the

immunity FSIA offers to foreign diplomats due to ambiguity. Currently, judges are left to make the final judgment as to whether a diplomat fits the definition of the title and whether immunity should be offered. This is a costly approach to address this problem due to excessive court costs and attorney fees that are expended to determine immunity status. Furthermore, these court decisions take time to render, and public administrators are tasked with making these decisions daily. This problem impacts the lives of U.S. citizens who are victims and cannot seek remedies in U.S. courts due to immunity FSIA affords these foreign diplomats. There are many possible factors contributing to this problem, among which are unclear DOS guidelines and the many conflicting court decisions. This study may contribute to the body of knowledge needed to address this problem by researching and clarifying the verbiage of FSIA.

Purpose of the Study

The purpose of this generic qualitative study was to analyze the implications of implementing FSIA by public administrators and to infer recommendation for policy change. This was done by analyzing 180 legal cases filed against foreign diplomats using document content analysis. This specific number of legal cases was determined to be appropriate for purposes of triangulation. I used a qualitative paradigm with a generic study approach. Thus, recommendations were developed for implementation based on the policy analysis of FSIA and of the determination of immunity policy of the DOS.

The phenomenon of interest was the effectiveness of FSIA in granting immunity to foreign diplomats and the ambiguity of its guidelines for public administrators who are responsible for determining immunity. The qualitative approach supplied such evidence

through which public administrators can gain direct access to updated guidelines and other pertinent information. Thus, public administrators may gain the ability to understand the intent of FSIA and then suggest changes to clear up the ambiguity (see Cairney et al., 2017).

The use of the qualitative method was appropriate for this study, as I focused on legal cases and did not focus on participants' responses and individual experience, nor on statistics. Thus, the qualitative approach was more suitable, as it highlighted and provided evidence for what has been done and the reason why as noted by Yin (2018).

Research Questions

For this qualitative generic study, the following research question was used to guide the study: Given the adjudication and interpretation of the 1976 Foreign Sovereign Immunities Act (FSIA) by the courts, what recommendations if any are forthcoming that would decrease ambiguity for public administrators charged with implementing the law?

Theoretical Framework for the Study

Policy feedback theory (PFT) was the theoretical foundation for this study of public administrators' perceptions of FSIA in examining the ambiguity language of FSIA through policy implementation. Mettler and SoRelle (2014) are considered forerunners of PFT which, according to Moynihan and Soss (2014), asks how policy implementation changes political networks relating to governance. Mettler and SoRelle devised the new term *policyscape* which represents the accumulation of policies over time and describes why existing policies need updating to keep up with evolving economic and social conditions. In addition, Mazmanian and Sabatier (1983) stated that to make standard

policy decisions, oftentimes there is a statute that has been included which masks court rulings and/or executive orders. Thus, PFT was used to develop efficient changes to FSIA -- an existing policy.

Hence, the success of an adopted public policy depends on how successfully it is implemented (Stone & Ladi, 2016). One of the problems of successful policy implementation is when it lacks proper direction and guidance (Stone & Ladi, 2016). In public administration, policy implementation is an important stage of the policy-making process. This fits well with the policy changes to FSIA where the execution of the law involves various participants and governmental agencies working together to implement polices to attain policy cohesiveness (Wegrich, 2015).

Following PFT in this research allowed me to analyze public administrators' procedures and techniques used to grant immunity to affect change to FSIA (see Cairney et al., 2016). FSIA was analyzed along with the DOS's immunity determination procedure. Specifically, all available documents were reviewed to analyze foreign state immunity offered by FSIA. Both the DOS and the U.S. Congress may be able to use the information from this study to develop a more efficient diplomatic scheme. This research is derived from PFT advocated by Mettler and SoRelle (2014). As a generic research study, the theoretical framework highlights and suggests future studies that need exploring to add to future research.

Moreover, I was mindful of these facts while developing the theoretical framework. I chose which type of instrument to use based on the research question. The research question was posed according to qualitative research inquiry of how, why, and

what that require descriptive responses. Thus, the qualitative approach supports the knowledge and understanding regarding observations, benefits and limitations, and strategies for success. I chose legal cases as the primary data collection method in which 180 legal cases were analyzed and transformed into useful information. Also, the data were completed responsibly to maintain integrity and achieve accurate results.

Nature of the Study

This was a generic qualitative study where interviews are normally the main source of evidence used. The characteristic of a generic study is when a researcher cannot devise a research question that neatly fits within the boundaries of a single established methodology (see Caelli et al., 2003). Due to COVID-19 restrictions, the proposed interviews with employees of parking and housing authorities and property tax assessor's staff, or advocates against impaired driving and members of the National Domestic Workers Alliance were not done as initially proposed. Instead, I explored how public administrators may have been challenged by the implementation of FSIA and the recommendations they have to overcome those challenges using document analysis.

Document content analysis for data collection allowed me to determine whether any decision was reversed by court order which gave precise reason why the granting decision was not proper according to FSIA guidelines. Thus, it was unnecessary to access public arrest reports of offending foreign diplomats to determine whether immunity was offered according to FSIA standards.

Definitions

The following terms were used throughout this study. Thus, definitions are included to clarify meaning.

Foreign official: This term is defined as any individual legal person or company which is attached to a foreign state or political subdivision, or a majority shareholder, or has an ownership interest that is owned by a foreign state or political subdivision, and which is neither a United States citizen of any state nor formed under any third country laws (28 U.S.C § 1603(b)(1)(2)(3)).

Foreign state: This term is defined as including a political subdivision of a foreign state or an agency or instrumentality of a foreign state (28 U.S. Code § 1603).

Immunity: Specifically, diplomatic immunity is a status granted to diplomatic personnel that exempts them from the laws of a foreign state jurisdiction (Kurland, 2019).

Official duty: This duty is defined as when services performed by a government official as determined by the U.S. DOS (Roberts, 2017).

Policy implementation: The most relevant step in policy processing. Policy implementation can be the enactment of laws, statutes, and procedures to solve a policy problem.

Unofficial duty: This duty is defined as when a government official travels to the United States to perform nongovernmental functions (Roberts, 2017).

Assumptions

In qualitative research an assumption is defined as a statement that is believed to be true for a temporary or a specific purpose, such as building a theory (Creswell, 2012). The research problem alone cannot survive without assumptions because assumptions influence the kinds of inferences that can be reasonably drawn from the research (Creswell, 2012). An assumption can be good bad. Thus, a good assumption is one that can be verified or rationally justified, but a bad assumption is difficult to verify or be rationally justified (Creswell, 2012).

Assumptions of this study were that the research question is appropriate; that the data gathered from the legal cases would be appropriate; that the data would be selected to answer the research question; that the data would be retrieved from a reputable database. These assumptions were necessary to present truthful and valid results in this study.

In addition, there was an assumption in the diplomatic environment that when FSIA was passed by U.S. Congress in 1976, another law was passed in the spirit of the Vienna Convention that gave protection to U.S. diplomats' abroad from an unreliable foreign justice system that would readily condemn an innocent U.S. diplomat. These diplomats erroneously rely on FSIA as being responsible for this safety net (Tuninetti, 2016). Thus, the research did not attempt to explore the phenomenon. Even with all the ambiguities of FSIA as to granting immunity to foreign diplomats and the various interpretations by public administrators, FSIA is still the guidebook relied upon by public administrators to grant immunity. In addition, FSIA in its present state does not meet 21st

century standards where public administrators will find relief from the ambiguity of the guidelines in place to grant immunity to foreign diplomats.

Scope and Delimitations

In qualitative research, the scope defines exactly what will be discussed, and FSIA is the scope of this study (Creswell, 2012). Hence, delimitation is the process that gives researchers control to limit the scope of the data included in the investigation (Creswell, 2012). The specific focus of this study was the ambiguity of FSIA. This hinders public administrators from granting or not granting the appropriate immunity to foreign diplomats. Ambiguity prevents U.S. public administrators from performing their jobs at a level of competency by always having to second guess FSIA guidelines and thereby destroying public confidence.

The populations included in the study were selected diplomatic immunity cases from all 50 states of the United States with a concentration on northeastern states that are in close proximity to U.S. embassies/consulates. The theories/frameworks that were related to the study but were not investigated were the advocacy coalition framework and the narrative policy framework. Both frameworks are approaches that are most prominent to policy change (Weible & Sabatier, 2016).

Transferability is a process whereby the readers of the research can comprehend the specifics of the research and transfer them to the specifics of a familiar situation in their own environment (Yin, 2018). There may be a potential for transferability of this study by exploring the effectiveness of FSIA, as it is being used as a shield by foreign

diplomats to commit criminal acts in the U.S. and dodge prosecution. Therefore, I supplied a highly detailed description of the methods and situations in the research.

This research used data from a metropolitan city and did not interview foreign diplomats nor foreign officials. This research did not interview employees of parking authority and housing authority of a northeastern city. Also, this research did not interview advocates against impaired driving and advocates against domestic workers' abuse of a northeastern city. I analyzed 180 legal cases regarding diplomatic immunity offered by FSIA.

Limitations

The limitations in a research study are the constraining aspects that may have influenced or affected the research (Creswell, 2012). Thus, this study involved the enforcement of FSIA policies and procedures and analyzed these policies and procedures to determine whether changes are needed. This study was limited to the years of 2016-2021 and covered all 50 U.S. states with focus on the northeastern region of the United States. The challenge foreseen in this study is that some documents may exhibit biases. Thus, it was important to meticulously assess and examine the subjectivity of documents and the interpretation of the data to protect the credibility of the research (see Bowen, 2014).

Interviews had been part of the original plan for this study. Limitations were initially noted as to design and methodological weaknesses of the interviews that there may be unknown conditions or factors at the facility where the participants reside and

work that could bias the responses of the participants. However, no interviews were used for data collection as recruitment efforts resulted in no participants.

Significance

This research may contribute to positive social change by educating and empowering public administrators with the knowledge of how to distinguish between unofficial duty and official duty of a foreign diplomat. Public administrators, specifically those in the U.S. Congress, have the responsibility of making policy by enacting and passing laws for the betterment of the U.S. citizens and society (Pemer & Skiolsvik, 2018). This study gathered data to analyze the effectiveness of the implementation of FSIA. The outcome of this study might be used by human resource, policy makers, bureaucrats, and other relevant actors to enhance policies and procedures granting immunity offered by FSIA.

A public incident in 2011 amplified a need for social change in the way immunity offered by FSIA is granted to foreign diplomats. This incident involved the former chief of International Monetary Fund (IMF) (Gallo, 2012). The former chief invoked FSIA in defense of a rape indictment but was caught in a position where there was only functional immunity (Gallo, 2012). Specifically, only acts that fell within his official duties were covered. Thus, IMF former chief was made aware that he was not a diplomat that was afforded full immunity by FSIA. Functional immunity is official capacity immunity that is provided to lower rank diplomatic staff while traveling on official business and only effective while engaged in these duties (Moloney & Rosenbloom, 2020).

The potential contributions of this study may advance public administrators' knowledge in the discipline of public policy and administration while helping to formulate social change. Specifically, as noted by Yin (2018) qualitative methods assist in creating valid questions and shedding light on the underlying theories supporting the design. The contribution is the understanding of the context within which policies must be framed and implemented. The problem addresses the ambiguity of FSIA as it is written because this affects the way public administrators, specifically law enforcement, are carrying out their duty when granting immunity to foreign diplomats.

Summary

In this study, I highlighted the ambiguity of FSIA as to determining immunity for foreign diplomats. PFT is a collection of feedback over time from public administrators, attorneys, judges, diplomats, etc. as to the updating of a policy – what works and does not work. Public administrators determine who gets immunity and often will stay quiet when a foreign diplomat commits an egregious crime to avoid a political conflict with governmental entities. FISA is a public law enacted by Congress in 1976 and has jurisdiction of suits against foreign states. FSIA has caused uncertainty and confusion as written.

The purpose of this qualitative generic study was to analyze the policy implications of implementing FSIA by public administrators. I used PFT as presented by Mettler and SoRelle (2014). I focused on whether public administrators are conflicted as to what are considered unofficial acts and official duty acts. There is a potential for transferability of this study, and the challenge foreseen in this study was that some

documents may exhibit biases. This research may contribute to positive social change by educating and empowering public administrators. Chapter 2 will highlight the literature search strategy, theoretical foundation, and the literature review related to key concepts relevant to the study. The theoretical framework is expanded upon further in Chapter 2 as well.

Chapter 2: Literature Review

The specific problem of interest is that the policy implications of implementing the 1976 FSIA by public administrators are not well understood. The formulation of research questions guides the method and design of the study (Yin, 2018). Qualitative research problems are often probative and exploratory in nature and are open ended and are designed to formulate a how, why, and what response (Yin, 2018). Also, the title, problem statement, purpose statement, and research question flow together to improve the rationality and clarity of the research study. Consistency is gathered from this perfect alignment, making for a more coherent and readable research study (Yin, 2018).

In addition, the purpose of this generic study was to analyze the policy implications of implementing FSIA by public administrators. The ambiguity in FSIA is problematic since public administrators are responsible for interpreting FSIA to grant the appropriate immunity. Specifically, ambiguity of FSIA regarding unofficial and official duties of foreign states have led to an overwhelming number of cases in the lower courts because public administrators were not able to determine the appropriate immunity (Denza, 2016). Thus, the purpose of this qualitative generic study was to analyze the policy implications of implementing FSIA by public administrators. I developed recommendations for implementation based on the policy analysis of FSIA and of the determination of immunity policy of the DOS.

When the United States was officially adopting the restrictive theory of foreign sovereign immunity, which was reflected in both the Tate Letter and FSIA, several western states followed suit. Likewise, the 1972 European Convention on State Immunity

reflected the principle of denying foreign states immunity for their commercial or other public acts (Tuninetti, 2016). Accordingly, several European countries reformed their foreign sovereign immunity legislation (Tuninetti, 2016).

In 2004, the U.N. General Assembly adopted the U.N. Convention on Jurisdictional Immunities of States and Their Property, which adopts the restrictive theory of foreign sovereign immunity and confirms the obsolescence of the absolute theory in international law (Bergmar, 2014). Also, Bergmar (2014) advocated restrictive theory of immunity and states that by allowing absolute immunity, the United States has encouraged various forms of interpretations of FSIA. The restrictive theory of sovereign immunity offered foreign states immunity from prosecution in U.S. courts for their public acts but offers an exception for commercial activities (28 U.S. Code, § 1609, 1976). FSIA now offers absolute immunity which is argued to be the problem that causes abuse of FSIA by foreign diplomats (Bergmar, 2014).

Article 31 of the Vienna Convention of Diplomatic Relations of 1961 gives foreign diplomats immunity from all civil cases except those involving immovable property, “an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State,” and “an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions” (Vienna Convention, 1961, p. 1). FSIA was adopted to respond to commercial activities and to assure litigants that decisions regarding claims against states and their enterprises were legally established (Kurland, 2019). The DOS and public administrators determine

who gets immunity and often stay silent when a crime committed by a foreign diplomat is so egregious in order to avoid a political upheaval (Denza, 2016).

Despite FSIA's history and purpose, public administrators such as law enforcement, DOS, and U.S. Congress rely on and value the document as it stands. In my study, I show that up to *Samantar v. Yosuf et al.* (2010), FSIA has not been sufficient to deal with the ambiguities of immunity determinations (see Bergmar, 2014). These rulings did not answer which public administrator is responsible for deciding which officials can be tried in U.S. courts. Therefore, the *Samantar* decision did not address the ambiguity of the doctrine by the U.S. Supreme Court (Bergmar, 2014).

Diplomatic immunity began with the Vienna Convention which includes several international treaties observed by most nations, diplomats, and embassy staff who are afforded special protections and privileges from a host state (Kurland, 2019). Many of these individuals cannot be arrested, charged, or levied a tax by the host state/country. Some forms of diplomatic immunity are extremely important because public administrators need to make sure foreign diplomats and our own diplomats overseas are protected and are not subjected to arrest for political reasons (Denza, 2016). The problem is that public administrators, specifically law enforcement, are encountering ambiguity in FSIA. FSIA has come to be used as an absurdly expansive cover for sleazy or criminal behavior. As a result, any foreign operative can claim and be granted immunity in the United States by merely mentioning FSIA to law enforcement (Denza, 2016).

While many foreign diplomats act responsibly, some of them behave in ways that would land a U.S. citizen behind bars due to the vagueness of FSIA. The vagueness of

FSIA needs to be clarified and bolstered with stronger language. Thus, the research question in the study was “given the adjudication and interpretation of the 1976 Foreign Sovereign Immunities Act (FSIA) by the courts, what recommendations, if any, are forthcoming that would decrease ambiguity for public administrators charged with implementing the law?”

FSIA was enacted as a federal law to have authority over diplomatic matters (Diplomatic and Consular Immunity, 2018). Consequently, public administrators, specifically law enforcement, are faced with ambiguity as to what crimes and actions of foreign diplomats are considered immune under FSIA. The DOS stated that foreign diplomats are not granted immunity for personal torts and that immunity is lost once a diplomat is no longer on duty (Diplomatic and Consular Immunity, 2018). Again, the purpose of this qualitative generic study was to analyze the policy implications of implementing FSIA by public administrators.

PFT was used in this study due to its policy implementation mechanism of changing old policies. The focus of this generic study was whether public administrators, specifically law enforcement, are conflicted when determining the policy of FSIA when granting immunity to foreign diplomats. This research may contribute to positive social change by educating and empowering these specific public administrators.

Notably, a 1985 amendment increased the usefulness of FSIA as a litigation tool for claims and counterclaims in U.S. courts against foreign governments and their agencies (Balesta, 2000). Also, the Civil Liability for Acts of State Sponsored Terrorism passed in 1985 (Balesta, 2000). In 1996, the Flatow Amendment passed in support of

victims of terrorism (Balesta, 2000). In 2008, the National Defense Authorization Act was created to provide punitive damages to victims (McClennan, 2021). In 2016, the Justice Against Sponsors of Terrorism Act amended both FSIA and the Antiterrorism Act (Martin, 2021). Again in 2016, the Foreign Cultural Exchange Jurisdictional Immunity Clarification Act passed regarding art on loan in the United States for temporary exhibit as part of the expropriation exception to immunity in FSIA (Behzadi, 2016).

The current literature that establishes the relevance of the problem is more plentiful in law journals than they are in the public policy administration (PPA) journals. The PPA journals deal with the ambiguity of policies such as FSIA and are reliable sources of information regarding the theoretical framework and as to how to affect change. As stated previously, if one is to implement a new policy, several actors should be involved who come from various organizations or agencies. Mainly, policy implementation is the process of the interactions between setting goals and the actions directed towards achieving them (Pressman & Wildavsky, 1973).

The concept of public administration is the enactment of governmental policies for the protection of the citizenry. This involves an array of professionals who are responsible for evaluating and addressing specific issues that the citizens present. Politicians, citizens, governmental agencies, healthcare professionals, attorneys, and judges all formulate public policy whether it is national, regional, or local (Pressman & Wildavsky, 1973).

These entities effect public policy by making decisions for the betterment of the citizenry. In fact, public administration can be described as law and order because it

meets the need of a civilized society while adhering to a constitution (Pressman & Wildavsky, 1973). Public policy in public administration is a collection of laws, regulations, and statutes that require citizenry to follow that are derived from court cases and a political system (Pressman & Wildavsky, 1973). In this study, I dealt with the ambiguity of FSIA. Hence, official change will require implementing policy change so that public administrators will have the appropriate guidance in granting immunity that FSIA offers.

Literature Search Strategy

In the final analysis a researcher should take into consideration all aspects of research such as working within budget constraints, planning an appropriate sampling strategy, and defining the appropriate research questions to be answered (Atikinson & Cipriani, 2018). Also, of importance is to select keywords and place them in an abstract which makes it easy for electronic searching or searching a print index. I used Walden's online library and other law libraries available in my local area. Also, I only used the free databases available from various libraries, such as LexisNexis and Westlaw Online.

The State Legislative Websites Directory (https://www.congress.gov/state-legislature-websites) was used to search for the official FSIA document and amendments. The U.S. Supreme Court website (https://www.supremecourt.gov) was used to search for legal cases appealed by lower courts that had been rejected due to FSIA immunity. Both Google Books and Google Scholar were used to search for peer-reviewed books and journals that were not available in the Walden University Library. Specifically, Google Scholar has a database of legal opinions and journals which allows access to a massive

storage space of legal materials with great simplicity because a search can be done from a specific database.

Researchers must determine which strategy applies to a particular situation before determining how much data is required for the sample. In addition, it depends on the question the researcher wants to answer that determines the amount of sample data needed or whether changes should be made. Hence the researcher, according to Yin (2018), should collect enough relevant data to capture an entire cycle of the process.

The available literature gives insight as to how public administrators can elevate the confusion in granting the appropriate immunity to foreign diplomats. The search terms used in the public administration database were *ambiguity, policy making, policy makers, policy feedback,* and *ambiguity in public policy*. There were several legal databases addressing the ambiguity of FSIA, and the terms used were *diplomatic privilege, diplomat immunity, foreign officials, foreign states, foreign diplomats, ambassadors,* and *FSIA*.

The document analysis aspect of the generic research relied on newspapers, case law, statutes, and regulations retrieved from several databases offered by the Walden University Library and other online libraries. Access to the Walden University Library allowed for the capability to search legal cases, statutes and regulations, U.S. Supreme Court rulings and opinions, and constitutions.

Google Scholar was used for retrieving digital object identifier (DOI) documents and various opinions and journals. Google Scholar also allows the researcher access to a massive storage space of various materials. The cases and statutes relating to the research

question can be found in this database. Searching from Thomas.loc.gov, there are current and historical legislative statutes and bill tracking information with multiple search features. These various databases can garner enough information to support the research question.

The following key search terms were used to search for relevant peer-reviewed journals, books, etc. in Walden University's library databases: *policy implementation, public administrator perceptions, public policy ambiguity, ambiguity in public policy, Foreign Sovereign Immunities Act of 1976, FSIA, FSIA ambiguity, foreign officials, foreign state, foreign immunity,* and *policy feedback theory*.

The iterative search process of obtaining these key search terms was a search using Walden University's library public policy journals and various other databases. Specifically, the iterative search included the following sources: journals and articles, dissertations and theses, books, newspapers and magazines, Databases A-Z, Thoreau Multidatabase Search, Google Scholar and Google Books, Ulrich's Verify Peer Review, and ScholarWorks.

Theoretical Foundation

The theoretical foundation for this research was the PFT) advocated by Mettler and SoRelle (2014). These scholars were prolific in using PFT in policy implementation when there is a need to develop efficient changes to an existing policy such as FSIA. Specifically, PFT is a framework that is often used in governmental affairs when dealing with various matters within the agencies. PFT is a vast policy process where results are explained by a variety of factors, social systems, and sources (Stone & Ladi, 2016).

The process of changing a government statute such as FSIA is a great example of PFT being implemented. Thus, implementation research is all about changing a policy by paying attention to detail and following established instructions (Stone & Ladi, 2016). As stated in Chapter 1, PFT consisted of various actors working together with set procedures and guidelines to affect change to FSIA to clear up ambiguity in granting immunity (Cairney et al., 2016).

PFT has been applied previously in public administration in ways similar to this study. Ethridge (2014) stated that ambiguity in legislative enactments has been a problem for citizens and students of the policy implementation process. Also, by allowing ambiguity in policy implementation has weakened the democratic process to the point where accountability is nonexistent. Thus, legislators often produce ambiguous statutes when there is a division of political parties where special interest groups often influence the revision of policies (Ethridge, 2014).

Some of the critical factors proposed by the different scholars are thought to be mutually inclusive in thought while holding the view that rules, laws, regulations, government guidelines, and other documents should be carefully constructed. This thought is necessary so that public administrators and laypeople can readily understand their goals or actions needed and not hesitate to make a change to policy (Cairney et al., 2016). Specifically, this means that the wording of official documents should be precise and not ambiguous so that public administrators will be able to enumerate and validate information to the extent that decisions made, and actions taken are to be obvious in accordance with the facts and data (Cairney et al., 2016). In addition, Mazmanian and

Sabatier (1983) stated the policy implementation developed because the intentions of policymakers were not translating into the desired policy results. So, consequently, scholars were motivated to attempt to identify factors along the way which may be responsible for success or failure (Mazmanian & Sabatier, 1983).

My rationale for using PFT was that even though public policies are authorized by legislations and propagated in legislative acts and bills, it does not necessarily lead to correct implementation. Hence, Ethridge (2014) stated that the U.S. Supreme court justices have long complained about confusing interpretations provided by ambiguous statutes. The legislature articulates unclear, unprecise commands and judges and legal scholars are mostly concerned with the consequences of ambiguously worded law and having to delegate policy decisions to judicial actors (Ethridge, 2014). There has been a myriad of law journals filled with pages of ambiguous wording which have caused controversies and logical debates over the correct way judges should try to interpret such language (Ethridge, 2014). Matland (1995) complained that many legislative agreements depend on ambiguous language, and Jones (1975) had encountered legislators purposefully including ambiguous language into policies without a thought of the feasibility of the language.

PFT relates to this study because a change of policy is needed for FSIA which is an old established policy. To affect this change governmental agencies will need to work together and follow established procedures. Also, this study should provide solid information to these agencies that will imply that change is needed to FSIA.

I built the research question upon existing theory by highlighting the clarification of certain ambiguities in immunity and by filling certain gaps in the statutory scheme. This research will not change the principles of FSIA but may shed light on how policy makers might improve the operation of the act and give effect to the intent of Congress (see Pemer & Skiolsvik, 2018). Diplomatic immunity is extremely important, and this research may show that public administrators are making assumptions about the guidelines because clear-cut information is nonexistence. In addition, foreign immunity has become a nefarious cover for seedy or criminal behavior. As a result, foreign diplomats and their entourage assigned to posts in the United States know that they can break laws, not pay bills, and illegally park without having to pay (Bergmar, 2014).

PFT is a recent phenomenon and has gained popularity among scholars of public policy. Thus, research on policy implementation provides the fundamental relationship between political and economic analyses of policy implementation and the organizational analysis of public administration (Hull & Hjern, 1987). The research of policy implementation has evolved from major phases of development. Hence, there are three phases derived from this literature which are referenced as the first, second, and third generations (Goggin et al., 1990). To elaborate on these phases is beyond the scope of the present study.

The research on policy implementation was originally developed as a field of inquiry that was denoted by the emergence of a top-down approach in public policy literature (Pressman & Wildavsky 1973; Sabatier & Mazmanian 1989). The theoretical

and empirical assumptions of this approach were immediately criticized as being overly automatous and unable to justify the realities of policy delivery in democratic societies.

The scholars who advocated a bottom-up approach were united in their effort to examine the politics and processes of policy implementation. These scholars' thought emanated from the contemporary thinking of public administration where street-level public officials often interact with organized societal interests (Elmore, 1981). First-generation implementation research was debated by scholars on the weight of the top-down and bottom-up approach (Hill & Hupe, 2002).

The effect of the normative schism between the two traditions was the theoretical impoverishment of first-generation research on policy implementation. The second generation of scholars that emerged in the late 1970s and early 1980s fused the insights of the top-down and bottom-up approaches into a conceptual framework that consisted of a set of theories of implementation (O'Toole, 1986; Sabatier, 1986). This approach created its own problems that were literally a scant more than a combination of variables from the two perspectives which resulted in a long list of variables and complex diagrams of causal chains (Exworthy & Powell 2004; Linder & Peters 1987; Sinclair 2001).

The third generation of researchers emerged in the late 1980s and early 1990s who condensed the large number of variables into a manageable framework (Sabatier, 1992). These researchers had hoped to develop more elegant theories that could lend themselves to broader generalizations and more lengthy inquiries (Goggin et al., 1990). As O'Toole (2000) notes, this effort proved too ambitious because very few scholars have so far been willing to undertake such inquiries.

In the 1980s the policy implementation process was influenced by changes to the structure of public administration where responsibilities, etc. were decentralized and the partnerships restructured to improve on service (Kettl, 2000; O'Toole, 2000). Thus, these changes involved associating with nonstate actors in implementing public policies and encountering new partnership collaborations (Kettl, 2000; O'Toole, 2000). These new collaborations of partnerships are more than elaborate schemes and are normal, everyday dealings of the policy implementation structure (Kettl, 2000; O'Toole, 2000).

The principal concern shared by theoretical perspectives on policy implementation, organization, and governance is to understand how government organizations interact with their external environment in the delivery of policies (O'Toole, 2000). As a result of transitions towards complex and multi-actor policy processes, the focus of research on implementation shifted from trying to build meta-theory towards explaining concerted action across institutional boundaries (Lindquist, 2006; O'Toole, 2000). Thus, one notices the broadening of the approach to research on policy implementation into a multi-focus perspective that looks at a multiplicity of actors, locales, and levels (Hill & Hupe, 2003). Specifically, in federal systems the different levels of policy action consist of federal, regional, or state and municipal jurisdictions and their agencies. The locale of policy action often consists of groups of general ideas and interest alliances within and outside the state within a policy subsystem (Sabatier & Jenkins-Smith, 1993).

It is suggested by McCool (1995) that a good theory in public policy should exhibit some characteristics such as validity, economy, testability, organization/under-

standing, heuristic, causal explanation, predictive, relevance/usefulness, powerful, reliability, objectivity, and honesty. Thus, it is not possible to reflect all these traits in a single theory because this would present serious challenges in any disciple where policy theory does not come close to possessing all traits (McCool, 1995). Such is the case with policy implementation where a lack of grand theory obscures the true identity of implementation (Goggin et al., 1990).

Nonetheless, although the discipline policy implementation lacks in having grand or classic theories, continuously, different theoretical approaches such as top-down and bottom-up and case studies have been established in the discipline of policy implementation (Stewart et al., 2008). In addition, based on the established premises mentioned above, some explanations have been given about the state of the discipline and the ways it has embraced various approaches in explaining and understanding how policy implementation proceeds forward (Stewart et al., 2008). Also, the term policy implementation has been well-defined from numerous angles by several scholars who state that policy implementation is a crucial stage of the policymaking process. Thus, the implementation stage is the creation of law in which various associations, procedures, and practices come together to affect the desired policy goal (Stewart et al., 2008). In addition, policy implementation is often regarded as simply a process and the results of several uncompromising stakeholders and associations following a set of procedures. Thus, implementation is the process of the interactions between setting goals and the actions directed towards achieving them (Pressman & Wildavsky, 1973).

Some scholars view the implementation of policy as a mechanism used by government actors to achieve a desired goal (Simon, 2020). Specifically, policy implementation includes actions of public and private individuals who are seeking achievement of objectives set out in prior policy decisions (VanMeter & Horn, 1975). The basic element of most alluded to definitions of implementation is the apparent gap between policy intent and outcomes (Maznamin & Sabatier, 1989; Smith & Larimer, 2009). Thus, the studies of implementation elaborate on factors affecting it by placing emphasis on understanding the success or failure of public policy. This concept of implementation assists in drawing attention to the policymakers and implementers who are studying the processes that influence and establish the outcome of public policy (Smith & Larimer, 2009).

The first-generation study of policy implementation has grown substantially since the ground-breaking book of Pressman and Wildavsky that was published in 1973. Until the publication of the book, there was a period of academic debate about the meaning of implementation (Hill & Hupe, 2014). Even though this was a case study and not a generic one, that study explored the difficulties encountered by the Economic Development Administration in Oakland, California when trying to implement a job creation program during the 1960s. The research resulted in apparent progress in at least the following details. First, there is now an enhanced understanding of the meaning of implementation and how it varies across time, polices, and government. Second, it links policy design and implementation performance (Stewart et al., 2008).

Another important first-generation study was conducted by Bardach (1977). The first-generation studies were primarily concerned towards describing numerous barriers to effective policy implementation (Stewart et al., 2008). However, first-generation studies have been criticized for not being based on theory, specific to one case, and nonproductive (Goggin et al., 1990). Thus, the theory building was not at the heart of first-generation research (Pulzl & Treib, 2007).

On the other hand, the second-generation implementation scholars advocated for the development of frameworks that were more analytical in order to slant research towards a more complex phenomenon of policy implementation (Stewart et al., 2008). The second-generation scholars were more concerned with explaining the success and failure of policy implementation (Stewart et al., 2008). Also, the second-generation studies contributed to the development of a more analytical framework in order to guide the implementation research (Goggin et al., 1990). Therefore, second-generation studies are classified largely as top-down and bottom-up policy implementation approaches (Stewart et al., 2008).

In addition, this second-generation period of implementation was dubbed as the top-down and bottom-up models of implementation research (Pulzl & Treib, 2007). Specifically, such scholars as VanMeter and Horn (1975) and Mazmanian and Sabatier (1989) emphasized top-down models in explaining implementation while Elmore (1981) and Lipsky (1978) who are both bottom-up scholars emphasized street-level bureaucrats who use common problem-solving strategies (Pulzl & Treib, 2007). The top-down model of VanMeter and Horn (1975) describe six variables to shape the relation between policy

and performance such as (1) policy principles and goals, (2) means, (3) interoffice contact and implementation actions, (4) types of implementing organizations, (5) economic and societal conditions, and (6) character of the implementers (VanMeter & Horn, 1975).

The top-down model of Mazmanian and Sabatier (1989) involved 16 independent variables in the implementation process which include: (1) problem tractability, (2) structuring implementation through statute, and (3) non-legal factors influencing implementation (Mazmanian & Sabatier, 1989). The bottom–up model emphasizes the role of local level administrators who are directly involved in implementation according to their responsibility in accomplishing goals and objectives (Birkland, 2005). Hence, the bottom-up model suggests that implementation is best studied by starting at the lowest levels of the implementation system and gradually moving upward to test the success or failure of implementation (Birkland, 2005).

Bottom-up scholars concentrate on the local level policy implementers which is the direct activity of the bureaucrats. Hence, Lipsky (1980) dubbed these implementers street level bureaucrats because they are at the forefront, and as public officials are the ones who are implementing government policies. Lipsky considered that the real policymakers are the low-level government administrators. Also, these low-level policymakers are responsible for increasing the knowledge of how the policy implementers' selective powers and decisions affects successful implementation (Lipsky, 1980). Other scholars emphasize that low-level government administrators are at the forefront of implementing all policies (Weimer & Vining, 2011).

Contrary to the top-down approach, the bottom-up approach starts by identifying the network of actors involved in a local service and inquire about their goals, activities, strategies, and contacts (Stewart, et. al., 2008). Thus, scholars tend to unify the two approaches or provide a mixture of the two and argue that policymakers should employ policy instruments based on the structure of target groups (Sabatier, 1988; Goggin et al.,1990). According to the hybrid approach, the implementation outcome is influenced by the central and local level factors (Goggin et al., 1990). Both the top-down and the bottom-up approaches are criticized for their limited ability to explore the dynamics of implementation from within their analytical frameworks (Stewart et al., 2008). Hence, no one has been able to validate the proposals derived from the earlier perspectives, including the mixed and the synthesized (Goggin et al., 1990).

Notably, such third-generation research attempted to bridge the gap between top-down and bottom-up approaches by incorporating insights of both thoughts into their theoretical models (Pulzl & Treib, 2007). The goal of third-generation research was simply to be more scientific than the previous two in its approach to the study of implementation. Third-generation research attempted to confront directly the conceptual and measurement problems that have hindered progress in the discipline (Goggin et al., 1990). Also, the third-generation research did not emphasize a clear, hypotheses nor did it find proper procedures to produce empirical observations necessary to test hypotheses (Pulzl & Treib, 2007).

Specifically, it is evident that implementation lacks discipline in producing grand theory. Rather, it succeeded to its present level based on few theoretical models,

frameworks, and approaches (Pulzl & Treib, 2007). Therefore, many scholars of policy implementation now agree that the future phase of research in implementation must be directed towards theory development (Stewart et al., 2008). Thus, the discipline policy implementation appears to have been lacking in producing theory or grand theory although there are some theoretical models and approaches in literature of policy implementation (Stewart et al., 2008). Oftentimes the problem with policy implementation is the lack of theoretical knowledge which affects policy performance because performance of a policy is contingent to proper guidance derived from good theories that implementers must rely on (Stewart et al., 2008).

Despite this problem, some scholars have focused on implementation failure in their own ways. Brinkerhoff and Crosby (2002) stated that the performance of policy implementation can be classified into three elements such as (1) the results; (2) policy effect, and (3) societal development. Also, these scholars stated that in order to receive successful policy implementation results, the implementer must design good policies while managing the process (Brinkerhoff & Crosby, 2002). Before the 1970s, policy implementation was not problematic and was regarded as the normal process of for policy change. But, in the 1970s this notion was changed due to the book of Pressman and Wildavsky (1973).

Also, the study was of the implementation strategies of the Economic Development Administration (EDA) in Oakland, California. The EDA was commissioned to create employment opportunities for minorities through various measures such as business loans, training, and public works. The program was not

implemented successfully even though the intention was admirable (Brinkerhoff & Crosby, 2002).

Other scholars have discussed the constraints associated with policy implementation such as policies not being implemented in according to design and that a policy can be compromised due to interference from politicians (Rossi et al. 2004). Also, this compromise can include unavailable personnel or inadequate facilities, or frontline implementers lack motivation and expertise and are unable to carry out an intervention (Rossi et al., 2004). In addition, the policy design may also be inadequately structured, or the original design may not be transmitted well to the staff. Hence, there may not be sufficient numbers of actors, rending them uncooperative where scholars states that proper implementation of any policy can be seriously undermined due to lack of sufficient resources (VanMeter & Horn, 1975; Mazmanian & Sabatier, 1989). Nevertheless, policy implementation works well within a specific and dynamical environment which plays an essential role in the practical implications of the quality and services rendered (Pal, 2006).

Thus, it is difficult to establish new practices in organizations because it is politically feasible to construct new structures rather than revamp older ones. The term frontline implementers coined because these low-level employees are the main resources in policy implementation (Brinkerhoff & Crosby, 2002). Their only requirement is to have a commitment to policy objectives and possess the necessary skills in using available resources to achieve these policy objectives since incompetency can lead to implementation failure (Mazmanian & Sabatier, 1989). Specifically, frontline

implementers must be motivated in their commitment and must be provided appropriate training to prevent incompetency because, as stated above, competent personnel are the key to policy implementation (Brinkerhoff & Crosby, 2002).

In addition, frontline implementers must enjoy sufficient discretion in discharging their responsibilities, but there should be a check and balance between extreme and lack of discretionary power (Bardach,1979). Importantly, the check and balance stance in the control of the behavior of the frontline implementers will prevent intentionally noncompliance (Bardach,1979). There should be unambiguous procedures within an organization regarding employee behavior to achieve successful policy implementation. This intervention will prevent the not our problem phrase espoused by Bardach (1979) and highlight that a reward and punishment system will assist in performance. Specifically, policy implementation should not be done in isolation because a mechanism for monitoring the implementation process from internal and external authorities will enhance implementation performance (Bardach,1979).

Furthermore, involving concerned stakeholders in partnership and engaging employees in the process will enhance implementation success. Leadership is the key to policy success and, therefore, experienced, and tested leaders should be chosen to lead a particular policy intervention. Also, proper measures should be taken to prevent conflicts, contradictory criteria, fractions, and divisions (Cairney et al., 2015). Cairney et al. also advocates choosing the correct location for policy implementation because it will be waste of money and resources if the incorrect location is chosen.

The study has significant implications that highlights the need for undertaking efforts by the scholars towards producing substantial theories so that policy implementation upholds standing as a discipline in the public administration domain. (Matland,1995). Also, the study assists in the revisit of some of the major problems of policy implementation and the measures to overcome (Matland,1995). In the end, there is reason to argue that successful policy implementation also depends upon having a good theoretical base (Matland,1995). Traditionally, the rationale to increase the intended outcome of a policy is to be remindful of desired outcomes, pinpoint the resources needed for policy implementation, and define the roles and responsibilities that an organization has adopted (Matland,1995).

Moreover, the monitoring of implementation alerts everyone involved of any possible barriers or impacts of the studies. Hence, support from stakeholders and resources may decrease because policy sustainability benefits from planning for these changes from the beginning of the policy process (Matland,1995). Planning for sustainability can involve programmatic, administrative, fiscal, and other key elements of the policy. Thus, in the end, successful policy implementation is gauged by whether participants involved understands the goals, the resources have been identified, and the documentation of the roles and responsibilities of all (Matland,1995).

Gazley (2010) advocates collaborative policymaking and states that the inadequacy of collaborative policymaking is determined by how it is developed. Thus, this tends to be developed in administrative isolation even though most interventions will almost certainly have wider implications that affect external parties. Also, even though

there is a growing academic interest in developing ideas and tools for fostering interorganizational partnerships, improvement has been at best sporadic and inadequate (Gazley, 2010). Thus, inadequacy of collaborative policymaking and the failure to establish a common ground for public problem solving through a constructive management of difference remains one of the key reasons for difficulties in implementation (Gazley, 2010).

Nevertheless, adequate policy design requires continuous collaboration with a range of stakeholders at multiple political, policymaking, managerial, and administrative levels minus the simple tasks (Ansell et al., 2017). Also, policy design requires the engagement of local level implementation actors such as end users, frontline staff, and a range of local service agencies. Some scholars emphasize the need for policies to be designed in a way that precipitously and transversely connect actors in a process of collaboration and combined deliberation (Ansell et al., 2017).

Some public policy scholars state that this thought should not be equated with a long and cumbersome search for unanimous consent. Rather, the thought should be that there is a search for sufficient common ground to proceed (Ansell et al., 2017). Thus, without this common ground, there will be ongoing conflicts over policy validity and the mission of the organization (Ansell et al., 2017). Therefore, it is especially important that policy design and implementation become an integrated process rather than simply a progression of separate and distinct stages (Ansell et al., 2017). Another matter is whether policymakers are equipped with the required skills, abilities, and competencies to address such prevalent defects and achieve success in spite of them (Howlett, 2009).

In direct reference to the study, low ambiguity and high conflict are typical of political models of decision making according to Allison (1971), Halperin (1974), and Elmore (1978) (citing from Matland,1995). According to Matland, in the political arena, the actors have clear and defined goals, but discord occurs because these clearly defined goals are unharmonious where conflicts oftentimes occur. It is often precisely in the designing of the implementation policy that conflicts develop, and spirited battles explode (Matland,1995). The principal standard of political implementation is that implementation results are decided by political authority. Specifically, more often than not, one participant or an alliance of participants have ample power to force the hands of other participants. In other instances, participants resort to bargaining to reach the desired agreement (Matland,1995).

In policy implementation, politicians tend not to be held accountable for the results of their policy initiatives. The thinking is that if and when an initiative fails, the politician will have moved on or voted out of (Matland,1995). Consequently, the politician is easily enticed by short-term results which can lead to the ramming through policies as quickly as possible rather than getting involved in the chaotic and lengthy policy implementation process (Matland,1995). Also, there is evidence to suggest that the political motivation necessary to drive long-term policymaking tends to eventually disappear (Norris & McCrae, 2013). Specifically, the concern is that policymakers are more likely to get credit for legislation that is passed than for avoiding implementation problems (Weaver, 2010).

In addition, Howlett (2019) stated that most policy decisions identify some means to pursue their goals, but policy implementation is required to achieve results. Hence several early studies of the policy sciences have stressed the significance and importance of both effective and ineffective implementation in affecting policy outcomes (Howlett, 2019). Also, the activities are not associated with this phase of the policy-making process and are clearly not integrated into policy process models. There have been no mainstream policy frameworks used to further the study of policy implementation despite being similar to other stages (Howlett, 2019). Rather, policy implementation has been labeled as atheoretical work in public administration. Thus, this label has been amplified by the recent accumulation of an equally set of descriptive works in public management and other theories that are not focused on the policy process (Howlett, 2019). In addition, Howlett suggested this situation should be immediately resolved in order to secure the rightful place of implementation near the heart of policymaking and to make sure implementation studies will continue to contribute to policy studies (Howlett, 2019).

Nevertheless, the four threats to successful policy implementation outlined in the preceding section are the norm. Hoping that normal procedures and channels will be sufficient to resolve the threats is no longer realistic thinking (Matland, 1995). At a minimum, a better understanding is needed of the processes through which policy moves and how, at each of these points, policy can best be supported. The aim at this point would be to ensure policymakers are more alert to the practicalities of implementation by more carefully analyzing the feasibility of policy proposals from the start which will create a better policy design (Matland, 1995). As stated previously, a faulty policy design

can derive from many causes such as misunderstanding the problem, limited knowledge of the implementation framework, unclear and even contradictory goals, shoddy evidence, and lack of political support (Matland, 1995).

Policy ambiguity is relevant to this study and is defined as implementation ambiguity that arises from several sources but is sometimes characterized into ambiguity of goals and ambiguity of means (Matland, 1995). Thus, the clarity of goal is stressed in top-down models which is an important variable that directly hinders the success of a policy. Thus, goal ambiguity is perceived as causing misunderstanding and vagueness, resulting in the ultimate failure of policy implementation (Matland, 1995).

The position of scholars advocating a top-down model is very clear that policies should be directed toward the goal of greater clarity (Matland, 1995). This thought by scholars fails to take into consideration the limitations of clarity and the positivity of ambiguity some actors embrace. Hence, there is a negative correlation between goal conflict and ambiguity when designing a policy (Matland, 1995). Ironically, ambiguity is known to limit conflict where clearer goals are known to cause conflict.

Regan (1984) gives an example of this thought by referencing a study of personnel information policy in the U.S. and the United Kingdom. Thus, the scholar argues that programmatic goals were ignored in the policy implementation stage which led to chaos (Regan, 1984). As the policy became more unambiguous, the actors involved suffered threats to their area of expertise and took steps to protect their positions against proposed policy changes in order to maintain the bureaucratic status quo (Regan, 1984).

Normally, ambiguity is often a prerequisite for getting new policies passed at the implementation stage, but there are many legislative compromises where ambiguous language is purposely included because diverse actors have different ways of interpreting language. In the political process, this is considered normal and expected (Berman, 1978). Hence, ambiguity is not limited to just goals it also affects the means of policy implementation. Ambiguity of means appears in many ways, perhaps most obviously in cases where the technology needed to reach a policy's goals does not exist (Matland, 1995). Policy means also are ambiguous when there are uncertainties about what roles various organizations are to play in the implementation process, or when a complex environment makes it difficult to select the correct tools, determine the operation of the tools, and determine the consequences (Matland, 1995).

There have been calls to avoid ambiguity in policy means by limiting policy to those areas with an understanding of how actions occur and those areas with known instrumental means to attain desired goals. If actions were thus limited, however, many important but difficult questions would remain unanswered (Matland, 1995). Hence, Tukey (1962) (as cited in Webber, 2014) stated vagueness or ambiguity is better when giving an imprecise answer to a supposedly vague right question than to give a precise answer to the wrong question which can always be made precise. There is a learning and experimental process when searching for an answer, but the implementation process always provides an opportunity to learn new methods and strive to reach new goals (Offerdal, 1984, as cited in Matland, 1995). Thus, this scholar suggests policy

implementation should be a time where standards and ideas along with technological knowledge are tried (Offerdal,1984, as cited in Matland, 1995).

In addition, it is uncertain whether policy ambiguity can be easily manipulated at the implementation stage, but several top-down models recommend rejecting ambiguity (Jones, 1975, as cited in Matland, 1995). Also, ambiguity is essentially perceived as being a fixed parameter even though it is not entirely fixed and is resistant to significant movement (Jones, 1975, as cited in Matland, 1995). Scholars believe this is due to the fragility of political parties or a lack of understanding the problem. Specifically, in regard to ambiguity means, policy implementers oftentimes believe they lack the technical knowledge to produce a planned implementation policy (Jones, 1975, as cited in Matland, 1995). Thus, politicians do react to request for action by producing action and do not stop to consider the viability of policy implementation (Jones, 1975, as cited in Matland, 1995). Also, organizations consistently create policies with both ambiguous goals and ambiguous means (Lowi, 1979).

Therefore, it is realistic to presume that public policy will include extensive ambiguity, but it is the degree of ambiguity included in a policy that have an effect on the process of policy implementation (Jones, 1975, as cited in Matland, 1995). The ambiguity influences the ability of leaders in monitoring activities, interferes with policy uniformity within an organization, creates lone actors who make up rules, and variant rules are created and become standard even though they are incorrect.

Policy implementation scholars have noted that few countries have mechanisms in place to ensure a more robust policy design (Staci & Ladi, 2015) Also, the policy

implementation is leaning towards a transnational approach by way of diverse employees which creates a global policy implementation. Specifically, implementation may occur at transnational or local levels in different regions that are mostly modern or are transnational administrations (Staci & Ladi, 2015). Traditional policy and public administration studies tends to give analyses about public sector hierarches' capacity to nationally globalize policies rather than to study the concept of transnational policymaking further than state policy (Cairney et al., 2016). Thus, traditional policy implementation studies have tended to take on an international relationship scholarship in order to adapt and identify new models of globalized public policy and transnational administration where there are no prospects for continuing to form these concepts (Cairney et al, 2016).

Cairney et al. (2016) agrees that the present literature is correct to promote networks between communities of scientists and policymakers because networks are a learning process for both. Also, academic must have conversations about the cost and risk of political value of the generated information. Therefore, policymakers must recognize that being perspicuous about the scientific uncertainty that is adherent in any study is enormously essential to the scholarly credibility of academics (Cairney et al., 2016). Scholars need to engage in respectful conversation which allows political judgment to be truly informed by evidence but are disturbed by the reluctance of academics to make unambiguous policy recommendation without feeling unwarranted pressure to be silent or ignore it (Cairney et al., 2016). Furthermore, academics must comfortably feel that their advice and expertise is valued even if the shared knowledge is from the past.

There is an increasing focus in several countries on highlighting the academic impact on policy and policymaking. Cairney et al. (2016) reiterated the focus should involve a direct and interim process of engagement and impact that can be described only in university reports to support economic rewards given for academic activity. Also, meaningful policy impact built on the policymaker relationships of the academic at a minimum take time and effort to create. There are ways to produce these meaningful academic-policymaker engagements; however, the impact should not be exaggerated or the ability to simply measure it (Cariney et al., 2016).

Literature Review Related to Key Concepts

The concepts that will be focused on for this study are international and transnational policy implementation, government policy implementation, creativity in policy implementation, top-down and bottom-down approach, policy implementation ambiguity, and future policy implementation. Each concept will be discussed in detail in this section. Also, in this chapter, a thorough review of the literature is presented, along with a discussion of concepts crucial to the study.

Moreover, PFT focuses on what influence the initial policy has on future policy, according to Amenta (2019). Thus, PFT maintains that the establishment of a policy through positive feedback processes or through negative feedback processes affects changes that support the policy (Amenta, 2019). Also, according to Amenta policies provide rules, resources, and organization as enforcement mechanisms. In the past, scholars have concentrated mainly on positive policy feedbacks and have identified mechanisms that can assist in promoting and resisting attacks on progressive policies

(Amenta, 2019). Furthermore, policies can have negative feedback features such as those handled by the process of patronage or those that benefit the underserved (Amenta, 2019). The negative polices may also be subject to deterioration through drift which occurs if socioeconomic conditions change and policies are not updated (Amenta, 2019). To the contrary, there are other scholars that advocate conditional policy feedback.

Thus, these scholars add substantial subtlety to existing theories of policy feedback. The rapidly increasing study of policy feedback has convincingly shown that individuals learn through experiences in countless policy domains (Lerman & McCabe, 2017, citing Mettler, 2007). Thus, these studies have focused more on participation rather than policy attitudes as noted by Lerman and McCabe (2017). As such, there is no good evidence on whether and how policy feedback effects on public opinion differ along partisan lines or across levels of political knowledge (Lerman & McCabe, 2017).

The conclusion is that these differences of opinions are pivotal to understanding how policy feedback derives. Altogether, the results presented assist in explaining how policy feedback leads to the entrenchment of public policies (Lerman & McCabe, 2017). There is evidence that once policies are implemented, they are hard to curtail because they create constituencies where losses are more important than gains (Lerman & McCabe, 2017). The findings suggest that public policies may also become embedded because direct experience more so than other avenues of political learning can build support that reaches across the political continuum to bridge the information divide (Lerman & McCabe, 2017). Furthermore, PFT is a gateway to policy implementation where scholars use true and tried practices that are effective in different scenarios of

policy implementation (Lerman & McCabe, 2017). Thus, the below concepts are explained in detail.

International and Transnational Policy Implementation

There are a vast amount of international and regional organizations participating in the public administration policymaking arena. According to Moloney and Rosenbloom (2020), these arising organizations come with agendas and staff that will rely on present-day research to make these policymaking decisions. Thus, these emerging organizations need to be carefully scrutinized as to their knowledge of public policy and empirically observations (Moloney & Rosenbloom, 2020). Specifically, this knowledge should be applied differently toward international organizations and sovereign states because politics play a part in grasping bureaucracy underpinnings while under the authority of a global entity (Moloney & Rosenbloom, 2020). Likewise, Staci and Ladi (2015) have noticed in recent years that diverse actors are involved in transnational or global policy implementation.

Thus, the rise of transnational policy implementation has attracted the attention of international law scholars such as Bergmar (2014). Staci and Ladi (2015) contended that the interaction with a diverse group abroad is cause for a pause due to regulatory issues that come with this global governance where there is no central rules, procedures, and oversight. The scholars advocated for a more restrained approach to the phenomenon and argued that one can be successful in overcoming relatively simple problems of international regulatory coordination by U.S. interests (Staci & Ladi, 2015).

Governmental Policy Implementation

Traditionally, public policy studies have been geared toward analyses of the strength of vast organizations so that the policies can be globalized and not waste time investigating these polices beyond the local level (Schmidt et al., 2019). Also, Schmidt et al. suggested performing a detailed analysis of the difficulties of policymaking within a governmental entity to highlight the differences between generalists and specialists (Schmidt et al., 2019). These scholars also advocated a term dubbed metapolicies as a way to cut red tape in government bureaucracies. These metapolicies entail improved regulations and assessments of standard policies and procedures to ensure a diverse working environment (Schmidt et al., 2019).

According to Pierre and Peters (2020), almost all existing public administration research falls into one of two different approaches. The first approach offers an almost totally theoretical analysis of public institutions, and the other approach provides largely atheoretical analyses. Thus, neither of these two approaches is able to contribute an academic discipline to public administration but can come from a theoretically informed empirical study of the practice of public administration (Pierre & Peters, 2020).

In addition, Staci and Ladi (2015) stated that civil servant classifications within governmental entities such as specialists and generalist should be merged together in policy implementation. Moreover, Stone and Ladi stated that there has been an increase in policymaking regarding administrative procedures that conflict with policy processes such as standard governmental processes. The source of this conflict is that there are newly created organizations and staff that often act independently. In today's

governmental environment policy implementation is crucial and can occur in different areas and localities that consider themselves transnational (Stone & Ladi, 2015).

Creativity in Policy Implementation

Furthermore, Wegrich (2019) advocated classifying metapolicies in order to implement policies for both specialists and generalists. Hence, Wegrich stated that a blind spot is a cause for policy implementation failures. Hence, the framework and setup should not be different from standard policymaking which is often criticized due to the cyclical process (Wegrich, 2019). Thus, innovation is stressed throughout the entire process which is a collective action between different actors of different organizations that consist of staff that are diverse in knowledge, abilities, and expert views (Wegrich, 2019). Also, these diverse ideas will produce more creative solutions than those developed by actors from within the same organization (Wegrich, 2019).

Thus, creative ideas would not be enough through old policy models of policy implementation because today's problems require creativity to solve. Also, these diverse actions probably will assist public organizations to overcome obstacles to creative ideas. This requires mostly a balance of removing traditional barriers to partnership, and simplifying the leadership design (Wegrich, 2019). By engaging with a wider variety of actors, including constituents, elected politicians should be able to overcome limitations in knowledge and gain new leadership capacities (Wegrich, 2019). Leadership can succeed in setting up collaborative innovation arrangements because of the second key factor. The benefit of collaborative innovation is this key factor kicks in at later stages of the process. For politicians and bureaucratic leaders, such benefits when achieved will

offset the inherent risk-taking in setting up collaborative innovation processes against political and bureaucratic barriers (Wegrich, 2019).

In addition, policy implementation contributes to the politics of policymaking in top actors in governmental agencies, as it introduces the logical distinction between generalists and specialists as incompatible actors in the political arena (Wegrich, 2015). Also, the views of these generalists and specialists are due to their performing the job and not formal training offered by the organization (Wegrich, 2015). Hence, these established approaches are combined from public policy and organization theory. When this happens it is to corroborate this claim and to define the problem that generalists face when developing reformation policies and strategic plans within the governmental agencies. These reformation policies and strategic plans have been newly termed as metapolicies (Wegrich, 2015).

Top-Down and Bottom-Down Approach

Other scholars such as Pemer and Skiolsvik (2018) advocated the implementation of policies and regulations to form a central theme within public policy and administration research. Reviews of the implementation literature show that existing research has largely tended to take either a top-down or a bottom-up approach. Thus, top-down approaches seek to identify factors enabling implementation (Pemer & Skiolsvik, 2018). Also, the top-down approach amplifies implementation failures through common actions such as poor communication, planning, or design. The bottom-up approaches amplify how the discretion of hands-on government officials can influence

implementation and how their managers attempt to influence their actions through increased regulations, etc., in order to gain complete control (Pemer & Skiolsvik, 2018).

Furthermore, it has been shown how the implementation of new policies and regulations varies depending on the strategies used by public officials or administrators in the policy change organizations (Pemer & Skiolsvik, 2018). Recent research shows that this top-down and bottom-down mechanism is becoming commonplace where in the past tensions were high when implementing them. Also, in the past, this is where ambiguity was introduced surrounded by disagreement, opposition, and ambiguity that has been influenced by cross-agency actors (Pemer & Skiolsvik, 2018).

These scholars also stated that policymakers cannot consider all evidence relevant to policy due to shortcuts in belief systems and emotions in responding to problems in a logical manner (Pemer & Skiolsvik, 2018). Several policy implementation scholars have addressed part of this problem while sufficiently produced evidence is known to reduce the policymaker's uncertainty. Nevertheless, these policymakers often combine their beliefs with partial evidence to reduce ambiguity by choosing one of several possible ways to comprehend and solve a problem. Thus, this information is used to consider solutions designed to close the policy gap (Pemer & Skiolsvik, 2018).

Policy Implementation Ambiguity

In addition, other scholars such as Pierre and Peters (2020) suggested that public administration, like other areas of inquiry such as engineering, law, and social work, has both an academic and a practical dimension. These scholars stressed that public administrators need to function in a real world that has numerous normative as well as

efficiency concerns (Pierre & Peters, 2020). As much as public administrators may become absorbed in the academic workings, they must stay alert to the need to make public administration function in a real world, i.e., 21st century standards. An emphasis on management has been one way to address the real-world aspect of public administration, but so many other pertinent aspects have been lost (Pierre & Peters, 2020).

Most scholars advocated no changes to FSIA, but when Congress enacted FSIA, the immunity determination of foreign officials was not a problem as it is now. So, the best way to alleviate this problem is to implement policy change to FSIA (Bergmar, 2014). The actors involved are the DOS, U.S. Congress (Congress), and law enforcement. This study explored the ambiguities and issue of immunity determinations through a policy implementation lens. Basically, FSIA was adopted to respond to commercial activities and to assure litigants that decisions regarding claims against states and their enterprises were legally established (Bergmar, 2014).

According to FSIA, a foreign official's immunity should be decided by the courts under the guidance of the DOS. The DOS stated that immunity should only be extended, only, if a formal request has been submitted by the proper foreign state (Diplomatic and Consular Immunity, 2018). Once the foreign state makes a formal request for immunity, public administrators have the burden of determining the status of that official – whether that official is a head of state (Diplomatic and Consular Immunity, 2018). There is protocol in FSIA for other ranks of foreign officials where there lies the ambiguity.

The public administrators of the DOS make the final determination as to what foreign official is entitled to immunity. Thus, law enforcement is the initial contact with these foreign officials and need clear and solid guidelines to make on-the-spot immunity decisions (Bergmar, 2014). Despite FSIA's history and purpose, public administrators rely on and value FSIA as it stands. Unequivocally, these public administrators have found contradictions in FSIA where courts have stated that FSIA does not immunize foreign officials from personal lawsuits (Bergmar, 2014). The legislative history of FSIA suggests it was enacted to conform to international practice regarding sovereign immunity (Bergmar, 2014). Hence, within that framework, public administrators limit their recourse to foreign and international sources to background principles of sovereign immunity as they existed at the time of FSIA's passage in 1976 (Bergmar, 2014).

Moreover, Denza (2016) disagreed with scholars that FSIA as written is sufficient to determine immunity for foreign officials in the 21st century (Denza, 2016). This investigation gathered evidence of the various personal torts and criminal activities perpetrated upon U.S. citizens and business where these foreign diplomats have used FSIA as a defense. This research highlighted ambiguities in FSIA that have allowed a variety of personal crimes to be committed where the foreign officials have sought and received immunity.

In addition, there is still a conflict as to what constitutes a foreign state and a foreign official. This paper argues that foreign officials more often than not are, indeed, being granted immunity and using FSIA as a defense for personal torts, etc. Obviously, there are exceptions to FISA, but these exceptions are limited in scope where foreign

governments use clever schemes to circumvent (Bergmar, 2014). These previous exceptions of FSIA were created for private parties in order to provide judicial remedies when engaged in commercial activities (Bergmar, 2014).

Unlike other scholars, Pollock (2015) is one of the scholars who argued that FSIA is sufficient to address the growing immunity determination problems. However, sovereign immunity was born centuries ago and has gone through some changes in the 20th century to reflect some changes due to happenings such as 9/11 (Bergmar, 2014). FSIA needs to be brought up to 21st century standards where ambiguities are addressed, and the definition of a foreign state/official has been redefined (see Bergmar, 2014). FSIA should be revised so that there is no doubt that if a foreign state/official commits an offensive, criminal act or a personal tort and claim immunity that immunity is immediately waived (see Bergmar, 2014). Specifically, any loophole to commit crimes without prosecution in FSIA available to these foreign officials should be eviscerated. In addition, this scholar agrees that Congress should amend FSIA to include all recent debates and decisions that have been generated from domestic and international incidents (see Bergmar, 2014).

Public administrators tasked with making immunity decisions receive guidance from the DOS who is charged with protecting the objectives and interests of the U.S. This governmental agency has the task of protecting our diplomats in host countries and to develop and implement the president's foreign policy. Thus, the DOS' decisions run the risk of reflecting a political stance instead of following the guidance of FSIA. Several

scholars have observed that the U.S. rarely prosecutes foreign diplomats for the immunity abuse of FSIA.

Future Policy Implementation

Such scholars as Howlett (2019) stated that the environment of implementation is still clamoring in current implementation research. Thus, the level of policy conflict and policy ambiguity is still relevant to the explanation of the implementation process. Also, according to Howlett, the implementation environment is divided into two variables -- governmental intentions and governmental performance. Project organizations are included in the mix of variables and are analyzed as to their impact in policy implementation and how they might be appropriated into the governance structure (Howlett, 2019).

Specifically, the originality of policy implementation stems from the creation and management of relationships. If such originality is absent, there is the risk that the project organization will remain isolated, and the policy will not be implemented. Thus, the project organizations have the propensity to function as barriers which could hinder urgent policy reforms in policy implementation. Hence, the question of suitability is often at the forefront of capacity of whether governmental institutions can govern the development of social change (Howlett, 2019). Also, Howlett stated that the research on project organizations can serve as a useful basis when proceeding with a simple analysis of policy implementation on the local organizational level. Specifically, how crucial both collaboration and knowledge can be managed in policy implementation (Howlett, 2019).

Present literature suggests that policy implementation continues to grow in the 21st century. Pressman & Wildavsky (1973) explored the difficulties encountered by a local governmental agency that encountered problems implementing a job training program. This study uses a generic approach in order to make changes to FSIA. The results of their research revealed the intricacies of policy implementation such as how governmental policies differ from other policies and design and performance issues (see Pressman & Wildavsky, 1973). Nevertheless, previous studies were concerned about the barriers to effectively implementing policies. Others were concerned about how to explain the success or failure of implementation (Pressman & Wildavsky, 1973).

Furthermore, Moloney and Rosenbloom (2020) noted how many well-known frameworks and ideas lack explanatory power if not well implemented, especially in government. Policy implementation has gone internationally through charters and articles, such as FSIA that involves conflicting values with these global entities (Moloney & Rosenbloom, 2020).

Whether the values discussed are big ideas such as democracy and human rights or seemingly smaller disagreements about the judicialization of administrative law, much may be learned (Moloney & Rosenbloom, 2020). Hence, scholars debate the role of efficiency, effectiveness, equity, representation, responsiveness, due process, discretion, and customer orientation within sovereign-level administrative studies. Then how shall we legislate, manage, or judicialize such debates at the global level? (Moloney & Rosenbloom, 2020)

In addition, Pierre and Peters (2020) stated that during past several decades where the emphasis has been on public administration from a management point of view, practically all organizations have been politically motivated. Nevertheless, public administration and public policy is basically academic and must follow its standards and science (Pierre & Peters, 2020). To construct an expansive theoretical understanding those standards demand being connected to valid information and empirical observation. Contrary, scholars in public administration are operating in an area with important implications, traditionally (Pierre & Peters, 2020).

These scholars also advocated that policy implementation research should tackle real-world problems in order to improve performance and efficiency. Thus, PFT will alleviate excess because different actors are able to stand somewhat apart from the daily demands of tradition and ask broader questions about how to deliver public services (Pierre & Peters, 2020). This unfortunate division of public administration into two divergent paths was not always the case.

For many years, students of public administration worked on the assumption that public organizations displayed crucial standard and established underpinnings that set them apart from other organizations. From observation, it was believed that affiliates of these public organizations were conditioned into the standards and norms (Pierre & Peters, 2020). Thus, these affiliates had no experience nor actual knowledge about the working environment of these organizations. Nor had these affiliates even closely observed what happens in these organizations as to gauge or witness the underpinnings of these organizations. (Pierre & Peters, 2020).

Also, Pierre and Peters (2020) advocated another approach which is said to embrace the intricacies and ambiguities of governmental entities and their staff, to the point where there is a failure in theory in figuring out the results of their empirical data (Pierre & Peters, 2020). In addition, this approach displays a lack of interest in generalizing or discussing the results. Thus, the research from this approach tends to produce detailed case studies with the slightest attention to the degree to which results defy theoretical understanding of the scrutinized issues (Pierre & Peters, 2020).

Furthermore, Schmidt et al. (2019) expanded on the term of meta-policies and stated that standard ways of coping with coordination problems in government by combining horizontal self-coordination with the shadow of hierarchy are problematic in the case of meta-policies. Also, Schmidt et al. stated that assessment is built on well-established theories in public administration and public policy such as the political economy of regulation, policy network theories, and perspectives on coordination and expertise in bureaucracies (Schmidt et al., 2019).

These scholars divert from standard thinking in public administration such as distinguishing traditional characteristics of generalists and specialists. Instead, these scholars are only interested in positions within an organization (Schmidt et al., 2019). Thus, this set up where there is the introduction of a task-related definition of generalists and specialists. Also, these scholars depart from the intrinsic emphasis of public administration scholars on solid principal–agent relations between politicians and bureaucrats (Schmidt et al., 2019). Hence, it is argued that attention has been drawn away from other viewpoints without the denial of importance of that viewpoint as to the diverse

actors and organizations and different agencies inside and outside of government, i.e., specialists and generalists, divergent interests within government. Thus, existing theories tend to exaggerate the influence of politics and politicians and lessen the importance of policy divisions and fields of an organization (Schmidt et al., 2019).

Moreover, Kurland (2019) stated that since there is a call for uniformity in FSIA in order to bolster the interpretation and ease of use due to many conflicting amendments, internal cause of action should be implemented. Hence, FSIA is the law governing jurisdiction over foreign states in the U.S, as it provides immunity to a foreign official/state where these officials cannot be tried for crimes while performing official duties. Even though FSIA does not offer broad immunity, as written it does provide a loophole for foreign nonofficial to invoke this immunity (Kurland, 2019).

There are several exceptions that are as confusing as FSIA itself in granting immunity in a normal situation (Kurland, 2019). Also, Kurland stated that in FSIA, foreign state includes any agencies of a foreign state and any majority-owned corporations. Hence, FSIA was enacted exclusively for foreign states, and there is a distinction between foreign states and foreign officials, meaning that there is no possibility of suing a state official as there is not possibility of suing a state agency within the U.S. (Kurland, 2019).

As to implementation, Pemer & Skiolsvik (2018) stated that it is an ongoing process to implement a new regulation and that this change is usually uncertain because actors are engaged in official work to protect and promote official reasoning. Thus, the power balance between reasonings tend to shift that are constantly change as the process

continues which is the cornerstone of adopting a new regulation. Specifically, the adopting of change is the result of collective actions of individuals desiring to make a change. With policy implementation, more attention to this discourse needs to be given (Pemer & Skiolsvik, 2018).

Speaking on the political aspect of implementation, Ethridge (2014) stated that a political system that is broken will produce an ambiguous legislation in very debatable policy perspectives where this system produces specific legislation in policy areas that tend to be less relevant. The ambiguity of FSIA is an ongoing trend in which the enactment of legislation has been a sense of contentions to citizens due to the long policy process (Ethridge, 2014). These statutes are often vague that cause confusion to the point where agencies and courts are conflicted. Hence, these agencies and courts allow unelected officials to decide policies, thus causing ambiguity (Ethridge, 2014). The scholar stated that these legislators often produce highly ambiguous statutes because the parties are divided due to the catering to special interest groups (Ethridge, 2014).

This scholar also stated that in order to gain legitimacy in the U.S., a policy must be submitted by public administrators through the legislative process (Ethridge, 2014). Once this process is satisfied, the policy becomes law and is then implemented by public administrators. This policy is not legitimized unless it is accepted by the citizenry (Ethridge, 2014). Thus, the citizen does have a say as to whether the policy is within the meaning of the constitution and reject it. The creation of public policy involves a viable study where laws and regulations are implemented which is funded by a federal, state, or

local government (Ethridge, 2014). Public policy strategy can also be the rescinding of an existing policy or the deliberate decision not to act upon an issue as well.

The formation of public policy and strategy are ongoing due to the continuation of major elements being reevaluated such as "effects, costs, resource allocation and burdens of a course of action" where construction and implementation have followed in similar processes (Ethridge, 2014, p. 1). An issue must be clearly defined and stated as a distinct issue in order for governmental entities to support. Also, a detailed analysis regarding the above elements should be done to adopt a new policy such as FSIA. Often, issues in the public arena are connected where the process involves catering to special interest groups and one's own constituency (Ethridge, 2014).

Moreover, changing an old policy are creating a new one in governmental entities stems from outside influence that had no part in its adoption such as FSIA. Thus, if FSIA which was passed by Congress to address diplomatic matters, the DOS is responsible for its implementation (Ethridge, 2014). Also, when the Supreme Court rules on the constitutionality of a court case, it is the states that are responsible for determining facilitation of the rulings of these decisions (Ethridge, 2014).

In addition, Bergmar (2014) stated that these existing policies need updating to keep up with changes in economic and social environments which raises questions as to whether certain types of policies should be left to their own reinforcing (Bergmar, 2014). Also, before the creation of FSIA, the judicial and the executive branch were chosen to make immunity determinations.

Summary and Conclusions

The specific problem of interest is that the policy implications of implementing FSIA by public administrators are not well understood. The purpose of this qualitative generic study was to analyze the policy implications of implementing FSIA in this environment. There were several databases to search for peer-reviewed journals and books, and relevant documents, legal cases, and statutes regarding the topic of this study. The facts, cases, statues, and other pertinent information were analyzed to answer the research question.

There are several scholars that agreed FSIA needs to be brought up to 21st century standards by correcting this ambiguity, such as Gilmore (2015), Vanderberg and Bessell (2016), and Bergmar (2014). The theoretical foundation for this research is the policy feedback theory advocated by Mettler and SoRelle (2014). The trustworthiness of this study will be expounded upon in Chapter 3.

Analyzing historical records, this research takes the position that the aim of the authors of FSIA was to concentrate on the diplomatic mission itself and not on the diplomatic officials. This granting of absolute immunity to the individual diplomat has led to violations and the circumventing of the spirt of both the Vienna Convention and FSIA (Bergmar, 2014). Thus, making it difficult for public administrators to properly perform their jobs in granting immunity to foreign diplomats.

Chapter 3: Research Method

The purpose of this study was to analyze the policy implications of implementing the 1976 FSIA in the current public administration environment. With this study, I hoped to develop recommendations for implementation by public administrators based on the document analysis of FSIA and of the determination of immunity policy of the DOS. This chapter describes the research process and provides justification for the method used in undertaking the research. Also, the chapter describes the various stages of the research which include the selection of participants, data collection, and data analysis. In addition, Chapter 3 discusses the role of the researcher in qualitative research in relation to reflexivity and ends with a discussion of transferability, confirmability, credibility, and dependability.

I present a generic qualitative design which aligned with the purpose of the study. The purpose of using a generic qualitative study was to analyze the policy implications of implementing FSIA in the current public administration environment. The study may help develop recommendations for implementation based on the policy analysis of FSIA and of the determination of immunity policy of DOS. I used the following research question for this study: Given the adjudication and interpretation of the 1976 Foreign Sovereign Immunities Act (FSIA) by the courts, what recommendations, if any, are forthcoming that would decrease ambiguity for public administrators charged with implementing the law?

The original intent was to interview participants, but recruitment efforts were not successful. Data obtained from document content analysis of 180 legal cases regarding

foreign diplomatic immunity and five themes developed from coding and expanded on were sufficient to answer the research question. Thus, the research question for the study addressed the policy ambiguity and its impact regarding the granting of immunity by FSIA.

FSIA is addressed in this study since there is a call for uniformity to bolster the interpretation and ease of use due to many conflicting amendments (see Kurland, 2019). The qualitative research design was chosen along with a generic approach where document analysis and personal interviews were initially stated to be used as data collection methods. In addition, the generic study research accumulated and analyzed an incredible amount of data. Thus, I examined the effectiveness of FSIA as to granting appropriate immunity to foreign diplomats. I, as the researcher in the study, ensured the validity of the study by conveying transferability, credibility, dependability, and confirmability as noted by Yin (2018). The methodology of the study consisted of analysis of 180 legal cases.

Specifically, due to unforeseen challenges related to COVID 19, interviews initially proposed with participants were not possible to obtain. Thus, I relied on document analysis only. This issue will be discussed further in Chapter 4. Document analysis proved to be an efficient data collection method as it was less time consuming and required data selection as opposed to data collection (see O'Leary, 2014). Also, document content analysis consisted of data collection, organization of data, documentation of data, and analysis of the presented data. Thus, according to O'Leary (2014) several types of documents can be used in the qualitative research document

review. This qualitative document content analysis may assist in updating FSIA to correct or update any existing ambiguity in the policy.

The purpose of this generic qualitative study was to analyze the policy implications of implementing FSIA in the current public administration environment. I developed recommendations for implementation based on the policy analysis of FSIA and of the determination of immunity policy of DOS. The generic study method was used in the research design and rationale and is expanded on in the following section. Also, the role of the researcher section follows, along with the methodology section and the issues of trustworthiness.

Research Design and Rationale

For this qualitative generic study, there was one research question to be answered. The research question asked the following: Given the adjudication and interpretation of the 1976 Foreign Sovereign Immunities Act (FSIA) by the courts, what recommendations, if any, are forthcoming that would decrease ambiguity for public administrators charged with implementing the law? The analysis of the legal cases provided ample data to achieve saturation.

To answer the research question of the study, the generic study method was a good fit and appropriate for the study because the strength of the generic study method is evidence which was achieved through document content analysis. As noted by Caelli et al. (2003), generic studies offer an opportunity for researchers to play with these boundaries by using the tools that established methodologies offer, and develop research designs that fit their epistemological stance, discipline, and particular research questions.

Thus, this study fits into the generic category which included analysis of 180 legal cases and not interviews with participants which was the original intent due to unsuccessful recruitment efforts.

Hence, first, I determined what research question to be asked as included in the previous section. Second, I identified the schemes and statements drawing attention to an event or item that should be examined within the scope of study by identifying legal cases that addressed ambiguity of FSIA. Third, I determined the unit of analysis based on the research question. In the study, the overall units of analysis were how many instances of ambiguity of FSIA the courts have encountered and the legal cases in which there were no issues of ambiguity expressed in the courts' decisions. Fourth, I connected data to theoretical schemes where patterns were matched with theories by arranging legal cases, accordingly. Using the theoretical framework developed in this section in data analysis provided for this matching process.

Last, I determined the criteria for interpreting the results. The criteria chosen for this research are discussed in the data analysis section and are considering concerns of credibility, transferability, dependability, confirmability, trustworthiness, and the benefits and limitations of the study. Also, the generic study employed a holistic design that is an approach that encompasses the big picture garnered by the analysis of the legal cases gathered from all 50 U.S. states with a concentration on northeastern states.

A holistic approach starts when there is an identification of a problem and where there is contemplation how to solve it such as identifying the cause of the ambiguity of FSIA and solving it. I focused on the ambiguity of FSIA and public administrators'

inability to correctly offer immunity by relying on the interpretation of FSIA as it is written. Thus, *McFaddon*, the initial case of FSIA, DOS guidelines concerning diplomatic immunity, and the U.S. Congress' policymaking guidebook were examined.

The purpose of this qualitative generic study was to analyze the policy implications of implementing FSIA in the current public administration environment. This study developed recommendations for implementation based on the policy analysis of FSIA and of the determination of immunity policy of the DOS. Specifically, the intent of the research was to explore the extent of the ambiguity in dealing with immunity as offered by FSIA. The generic study research method is defined by Caelli, et al. (2003) as research that does not fit within established philosophic assumptions and does not align with the known methodologies of qualitative research. Furthermore, Caelli et al. have suggested that this can infer generic studies are blended with the established methodological approaches, and thereby creating an entirely new approach.

The results of the study are presented in an explanatory, narrative form versus the quantitative format of a report derived from a scientific experiment. The final report was not derived from the day-to-day experiences of public administrators granting immunity to foreign officials from their voices, feelings, actions, and meanings. The original intent was to interview participants, but recruitment efforts were not successful.

The legal cases that were reviewed eliminated the need to ask questions pertaining to experience with foreign officials as to whether granting immunity is difficult when presented with an offense committed by a foreign official. I rationalized that by FSIA being the guidebook for the public administrators in granting immunity and by

interviewing public administrators and advocates and documenting their responses of the difficulties encountered when carrying out their duties that was the most efficient way to highlight the ambiguity. The analysis of the legal cases garnered enough data to countermand the need for interviews.

Role of the Researcher

My role as the researcher for the study was that of an instrument of data collection as the participant-observer (see Patton, 2002). I took all steps to manage biases when selecting legal cases. I checked the guidelines of Walden and made sure they were followed. I was clear about the process and what I wanted to achieve and kept detailed records which reduced the chance of making mistakes. I made sure all results were included in the report.

As the researcher, I managed biases by adhering to a delicate balancing act of objectivity. The examination of collected information using 180 different legal cases validated the results within data sets which reduced the chance of potential biases in the study (see Maxwell, 2005). According to Maxwell (2005), triangulation is what assists the researcher to ward off allegations that the results of the study are bias. There were no biases in the study which could negatively impact the outcome of the study.

In this qualitative study as stated above, I was an instrument by which data were personally gathered and analyzed. Therefore, as the researcher in the study there was an analysis of the primary data collection method (see Patton, 2002). Data was collected and analyzed from the DOS guidebook of granting immunity and document content analysis of legal cases involving diplomatic immunity.

Methodology

Participant Selection Logic

In this study purposive sampling was adopted. This is a qualitative sampling method where the researcher purposely chooses participants based on their ability to provide essential data (Patton, 2002). Thus, purposive sampling is considered a nonprobability sampling method that occurs when items selected for the sample are the result of the independent judgment of the researcher (Patton, 2002). Specifically, purposive samples were judged based on the purpose and rationale of the study at hand and to derive the purpose (Patton, 1990).

The rationale for choosing this approach was that I was initially seeking knowledge about the day-to-day experience of public administrators with foreign officials who invoke FSIA as a defense to arrest or being fined. I initially intended to select participants from housing authority and parking authority officials based on their level of experience in carrying out their duty as a public administrator. The original intent was to interview participants, but recruitment efforts were not successful. Instead, I chose legal cases regarding these agencies instead that truncated the need for interviews. Similarly, to analysis and presentation of qualitative data, the context of the samples was judged by me (see Patton, 1990).

Nevertheless, qualitative samples must be large enough to assure that most or all the perceptions that might be important are uncovered. At the same time, if the sample is too large, the researcher runs the risk of including redundant and repetitive data (Patton, 2002). In addition, saturation is the key to adhering to the rules of sample size where the

researcher adheres to the standards of qualitative research (Bowen, 2008). Hence, I followed the rules of saturation when dealing with new issues due to data collection that did not provide insight into the investigation (see Bowen, 2008). For this study, I analyzed 180 diplomatic immunity cases, three DOS policy documents, and several FSIA statutes.

Qualitative researchers use saturation as a standard when performing data collection and rely less on other factors that affect sample size in a qualitative study (Bowen, 2008). A sample size reaches saturation when there is no new information gathered that can be included into the study. The data itself and the categories should be saturated but not the participants of the study to alleviate receiving repetitive information (Bowen, 2008). Thus, initially the participants for the study were parking and housing authorities' employees and property tax assessor staff of a northeastern city. Also, advocates against impaired driving and against abuse of domestic workers were also initially sought. The original intent was to interview participants, but due to unforeseen challenges related to the interviews, I relied on document analysis only. Hence, the legal cases selected were regarding diplomatic immunity from all 50 U.S. states with a focus on northeastern states.

Document Analysis

The following list of documents were analyzed:

- Statutes/Cases
    - (1) *The Exchange v. McFaddon*
- Policy documents

- DOS FAM 233-234
- DOS Foreign Affairs Manual and Handbook
- DOS Privileges and Immunities

The rationale for document analysis lies in its role in methodological and data triangulation, the immeasurable value of documents in this generic study, and its practicality as an individual method for specified types of qualitative research (Patton, 2002). The documents selected for the study were authenticated and verified as published, legal, and historical documents. Historical documents are original documents that contain important historical information about a person, place, or event while serving as primary sources of main elements of the historical methodology (Yin, 2018). The criteria on which the documents were selected is based on their historical classification. The number of documents selected for review are limited and is enough to arrive at saturation.

Instrumentation

Document content analysis was used in data collection because three primary types of documents can be used: (a) public records such as crime reports and arrest records, (b) policy manuals, and (b) mission statements along with personal documents such as newspapers and incident reports (O'Leary, 2014). A secondary data collection method of document analysis is used because several texts and written documents can be used (O'Leary, 2014). Also, the DOS was part of the sampling pool and was contacted to gather information regarding the guidebook used to determine immunity and to produce annual crime reports. The DOS request for annual crime reports resulted in three FOIA

request extensions from DOS with the last date of July 17, 2022, as to when reports will be provided. Hence, no documents were received from DOS for the study, so I relied instead on document content analysis of diplomatic immunity legal cases.

The documents used for the study are publicly available, published, historical, and legal documents, therefore are authenticated and valid. To establish content validity of the study, I chose a good sample group of legal cases dealing with diplomatic immunity granted by FSIA.

Triangulation is a way to promote content validity where the research is completed by use of multiple individuals in data collection (see O'Leary, 2014). However, I needed to rely solely on document content analysis of legal cases because recruitment efforts for participants were unsuccessful. Once I selected a data collection method, I correlated this selection with the research question to ensure that answers to the research question align. Also, five themes were derived from the coding. Themes 1-5 directly and succinctly answered the research question.

Research-Developed Instruments

The basis for my instrument development in selection of literature and interviews was to collect, measure, and analyze documents and questions related to FSIA. These selections are tied to PFT in policy implementation. Content validity was established in the early stage of development by selecting documents from U.S. government websites and Walden University's databases of peer-reviewed journals and books. The basic step taken to ensure content validity was to ask whether a specific document and question will enhance or detract from the research study.

Procedures for Recruitment, Participation, and Data Collection

Document analysis was used to analyze the data which was gathered from secondary data including legal cases. According to O'Leary (2014), with document analysis research data can be gathered in categories of themes and sub-themes. Document analysis has been dubbed as being more efficient than data collection because it requires data selection (O'Leary, 2014). This plan was approved by Walden's Institutional Review Board (IRB) at the same time as the initial interview plan was approved (IRB Approval No. 08-11-21-0129850).

The specific documents collected included the Vienna Convention Treaty of 1961 which was retrieved from the United Nations website; the Foreign Sovereign Immunities Act which was retrieved from U.S. Congress website; excerpts from legal cases retrieved from NVivo 12. I personally collected this data, and the frequency of the data was a one-time occurrence with a duration of data collection for only two weeks. In addition, the Report on Cases Involving Diplomatic Immunity was requested via FOIA request to the Department of State (DOS), but no reports were forthcoming from that office after the initial request of December 21, 2021.

The advantage of document analysis is that it is less time-consuming. Document analysis refers to various procedures involved in analyzing and interpreting data generated from the examination of documents and records (O'Leary, 2014). Document analysis is not always advantageous due to the limitations of insufficient detail, retrievability problems, and selections may be a result of biases (Yin, 2018).

Data Analysis Plan

Since this was a generic study, I chose a flexible data analysis plan. Braun and Clarke (2017) advocated Thematic Analysis (TA) because it is a method for identifying, analyzing, and interpreting themes within qualitative data. By coding to analyze legal cases, I was able to create themes. After utilizing open coding, I used descriptive coding to determine structures and processes in the data. Lofland et al. (2006) supports this, noting that structures and processes can be determined through descriptive coding.

I used a continuous iterative process for analyzing and coding the data because iteration is incorporating what one learns at a specific point in the research process into the residuum of the research (Bernard, 2013). During iteration, data is captured in real-time and can be used to update and improve the theory, methods, and sample in search of a more complete understanding of phenomena. Specifically, the unpredictable nature of qualitative data drives the iterative process (Bernard, 2013).

I used deductive coding where I read the data to receive a sense of the results by assigning the first set of codes. I read the data line-by-line to code as much as possible, categorize the codes to figure out if they are a good fit for the coding frame, and identified which themes were generated the most and acted on them (Bernard, 2013). According to Bernard (2013), deductive coding starts with a predefined set of codes where the codes are assigned to new data. Thus, deductive approach will save time and assist in ensuring that the areas of interest are coded (Bernard, 2013). I tracked my codes in a codebook via NVivo 12 to ensure organization throughout the data analysis process.

Furthermore, by using *a priori* codes (see Table 1), I engaged in some very profound thinking about what identity means before starting to apply related codes to the data. The combined use of thematic and process enabled me to benefit most from these two coding mechanisms (Saldana, 2013). For example, epistemological questions were used to address and align with the theory. According to Lofland et al. (2006), aligned epistemological research questions suggest the exploration of participant processes and perceptions found within the data. Selected coding methods that may list and highlight these epistemologies include descriptive coding (Lofland, et al., 2006). In addition, Lofland et al. also recommend examining how participant agency interacts and interplays with structures and processes, plus causes and consequences observed in the data.

Table 1

A Priori Coding Framework Based on PFT

Parent code (aspects or characteristics of the Theory)	Child Code	Research question applicable
Characteristics	Policy change Continuous Different actors Feedback	1
Communication	Ambiguity Immunity Policy implementation	1
Information	Positive Negative Terms Metapolicies	1
Concepts	Tort law Stakeholder Voice	1

For this study, I used research notes to gather information in support of the research question, legal cases, and theory and populate into the NVivo 12 software program as suggested by Saldana (2013). NVivo 12 software is designed to analyze both qualitative and mixed-method data. Specifically, NVivo is used as a tool to analyze text, audio, video, and image, including interviews focus groups, etc. Also, it is used to store, code, and manage collected data to improve the dependability of research (Saldana, 2014). I chose to use NVivo 12 software to code each legal cases and the research notes. NVivo is one of the most used software programs for analyzing qualitative research data (Saldana, 2013). In addition, Saldana stated that an objective of NVivo is that it will assist in managing, organizing, and simplifying the analysis of data by identifying themes, garnering understanding, and developing conclusions.

Research questions are integral parts of a study that control the direction of an inquiry and decides what information will be generated (Saldana, 2013). Thus, a provisional list of codes should be determined beforehand in order to synchronize with the study's theoretical framework and to enable an analysis that directly answers the research questions (Lofland et a1., 2006). Therefore, I considered carefully which coding method may generate the types of answers needed posed by the research question. Furthermore, the provisional list is generated from preliminary investigative topics of the study such as literature reviews, theoretical framework, and research question (Lofland et al., 2006).

Caelli et al. (2003) stated that generic qualitative studies are those that display most of the characteristics of qualitative research but not all. Thus, generic studies do not

focus on combined methodologies or approaches, nor do they classify as being any particular qualitative methodology. Generally, the focus of the study is on understanding an experience or an event. Furthermore, Caelli et al. stated that a generic qualitative study is not led by perspicuous philosophic assumptions outlined in one of the established methodologies of qualitative research.

Patton (2002) and Yin (2018) provided a framework for analyzing individual data through interviews to uncover deeper meaning and achieve saturation. The data collection activities began after approval of Walden University's IRB. As stated previously, the purposive sampling method would be used for the selection of participants for the study. I stated initially that data would be collected through Internet, audio-recorded interviews after informed consent had been obtained as well as through document analysis.

Also, stated was that all interviews would take place via Zoom which will be uploaded into software for recording and transcription and stored on a computer as a password-protected file. In addition, initially stated, the researcher-developed data collection instrument needs to be compiled from the literature and designed to yield detailed responses to fully answer the research question (Saldana, 2013). Thus, due to unforeseen challenges related to the interviews, the study relied on document analysis only.

Issues of Trustworthiness

The researcher is concerned about protecting the participants' privacy because invading someone privacy can cause considerable damage to reputations. Getting informed consent is the most crucial step when doing qualitative research or any research.

The researcher is, also, concerned about deception. Therefore, all pertinent information concerning the research was available to provide to the participants upfront. Even though the interviews were not conducted, I was prepared to provide all pertinent information to the participants. In conducting this study, I was very careful about injecting bias into the study by setting aside personal feelings, beliefs, and/or perceptions on the issue or problem and did let the data speak.

Trustworthiness plays an important role in qualitative research because the research must convey a sense of assurance as to the results of the study**.** Also, the ideas of generalizability, internal validity, reliability, and objectivity are reconsidered in qualitative terms (Yin, 2018). Thus, terms such as credibility, transferability, dependability, confirmability, and trustworthiness are the terms used in qualitive research (Yin, 2018).

The trustworthiness and validity of qualitative research depends on what the researcher observes and directly hears (Yin, 2018). Hence, Yin stated credibility, transferability, dependability, and confirmability are important in establishing trustworthiness in qualitative research. One of the ways to ensure credibility and transferability is to ensure those interviewed have the experience to discuss the phenomenon the researcher seeks to explore (Yin, 2018). Thus, to establish confirmability, I ensured there was no researcher bias by interpreting the data at face value.

I was prepared to transcribe all interviews and manually code them into titles such as housing authority, parking authority, tax assessor, advocate impaired, and advocate

abuse. Also, I was prepared to replace the names with assigned numbers to assist in ensuring privacy and a clear understanding of the content of the interview and the participant's intent. Importantly, the evidence gathered was handled with care because trustworthiness and saturation are both confidence boosters to the readers of the study and where the findings can be replicated in similar studies (see Bowen, 2008).

Ethical Procedures

IRB approval was granted before signed agreements with participants of the study were submitted via e-mail. Time is of the essence, so the IRB application was properly filled out and submitted in a timely manner. There was no anonymous information involved in the study. As stated in the consent form, the risks to the participants were minimal. The only risk involved in the study would be minor discomforts that can be encountered such as fatigue, stress, or revelation of personal information. I instituted protections in the study where there was minimal risk to the safety and privacy of the participants. Also, only straightforward, open-ended questions were prepared to be asked regarding the participants' experience of how FSIA immunity is handled when foreign diplomats invoke immunity.

In addition, the application to conduct the study was submitted to the IRB. After approval from the IRB, invitation letters were submitted to all potential participants with attached consent forms. I complied with protection of human subjects as required by Walden University. As stated in the consent form, there was minimal risk to participants where the harm or discomfort to the participants was not greater than encounters during

ordinary daily life. Care was taken to ensure that all participants understood the nature of the study and that the participation was voluntary.

Also, confidentiality of collected data was maintained at all times, and the identification of participants was not made available during or after the study. I was prepared to ensure all data collected was coded by replacing the names of the participants with numbers arranged in order of the initial interviews. In addition, all notes, transcripts, files, videotapes, audiotapes, and secondary data will be kept locked in a file cabinet and will be password protected in a computer file in my home with only my access.

Summary

The purpose of this generic qualitative study was to analyze the implications of implementing FSIA by public administrators and to obtain impressions and thoughts of participants about policy implications. Also, this study was to analyze the perceptions of law in implementing FSIA in the current public administration environment. Thus, a qualitative research design instead of a quantitative one was used in the study, and I performed an observation of the data collection. Specifically, interviews with participants and document review were planned for the study, and the trustworthiness was ensured by transferability, credibility, dependability, and confirmability. Unfortunately, interviews did not occur due to recruitment efforts proving to be fruitless. Thus, document analysis was the sole source of data. The following Chapter 4 will explain further the setting, the demographics, the data collection method and analysis, the issues of trustworthiness, and the results of the study.

Chapter 4: Results

Data collection, data analysis, and results of study are presented in this chapter. Also, I detail the process for data collection, codes used, and themes developed. The purpose of this generic qualitative study was to analyze the policy implications of implementing FSIA by public administrators. Mettler and SoRelle's (2016) PFT provided the theoretical foundation for this study. This study answered the following research question: Given the adjudication and interpretation of the 1976 Foreign Sovereign Immunities Act (FSIA) by the courts, what recommendations, if any, are forthcoming that would decrease ambiguity for public administrators charged with implementing the law?

The building blocks of law are precedent and the courts. I examined legal cases between 2016 and 2021 regarding FSIA, areas of unanimity, and policy/legal changes voiced by public administrators. I used qualitative content analysis to examine the content of legal cases of recent court decisions. All documented legal cases chosen for analysis have created precedent and established U.S. policy regarding FSIA. The original intent was to interview participants, but recruitment efforts were not successful.

Setting

This study examined court cases from all 50 U.S. district courts. A breakdown of cases can be found in Table 2. The Southern District of New York played a significant role in providing cases because that is where the U.N. is headquartered. Also, several foreign consulates and an Office of Foreign Missions are in New York City (NYC).

Table 2

Occurrence of FSIA Cases and Decisions Within United States and Territories

State	U.S. Dist. Court	U.S. Appeal Court	Remanded	Frivolous	Court of Federal Claims
Arkansas	0	1	0	0	1
California	5	2	0	4	0
D.C.	10	2	2	3	0
Florida	0	2	1	2	3
Hawaii	1	0	0	1	0
Illinois	2	0	0	1	0
Indiana	1	0	0	1	1
Kentucky	1	0	0	1	0
Louisiana	1	0	0	2	0
Maryland	1	0	0	0	0
Michigan	2	0	2	0	0
Minnesota	1	0	0	1	0
Missouri	2	0	0	4	1
Montana	1	0	0	1	0
Nebraska	2	0	0	2	0
Nevada	3	0	0	3	0
New Jersey	3	0	0	2	0
New Mexico	1	0	0	1	0
New York	19	7	5	2	0
North Carolina	4	0	0	3	0
Pennsylvania	1	0	0	1	0
Texas	5	0	0	3	0
Utah	1	0	0	0	0
Virginia	5	1	1	0	0
Washington	3	0	0	3	0
Wisconsin	0	0	0	1	1
U.S. Territories:					
Puerto Rico	1	0	0	1	0

The U.S. court, District of Columbia (D.C.) comes in second as deciding the most FSIA diplomatic immunity cases because that district is the U.S. Capitol and home to several foreign consulates. Specifically, there are 21 U.S. district court FSIA cases decisions in New York and 10 decided cases in D.C. from 2016 through 2021. Particularly, my focus was on all decisions of U.S. district courts and U.S. appellate courts. I reviewed 180 legal cases to answer the research question. There were no personal or organizational conditions that influenced the selection of these legal cases at time of study that may influence interpretation of the study results. These legal decisions are not a result of any adverse conditions that affected the outcomes.

The focus of this study was analyzing FSIA foreign diplomatic immunity decisions of U.S. district courts and U.S. appellate courts. Even though eight interviews suggested by IRB were the planned primary data collection tool, interviews were circumvented by analysis of 180 cases where saturation was reached. There were 51 invitation letters sent out via email to NYC housing authority, NYC tax commissioner, NYC-finance (Parking Unit), and ex-employees of these agencies. In addition, I sent invitation emails to the executive officer and several agency heads of Domestic Workers Alliance of NYC, executive officer of Mothers Against Impaired Driving of NYC and New York State, several agency heads of these organizations, and NYC mayor’s office. I received no response other than a referral from a counsel at Department of Finance-NYC. Assuming this lead was a solid referral, I submitted a consent form via email where the potential participant abruptly declined to participate.

Thus, the study relied solely on the review of legal cases that was originally adopted as secondary data collection. I examined 180 FSIA legal cases related to the ambiguity of FSIA immunity which public administrators granted to foreign diplomats. All legal cases selected contributed to answering the research question. Themes 1-5 answered the research question and are derived from the coding process in this study. Specifically, all five themes can directly and succinctly answer the research question.

Analysis of these legal cases revealed that public administrators encountered 45 frivolous cases that should have never reached U.S. courts and were denied or vacated. Also, 35 legal cases were dismissed and denied due to invoking FSIA immunity as a defense from prosecution. In addition, ten legal cases were remanded back to lower courts from U.S. appellate courts for correction due to error in granting or not granting FSIA immunity. Along with this remand, instructions were given to public administrators as to why FSIA immunity should not have been granted or should have been granted. Specifically, the U.S. appellate courts highlighted the errors and gave recommendations as to the correct law or guidebook one should use to correct interpretation of FSIA.

Demographics

I cataloged and analyzed all legal cases pertaining to diplomatic immunity of the 50 U.S. district courts and U.S. appellate courts from 2016 to 2021 with a concentration on New York City and District of Columbia. In this study purposive sampling was used. Thus, purposive sampling is considered a nonprobability sampling method that occurs when items selected for the sample are the result of the independent judgment of the researcher (Patton, 2002). Specifically, purposive samples – legal cases – were selected

based on the purpose and rationale of the study at hand to derive the purpose (see Patton, 1990). The rationale for choosing this approach is that I pursued knowledge about the day-to-day experience of public administrators with foreign officials who invoke FSIA as a defense to prosecution. The original intent was to interview participants, but recruitment efforts were not successful. Thus, initial results generated 1,555 legal cases where I screened out irrelevant ones by reading the background of all and only selecting cases where FSIA immunity was invoked as a defense.

I initially hoped to interview 11 participants from the NYC housing authority, NYC parking authority, NYC tax commissioner's office, NYC Domestic Workers Alliance, and NYC Mothers Against Drunk/Impaired Driving based on their level of experience in carrying out their duty as a public administrator. Due to unforeseen challenges related to the interviews, the study relied on document analysis only. The issue of not having access to personal interviews made the study somewhat constraining for this research but did not affect or influence the results.

I chose legal cases that included reckless/impaired driving, breach of contract, and workplace discrimination to compensate for lack of input by interviewing participants. Utilizing Nexis Uni and Pacer, I generated 1,555 legal cases but only selected and explored 180 as being relevant for the study. The sampling criterion used to select decisions from U.S. district courts and U.S. appellate courts was to choose the ones addressing FSIA immunity. This study did not omit any legal cases dealing with FSIA diplomatic immunity even though there were 45 cases dealing with self-granted

diplomatic immunity by incarcerated U.S. citizens and basic U.S. criminals. I have provided a list of the cases in Appendix F.

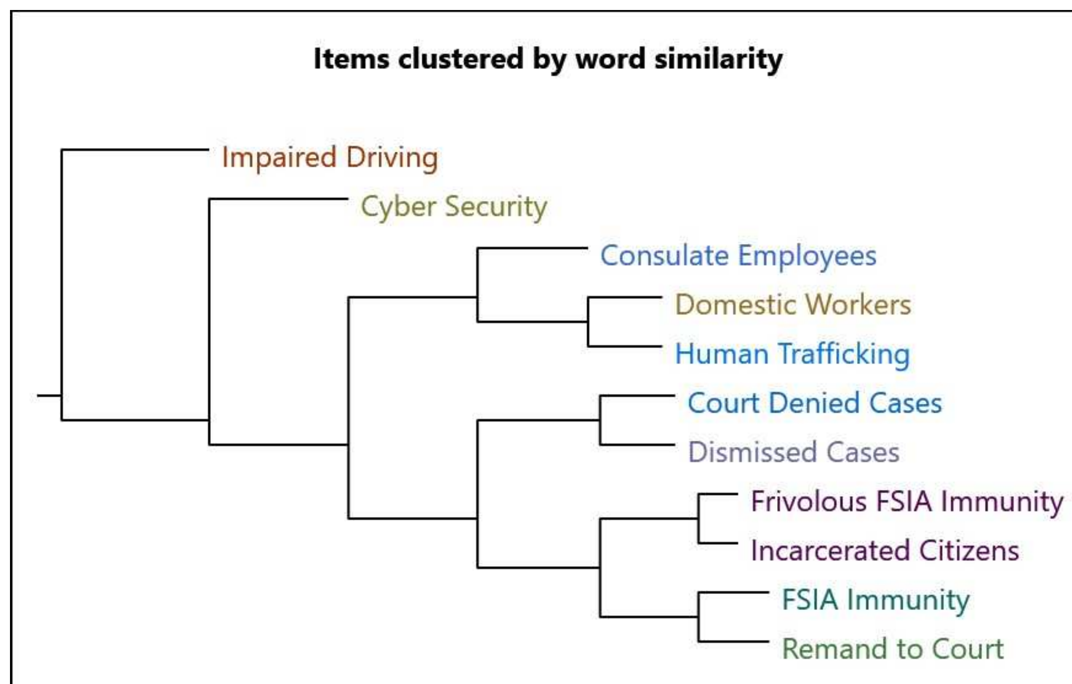
Data Collection

Walden University's IRB approved the protocol for this study (Approval No. 08-11-21-0129850). Nexis Uni and Pacer databases both were used for data collection. Pacer is a federal court database of legal cases that offer access by keeping a credit card on file. This database gives access to court cases throughout the U.S. NVivo 12 assisted in the management of the data. According to Neufordorf (2017), qualitative content analysis is not an innovative approach to textual analysis. Content analysis has rarely been used to analyze legal cases, but recently has gained popularity and credibility. This study examined court cases from all 50 U.S. jurisdictions and used qualitative content analysis to characterize FSIA immunity law. A list of type of cases analyzed can be found in Figure 1. Also, this study highlighted the growth of legal thought regarding the ambiguity of FSIA.

My approach involved two tasks: (a) gathering legal cases from 2016 to 2021 to ensure the legal decisions addressed FSIA, and (b) identifying the continuum of themes via qualitative inductive content analysis by reading legal cases. As an example, from 2016 to 2021, U.S. courts decided 180 FSIA diplomatic immunity legal cases with 11 remanded to lower courts due to error -- misinterpreting the FSIA statute. To get a comprehensive set of laws, I searched for legal cases from all courts regarding diplomatic immunity using Nexis Uni and Pacer. I conducted Boolean searches and others and

Figure 1

Type of Cases



searched for the terms *diplomatic immunity*, *foreign diplomatic immunity*, *FSIA foreign diplomatic immunity*, and *FSIA*. What constituted the relevancy of a legal case is one that involves the use of FSIA immunity as a defense against prosecution. The selection resulted in a total of 180 legal cases in which I downloaded to MS Word, placed into separate folders, labeled the folders according to legal issues, saved and backed up onto OneDrive on my desktop, then imported the cases into NVivo 12. I conducted a qualitative content analysis of documents which involved analysis of 180 legal cases compiled from court decisions from 2016 to 2021.

Content analysis describes a family of approaches for systematic examining of texts (Neudendorf, 2017). I used descriptive coding to determine structures and processes

in the data (see Lofland et al., 2006). Lofland et al. (2006) stated that structures and processes can be determined through descriptive coding. Saldaña (2013) stated that descriptive coding has been applied, literally, to all qualitative studies. Qualitative content analysis is the close, comprehensive, and organized reading of a set of texts to identify themes, intent, or patterns (Neudendorf, 2017). It is not a mere counting of words, but a close reading of texts based on driving research questions (Neudendorf, 2017; Saldaña, 2013).

With content analysis of documents, a fully coded set of documents enables the researcher to address a wide range of research questions within a broad range of both qualitative and quantitative analytical approaches (Saldaña, 2013). I read and analyzed a varied selection of legal cases which are the primary instruments to sort qualitative texts into categories (see Neudendorf, 2017). All the legal cases were read line by line for complete concentration. I only selected relevant lines of text to be coded into themes according to the research question.

I used NVivo 12, a software package for text-based analysis, to store legal cases and to organize my systematic reading and selection. My objective was to capture and describe the most complete continuum of laws and policies enacted related to ambiguity of FSIA. I read the legal cases seeking actions called for by the FSIA immunity laws and the courts named in the legal cases. Under the open coding or inductive approach, all coded policy actions revealed eighteen thematic categories. Critical analysis and strategic selection reduced this number down to ten themes. The strategy of selection of the themes was matching the themes with the legal cases in which decisions were related to

FSIA immunity or diplomatic immunity. Through rereading the legal cases, I refined the ten themes into five parent categories. Each legal case was re-read in its entirety and coded to thematic category for further analysis in Table 3.

Table 3

Codes and Themes and Category of Legal Cases

Code	Theme	Category
Diplomatic immunity	Moorish movement; Pro se; Incarcerated	Frivolous cases
FSIA diplomatic immunity	Domestic workers abuse Human trafficking; FSIA immunity cases; VCDR cases	FSIA diplomatic immunity cases
Domestic workers abuse	Human Trafficking	Human trafficking/ Domestic workers Abuse cases

My analysis contained both inductive and deductive content analysis approaches to reveal the continuum, significance, and rate of U.S. laws passed in 2016–2021 addressing ambiguity of FSIA immunity. My analysis revealed the content of the legal cases, how the laws contribute to the ambiguity of FSIA, and the legal precedents the legal cases have set for diplomatic immunity policy.

Data Analysis

Content analysis of documents is not a novel approach to qualitative analysis and is used in many fields. Saldaña (2013) stated even though code frequency counts are important in content analysis, they are not that significant. Content analysis has been used as a research tool for many studies on a variety of subjects and topics (Neudendorf).

Using the content analysis approach for my research, NVivo assisted with data analysis and Nexis Uni and Pacer databases were used to retrieve legal cases for this study. Data were collected from these legal cases beginning at the end of January 2022 due to a change in strategy in collecting data.

In using Nexis Uni, I used several search items: *diplomatic immunity*, *foreign diplomat immunity*, and *FSIA diplomat immunity*. These search terms were chosen after using various other search terms and finding they yielded the most relevant results relating to the goal of this study. The Nexis Uni search generated 1,555 cases relating to diplomatic immunity. Thus, only 180 legal cases were rendered relevant to the study. NVivo 12 was the main coding instrument used. I used content analysis for the study because it is a purely descriptive method that describes what is there but may not reveal the intrinsic motives for the pattern observed. The early approach to content analysis was criticized because of its focus on basic quantitative elements and not on qualitative (Neudendorf, 2017).

Evidence of Trustworthiness

As stated in Chapter 3 of this paper, the trustworthiness and validity of qualitative research depends on what the researcher observes and directly hears. Yin (2018) stated credibility, transferability, dependability, and confirmability are important in establishing trustworthiness in qualitative research. One of the ways to ensure credibility and transferability is to ensure those interviewed have the experience to discuss the phenomenon the researcher seeks to explore (Yin, 2018). The research in this study did

not include interviews because recruitment efforts were unsuccessful, but all legal cases were thoroughly analyzed to ensure the credibility and transferability of this study.

To reiterate my stance on trustworthiness, I took guidance from Chapter 3 and established confirmability by ensuring no bias was in this research. Specifically, I interpreted the data at face value and read all legal cases and manually coded them using NVivo 12 software. I placed the legal cases in separate folders and labeled them according to legal issues. Importantly, the evidence gathered was handled with care because trustworthiness and saturation are both confidence boosters to the readers of the study and where the findings can be replicated in similar studies (see Bowen, 2008).

Results

The research question to answer was: Given the adjudication and interpretation of the 1976 Foreign Sovereign Immunities Act (FSIA) by the courts, what recommendations, if any, are forthcoming that would decrease ambiguity for public administrators charged with implementing the law? The original intent was to interview participants, but recruitment efforts were not successful. Instead, I completed a document review of cases. Thus, five themes were developed from coding which directly and succinctly answered the research question.

Theme 1: Frivolous Foreign Diplomat FSIA Immunity Cases

This theme contributes to answering the research question by highlighting complications public administrators endure when interpreting and granting FSIA immunity. A claim is frivolous when "it is clearly insufficient on its face, does not controvert the material points of the opposite pleading, and is presumably interposed for

mere purposes of delay or to embarrass the plaintiff" (Black's Law Dictionary, 2019, p. 1). The codes attributed to the theme were FSIA immunity (*f* =88), frivolous (*f* =191), incarcerated (*f* =50), and Moorish Movement (*f* =38). What makes a case frivolous is that the U.S. district courts/appellate courts heard the case and rendered it frivolous due to a manufactured legal argument (see Appendix H). In this study, 45 legal cases were reviewed that were rendered frivolous by the courts.

I have included excerpts from cases rendered frivolous that highlight the reason for the decision. In *Wortham v. Holbrook* (2016),

> Petitioner identifies himself as "Indigenous and a Moor," but not a "Moorish American" (ECF No. 10 at 1). He claims to have recorded his identity with the Powhatan Renape Nation in Mercer County, New Jersey. The Powhatan Renape Nation was formerly located in the State of New Jersey, but is not a federally recognized Tribal entity. Petitioner also pledges "allegiance to Morocco as a descendant of Moroccans and born in America." (p. 1)

In *Wortham v. Holbrook* (2016), the court stated that members of the Moorish Movement (MM) claim allegiance to Morocco as descendants of Moroccans. Specifically, the court stated, members of the MM claim American citizenship, free citizenship, and a national of the Republic of the United States of America. Thus, members of MM claim they have relinquished U.S. nationality. Additionally, the court stated, the Moroccan-American Treaty of Peace and Friendship ratified by President Andrew Jackson on January 28,1837 does exist, but that treaty does not contain any language inferring that the United States,

or its territories, does not have authority over a person violating the law within its jurisdiction. In *Bechard v. Terner* (2019), the

> Petitioner, an inmate incarcerated in the Sumter County Jail in Americus, Georgia, files this pro se action under 28 U.S.C. § 2241. Petitioner claims diplomatic family immunity as a British noble from all laws of the United States including his incarceration anywhere in any custody. (p. 1)

The petitioner in this case is claiming to be a British nobleman and is entitled to FSIA immunity. The court labeled this case frivolous. Another frivolous case is *Sheik v. Kan. City* (2020). In this case,

> Plaintiff also alleges he is a "'Moorish Masonic Bona Fide Adept Official' being held against his will when simultaneously the aforesaid license credential commission authority currently exists that is automatically suppose[d] to bestow upon complainant sovereign diplomatic immunity thr[ough] their very existence."

In the case *Simon v. California* (2021), frivolity was determined:

> He is entitled to diplomatic immunity even though this is an incarcerated U.S. prisoner. The court dismisses this incomprehensible, frivolous motion. This Court has jurisdiction over Defendant and this case. The court also stated that there is no known legal authority that provides such immunity to any of the various entities mentioned in the defendant's documents, including the "Moroccan Empire' or the 'Moorish National Republic Federal Government." (p. 1)

In *Bekendam v. Texas* (2021), “A former state prisoner ‘filed a pro se complaint against the States of Texas’ and various other government officials. The complaint is largely nonsensical, rambling, and conclusory” (p. 1). The court labeled this case frivolous. Another example of frivolity occurs in *Bernard-Ex v. Molinar* (2021) where:

> Plaintiff is proceeding in this action *pro se* and has requested authority under 28. U.S.C. § 1915 to proceed in forma pauperis. Plaintiff invokes the doctrine of diplomatic immunity and includes an affidavit electronically signed by Suezy Fran Gottlieb describing, in part, the disclosure of social security numbers and identity theft. Plaintiff requests injunctive relief and at least $500 million in damages. (p. 1)

Also, in *Davis v. Warden Camden County Corr. Facility* (2020), petitioner:

> Proceeding pro se with an amended petition for writ of habeas corpus in Ground One of his amended petition, Petitioner writes: “Legal name, legal maxins, title territories, ordinances, regulations treaties, customs, inheritance, inventions, monopoly, bank global wide business seisin, treasuries ambassador marriages ports emancipate diplomatic immunities.” (p. 1)

Frivolity was ruled in *Duncan v. Doe* (2019) who appeared:

> Pro se, filed a Motion for Leave to Proceed in Forma Pauperis (Doc. 1) and a proposed Complaint. Claims that he is also known by his code name of Young Einstein, and that he was a five-star general . . .

> Duncan also advises the Court he has diplomatic immunity and is the "American SCAT" with the United Nations. (p. 1)

The court ruled this case as frivolous because it was without legal merit. This leads to another frivolous case which is *Fisher v. Dir. of Ops of CDCR* (2016), who is a:

> State prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff warns the Court that United States Judiciary Council Diane Feinstein "will show your stupid ass my diplomatic Immunity." The court dismissed the matter with prejudice "for failure to state a claim, frivolousness, maliciousness, and failure to obey a court order." (p. 1)

In *Hill v. Smith* (2016),

> Petitioner proceeded in pro se and in forma pauperis and submitted a writ of habeas corpus. Petitioner states he is "immune from prosecution in the Superior Court of the District of Columbia" and that he "should be accorded diplomatic immunity pursuant to federal law based on his status as a member of The Nation of Moorish Americans." (p. 1)

The frivolity excerpts end with *U.S. Bank Trust, N.A. v. Fonoti* (2018) where:

> Plaintiff argued that the district court has federal jurisdiction over this action under 28 U.S.C. § 1331 "because the State of Hawai'i seeks remedies involving Sai who [is] a foreign diplomat." Asserts that his status as a foreign diplomat is established by a treaty between the Hawaiian Kingdom and the United States. (p. 1)

The above excerpts are just a sampling from the many legal cases that were labeled frivolous by various courts due to lack of legal merit. Thus, the research question is given the adjudication and interpretation of the 1976 Foreign Sovereign Immunities Act (FSIA) by the courts, what recommendations, if any, are forthcoming that would decrease ambiguity for public administrators charged with implementing the law? This research question is answered in several decisions of U.S. district/appellate courts. The following theme amply answers the research question:

Theme 2: FSIA Foreign Diplomat Immunity Cases

FSIA foreign diplomat immunity is "immunity that is given to representatives of foreign countries when they may break certain rules and regulations while working in this country" (Black's Law Dictionary, 2019), p. 1). The following codes are attributed to this theme: FSIA immunity (*f*=88), dismissed cases (*f*=48), denied cases (*f*=31), and VCDR immunity (*f*=8) (see Appendix J). There were 38 cases reviewed decided by the court upholding FSIA immunity and granting relief to foreign diplomats from prosecution.

These cases are often denied, dismissed, and remanded by the U.S. courts. I have included excerpts from cases rendered FSIA foreign diplomat immunity that highlight the reason for the decision. In *Broidy v. Global Risk Advisors LLC* (2021):

> Qatar sought to silence Broidy in an effort to influence U.S. policy regarding relations with the country. Hired a public relations firm Stonington Strategies LLC and certain others to "develop and implement a government relations strategy for Qatar." Plaintiff alleges that the Chief Executive Officer of Stonington Strategies, Nicholas Muzin, "identified

> and described Mr. Broidy to the Qatari government as impediments to Qatar's foreign policy interests in the United States." Plaintiff alleges that upon learning of his role Qatar retained Defendant Global Risk Advisors ("GRA") to execute a hack of Broidy's personal systems and those devoted to BCM. (p. 1)

The above case was brought against a foreign state that has FSIA immunity. Therefore, the court dismissed plaintiff's complaint. Another example of a foreign state invoking FSIA immunity is *Eisenberg v. Permanent Mission of Equator Guinea* (2020) where "plaintiffs' claims arose out of alleged property trespasses by the foreign state that called into question the possessory and other property rights of both parties."

This claim of trespass and unjust enrichment was filed by plaintiff against a foreign state. The foreign state claimed FSIA immunity, but the district court denied the claim which was affirmed by the appellate court. The case of *Figueroa v. Ministry for Foreign Affairs of Sweden* (2016) is another FSIA immunity case. In this case,

> Employee's claims for personal injury, retaliation, and discrimination (due to his national origin, race, and disability) arising from his employment as an "Office Clerk/Chauffeur" with The Ministry of Foreign Affairs of Sweden (the "Ministry"), and the Permanent Mission of Sweden to the United Nations (the "Mission"). Defendant claims immunity under the FSIA and "presents a prima facie case that it is a foreign sovereign, the plaintiff has the burden of going forward with evidence showing that, under exceptions to the FSIA, immunity should not be granted." (p.1)

The court stated in the above case that FSIA is the only basis for subject matter jurisdiction over a foreign sovereign. Accordingly, under FSIA, a foreign sovereign is immune from suit in the United States unless a statutory exception applies. Thus, the court granted the defendants' motion for partial dismissal due to lack of subject matter jurisdiction, i.e., FSIA immunity. The case of *Hilt Constr. & Mgmt. Corp. v. Permanent Mission of Chad* (2016) is another FSIA immunity case. In this case,

> The parties entered into a contract for the renovation of "an 1859 Gothic Revival style landmark structure building in New Rochelle, New York, which would officially be the Ambassador's Residence." Plaintiff alleges defendants requested additional work, for which plaintiff billed an additional $1,009,018. Plaintiff alleges $1,400,460 of the total billed amount remains unpaid. (p. 1)

The defendant *Permanent Mission of Chad* filed for dismissal due to FSIA immunity, and the court granted the motion to dismiss. An example of another FSIA immunity case is *Martinez v. Consulate General of Algeria in New York* (2016). In this case an aggrieved employee stated in the complaint that:

> The plaintiff formerly worked for the Consulate General of Algeria in New York (the "Consulate") as a chauffeur and seeks, by this action, to recover unpaid overtime premium pay and damages for wrongful termination. Defendant Consulate General of Algeria "takes issue with the complaint on multiple grounds." The Consulate claims that hiring a chauffeur does not constitute commercial activity within the meaning of

> the Foreign Sovereign Immunities Act, 28 U.S.C. §§ 1602 et seq. ("FSIA"), and that it is, therefore, entitled to sovereign immunity with respect to all of plaintiff's claims. (p. 1)

The defendant requested FSIA immunity, and the court approved the settlement and dismissed the claim. The court stated defendant *Consulate General of Algeria in New York* has immunity under FSIA. Another example of FSIA immunity is *Packsys v. Exportadora De Sal S.A de C.V.* (2017), where:

> The Director General of a Mexican government-owned corporation, Exportadora de Sal, S.A. de C.V. ("ESSA"), entered into a long-term, multimillion dollar contract with another Mexican corporation, Packsys, S.A. de C.V. ("Packsys"), to sell the briny residue from its salt production process. The Director General did not have actual authority to execute the contract, and when suit was filed in the United States, ESSA invoked sovereign immunity. (p. 1)

In the above case, the court stated the contract was not executed with actual authority, so it cannot serve as the basis for applying either FSIA's commercial activity exception or its waiver exception. The court affirmed the district court's ruling that the suit is barred through FSIA. Likewise, in the case of *Pharo Gaia Fund Ltd. v. Bolivarian Republic of Venezuela* (2021), "defendant failed to make six interest payments on each series of Bonds." The "Court entered an order stating that it would not proceed by order to show cause because the Foreign Sovereign Immunities Act of 1976" offered immunity

(p. 1). Another example of a FSIA immunity case is *Phillips v. Oosterbaan* (2020) where the plaintiff:

> Phillips investigated whether the concept of inviolability applied to private landlords and was told inviolability does “not normally [apply] to private landlords/property owners.” The plaintiff argues that Article 31(1)(a) of the Vienna Convention is applicable and provides an exception to Oosterbaan's diplomatic immunity. (p. 1)

The court terminated the motion to dismiss and dismissed the action without prejudice for lack of subject matter jurisdiction, i.e., FSIA immunity. This leads to another FSIA immunity case which is *United States v. Sharaf* (2016) where:

> Defendant former Kuwaiti diplomat was charged with conspiracy to money launder, in violation of 18 U.S.C.S. § 1956(h), defendant was not entitled to dismissal of the criminal complaint on the ground of residual diplomatic immunity under the Diplomatic Relations Act of 1978, 22 U.S.C.S. § 254d, because the factual basis for the criminal charges did not involve the exercise of the diplomat’s official functions as a member of the mission, but instead described a complex scheme designed to conceal the source of more than $1.3 million in embezzled funds.
>
> The defendant’s alleged criminal activity of creating and using shell companies and bank accounts to conceal her transactions in embezzled funds had neither a logical connection to her official

> responsibilities nor provided a reasonable means to the fulfillment of any official function. (p. 1)

The court denied defendant *Sharaf's* motion to dismiss, and rejected the FSIA immunity defense.

The excerpts of FSIA immunity cases end with *United States v. Zhong* (2018). In this case,

> The government alleges that, during the period Defendant was an accredited diplomat, Defendant helped orchestrate the forced labor scheme. The U.S. government further alleges that Defendant continued to act as a principal of the forced labor scheme after he was no longer an accredited diplomat.

The court stated:

> Defendant is entitled to residual immunity for any of his 'official conduct' occurring between April 3, 2002 and November 27, 2009. Gov't Letter at 1. However, the government contends that the evidence it seeks to introduce is not evidence of Defendant's official conduct, but instead is evidence of Defendant's repeated participation in kidnapping and abducting unwilling victims—as opposed to any crimes he may have committed while performing ministerial duties as a diplomatic. (p. 1)

The court granted in part and denied in part the motions in limine from the U.S. government and the defendant.

Theme 3: Consulate Employees' Cases Brought Against Foreign Diplomats

A consulate employee is an employed staff in U.S. embassies and consulates who provide unique services in support of foreign policy (U.S. Department of State, 2022). The following code is attributed to this theme: consulate employee. The frequency of this code is: consulate employees (*f* =41) (see Appendix K). There were twelve cases reviewed decided by the courts brought by staff at U.S. consulates against a foreign state. In all these decisions, the foreign diplomat was granted FSIA immunity from prosecution of various crimes. I have included excerpts from cases rendered consulate employees' cases that highlight the reason for the decision. In *Ayekaba v. Ndong Mba* (2019), the following is an excerpt of the court decision in which plaintiff:

> Filed an action in New York state court against defendants, by service and filing of a Summons with Endorsed Complaint seeking "wages owed" for working as a driver. The defendants removed the action from lower court pursuant to 28 U.S.C. § 1441(d), as an action against a foreign state.
>
> Under the FSIA, "[s]ubject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607." (p. 1)

The court granted defendants' motions to dismiss due to FSIA immunity.

In *Brakchi v. Consulate General of the State of Qatar (2018),* this is another consulate employee's case where:

> Plaintiff Ghania Brakchi ("Brakchi") is a former employee of the Consulate General of the State of Qatar ("CGSQ"). CGSQ employed Brakchi as a translator for approximately five years. On December 24, 2015, CGSQ terminated Brakchi's employment. Brakchi alleges CGSQ discriminated against Brakchi on the basis of Brakchi's gender. On June 23, 2017, Brakchi filed this lawsuit against CGSQ, alleging claims under Title VII of the Civil Rights Act of 1964. On April 30, 2018, CGSQ filed a motion to dismiss for lack of jurisdiction. (p. 1)

The court denied defendant *Consulate General of the State of Qatar*'s motion to dismiss due to FSIA immunity.

Another consulate employee's case is *Fontaine v. Permanent Mission of Chile* (2020) where:

> Plaintiff alleges that she was discriminated against, sexually harassed, and retaliated against for reporting those abuses while employed at the Permanent Mission of Chile to the United Nations (the "Permanent Mission"). Compl. 1, 13, 69-140, ECF No. 96. Plaintiff acted and eventually filed a charge with the Equal Employment Opportunity Commission and complained to the Chilean Ministry of Foreign Affairs. Plaintiff alleges that once she did so, Barros, Olguín, and Gonzalez treated her coldly, stripped her of work assignments, effectively barred her from a workplace social event by prohibiting her from bringing her daughter

> when they knew she did not have access to childcare, and ultimately fired her.
>
> Plaintiff alleges that after her termination, the Permanent Mission's staff delayed paying her vacation time and providing her final paycheck. Plaintiff began working at a bank in New York City. On January 6, 2018, the banks human resources department received a letter (the "Letter") stating: It has come to my attention that Mrs. Carolina Fontaine works in your institution. I would like to notify you that this individual created major disruption in our organization to the point that many people suffered the consequences of her lies and slander. I join an article from the biggest newspaper in Chile that reported the problem in its pages. Be very weary. Sincerely. (p. 1)

The court stated defendants' motion to dismiss is granted in part and denied in part due to FSIA immunity.

In *Green v. First Liberty Ins. Corp*. (2018),

> While driving in Manhattan, Plaintiff's car was struck by a Jeep driven by one Marco Suazo, who is not a party to this case. (Compl. (Dkt. 1) 1, 11.) Plaintiff alleges that Suazo was driving negligently, and that this negligence caused the accident. The Jeep was owned or leased by the Principality of Monaco and registered to Isabelle F. Picco, Monaco's permanent representative to the United Nations.

> The Monégasque mission to the United Nations, either as an employee of the mission, as Plaintiff alleges (id. 6), or as Picco's husband, as Defendant avers. Plaintiff was hesitant in bringing a state-law negligence action directly against either Picco or Suazo (whom Plaintiff presumably believes to be shielded from suit by diplomatic immunity.
>
> Plaintiff filed suit directly against Defendant—which had issued a liability insurance policy for the Jeep. The court stated that plaintiff's allegation that Suazo worked for the mission (Compl. 6) is sufficient, at least at this stage of the litigation, to allege that he was a "member" of the mission under the Diplomatic Relations Act, which defines that term to include not only the mission's diplomatic staff, but also its administrative, technical, and service staff. (p. 1)

The court stated that the argument is confused because New York law states a plaintiff cannot maintain a direct action against a tortfeasor's liability insurer. Thus, simply because the tortfeasor is himself immune from suit does not justify claim.

Harmouche v. Consulate General of Qatar (2018) is another case filed by an aggrieved consulate employee where:

> Plaintiff began working for the Defendant in 1997 as a public relations manager. During his 19 years of employment Plaintiff worked for six Consul Generals and multiple Vice Consuls. As public relations manager he drafted press releases, planned community events, and performed other administrative tasks. (p. 1)

The defendant *Consulate General of Qatar* immediately filed a motion to dismiss due to FSIA diplomatic immunity.

In addition, in *In re Grand Jury Subpoenas* (2017),

> A Chinese construction company (the Company) and seven of its employees (collectively, Appellants) appeal from an order of the United States District Court for the Eastern District of New York (Gleeson, J.) denying their motion to quash subpoenas requiring the employees to appear before a grand jury. Appellants argue that the district court erred in concluding that the employees are not entitled to diplomatic immunity because they were not registered with the United States Department of State. Appellants further contend that, even if the employees were required to register, that requirement was satisfied when the employees applied for their visas. (p. 1)

The court affirmed the district court's order.

The next excerpt of a consulate employee's case against a foreign state is *Lewis v. Permanent Mission of Cote D Ivoire to the United Nations* (2019). In this case,

> Plaintiff alleges that on November 24, 2018, he was hit by a car driven by Adama and owned by the Permanent Mission, and that he suffered injuries as a result. At the time of the accident, Adama was "employed" Permanent Mission and was driving the car within the scope of his employment.
>
> He asserted a claim against the Permanent Mission for negligently hiring, training, and supervising Adama, and a claim against both

> Defendants for negligent operation of the vehicle. Plaintiff alleges that there is no evidence that Adama is an employee of the Permanent Mission.
>
> Plaintiff challenges the sufficiency of a statement provided by Ambassador Desire G. Wulfran, in which the Ambassador stated that Adama is currently employed by the Permanent Mission as a driver. (p. 1)

The court denied plaintiff's remand motion. *Bardales v. Consulate General* (2020) is another consulate employee's case where:

> Plaintiff is an U.S. citizen who lives in New York and worked for the Consulate General of Peru in New York from May 2010 until October 31, 2015. Plaintiff alleges that approximately 60% of the individuals he chauffeured did not work on behalf of the Consulate.
>
> Plaintiff alleges he never received overtime pay, only a fixed monthly salary, despite exceeding the hours he was expected to work regularly. He incurred expenses including, but not limited to, parking, parking tickets, tolls and gas. To obtain reimbursement for these expenses, Defendants allegedly required Bardales to "sign a false receipt stating that the reimbursement was in fact for overtime pay." Defendant argued that the Consulate is immune from suit under the Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. §§ 160211, and that no statutory exception to this immunity applies (p. 1)

The court concluded that both defendants were entitled to FSIA immunity, and the matter was dismissed.

There are a variety of consulate employee's cases in which aggrieved employees have filed suit. The next excerpt is *Salman v. Saudi Arabian Cultural Mission* (2017). This case involved the "Saudi government that administered programs and policies to meet the educational and cultural needs of Saudis studying in the United States" (p. 1). The Saudi government:

> Was sued by an employee that alleged that "at some point during his employment, his coworker — Ms. Luma Hawamdah — began sexually harassing him." Made unwelcome advances, touching Plaintiff inappropriately and requesting sexual favors. Plaintiff filed a grievance to SACM's administration. Rather than addressing the harassment, however, SACM allegedly informed Plaintiff that he would be required to sign a letter stating that the matter had been resolved. (p. 1)

The court granted defendant's motion to dismiss for lack of subject matter jurisdiction under FSIA.

The consulate employees' cases excerpts end with *Shamoun v. Republic of Iraq* (2020). This is a sexual assault complaint that took place at:

> A polling place in California against Defendants Republic of Iraq ("Republic"), the Embassy of the Republic of Iraq ("Embassy"), the Independent High Electoral Commission ("Commission") (collectively, "Government Defendants"), and Iraqi national Shefan Khosho ("Khosho").

> Defendants the Republic of Iraq filed a motion to dismiss, and Plaintiff then filed a First Amended Complaint ("FAC") pursuant to Federal Rule of Civil Procedure 15(a)(1)(B). Plaintiff alleges defendant Khosho sexually assaulted her and subsequently pled guilty. Khosho made "threatening and intimidating comments," such as, "if anyone disobeys me, I will have them fired, right away." (p. 1)

The court granted defendant *Republic of Iraq's* motion to dismiss without leave to amend and terminated the action due to FSIA immunity.

Theme 4: Foreign Diplomat Human Trafficking/Abuse of Domestic Workers Cases

The human trafficking laws began to include domestic workers back in June of 2011 upon enactment of the international treaty of Domestic Workers Convention. The Justice for Victims of Trafficking Act of 2015 was enacted to curtail foreign diplomats' abuse of domestic workers brought to the U.S. to work for foreign diplomats (Blackett, 2012). The evidence presented in these case shows these workers were treated as slaves.

In addition, on December 31, 2021, the governor of New York provided additional protections for domestic workers by signing into law Chapter 830 of the Laws of New York. This was an amendment to the Human Rights Law where prior to this amendment, domestic workers were covered by the anti-discrimination protections of Human Rights Law in certain circumstances (N.Y. State Senate Bill S5064, 2021).

The following codes were derived from Theme 4: human trafficking and domestic workers' abuse. The frequencies of these codes: human trafficking (f = 7); domestic workers (f = 15) (see Appendix L). There were six cases reviewed decided by the court

brought by domestic workers against foreign diplomats. Excerpts of the court decisions rendered in human trafficking/domestic workers' abuse cases starts with *Mashud Parves Rana v. Islam* (2016):

> Plaintiff Mashud Parves Rana brings this action against his former employers, Monirul Islam and Fahima Tashina alleging violations of various federal and state labor and human trafficking laws. According to the complaint, in 2012 defendant Islam then the Consul General of Bangladesh serving in New York City, "lured" plaintiff to the United States to be a domestic worker for Islam and his wife, defendant Prova, with promises of 'good working conditions' but instead "maintained [Rana] here in forced labor in slavery-like conditions . . . threatening to beat him or kill him . . . physically assaulting him . . . withholding all compensation" from him, and forcing him to work 16 hours a day, for seven days a week, for more than eighteen months. (p. 1)

The court allowed defendants to obtain new counsel and set a pretrial hearing. The plaintiff *Mashud Parves Rana* filed another action against defendants that was titled *Rana v. Islam* (2018). Specifically, plaintiff "Rana served defendants Islam and Prova as a domestic worker for nearly nineteen months" (p. 1). The court vacated in part and remanded back to U.S. district court due to FSIA immunity. The district court ruled the case as a default judgment.

Another human trafficking/domestic workers' abuse case is *U.S. v. Amal* (2014). In this case, the United States issued "an arrest warrant and criminal complaint charging

ABDELKADER AMAL with Aiding and Abetting Alien Harboring for Commercial Advantage and Private Financial Gain" (p. 1). Specifically, the United States "stated that there is probable cause to believe that between on or about December 25,2007 to on or about December 3, 2010, ABDELKADER AMAL violated 8 U.S.C. § 1324(a)(l)(A)(iii) &(B)(i)" (p. 1). The court issued a complaint charging defendants with the crime.

In the human trafficking/domestic workers' abuse case *United States v. Khobragade* (2014), specifically, the:

> Defendant acquired full diplomatic immunity at 5:47 PM on January 8, 2014, and did not lose that immunity until her departure from the country on the evening of January 9, 2014; [2]-The indictment was returned on January 9, 2014; [3]-The court lacked jurisdiction over the defendant when she appeared before the court on January 9 to dismiss the case and at the time the indictment was returned; [4]-The defendant's status at the time of her arrest was not determinative; [5]-The Abdulaziz decision was persuasive precedent; [6]-Even if the defendant had no immunity at the time of her arrest and had none at the present time, her acquisition of immunity during the pendency of proceedings mandated dismissal. On January 9, immediately following the return of the Indictment, Khobragade appeared before the Court through counsel and moved to dismiss the case. (p. 1)

Due to FSIA immunity, the court ordered that any open arrest warrants based on this indictment must be vacated.

The last excerpt from human trafficking/domestic workers' abuse cases is *Fun v. Pulgar* (2014) where:

> Plaintiff alleges that Defendant Angelica Pulgar initially invited her around December 2011 or January 2012 to be a domestic worker in Defendants' household. Defendant Puertas Pulgar followed up on her mother's offer in August or September 2012 to formally offer Plaintiff the position of live-in domestic worker for Defendants, which Plaintiff accepted. Plaintiff Maria Rios Fun, a domestic worker from Peru, brought this suit against her former employers.
>
> Defendants filed a motion to quash service of process and dismiss the complaint, asserting that each are members of the 'diplomatic staff' of the Permanent Mission of Peru to the United Nations and entitled to absolute diplomatic immunity under the Vienna Convention of 1961. (p. 1)

The court granted defendants' motion to dismiss without prejudice to allow plaintiff to refile the case when defendants are dissolved of FSIA immunity.

Theme 5: Remanded Cases

This theme answers the research question by highlighting cases returned back to the lower courts due to errors in FSIA decisions. In this study a remanded case if "brought into an appellate court or removed from one court into another, is to send it back to the court from which it came, that further proceedings in the case, if any, may be taken there." (Black's Law Dictionary, 2019, p. 1). Thus, for this study the cases selected

were rejected by the appellate courts and sent back to the U.S. district courts due to error in interpreting FSIA immunity statute.

In addition, the appellate courts in their decisions give reason the legal cases were rejected and suggest corrections to legal theory presented in the case used to interpret FSIA. There is only one code attributed to Theme 5. The frequency of remanded cases: (*f* =19). In this study the lower courts are the U.S. district courts. This study reviewed and analyzed ten cases that were remanded by the courts (see Appendix M).

The first excerpt from the remanded legal cases is *Architectural Ingenieria Siglo XXI, LLC v. Dom.* (2019) where the "U.S. district court denied the motion, finding that the DR had waived its sovereign immunity. On remand, the District Court vacated the default judgment and dismissed Plaintiffs' Complaint, with leave to amend consistent with the findings of the Court of Appeals" (p. 1). The court recommended mediation and appeal. The next remanded case is *Eisenberg v. Permanent Mission of Eq. Guinea* (2020) where the court stated that "We assume the parties' familiarity with the underlying facts, procedural history, and arguments on appeal, to which we refer only as necessary to explain our decision to affirm and remand for further proceedings" (p. 1). Thus, the court affirmed and remanded the case. Specifically, in *Everard Findlay Consulting_LLC v. Republic of Surin.* (2020),

> The district court erred in holding that the Foreign Sovereign Immunities Act (FSIA), 28 U.S.C.S. § 1602 et seq., barred plaintiff's suit because the suit fell under the FSIA's commercial activity exception in 28 U.S.C.S. § 1605(a)(2) as defendants conduct in negotiating, entering, and allegedly

> breaching its promotional services agreement with the public-relations firm plaintiff was "commercial activity" within the meaning of the FSIA, and plaintiff's commercial activity had substantial contact with the United States. (p. 1)

The court vacated the judgment and remanded the case back to district court.

Another case where the district court misinterpreted the facts regarding FSIA is *Hosn v. Iraq Ministry of Transportation* (2017). This is where a claim against:

> The Iraq Ministry of Transport (IMT) was vacated, and the case was remanded since, in determining that IMT was immune, the district court improperly developed the facts underlying the contractual activity between plaintiff and the IMT, plaintiff's claim contained sufficient factual matter to present a plausible claim so that the district court improperly dismissed the claim under 28 U.S.C.S. § 1915(e), and by dismissing the case prior to service on the defendants, the court denied the parties of a fair opportunity to show whether IMT's activities fell within the FSIA commercial activity exception. As a result, we must vacate the district court's decision dismissing IMT based on immunity under the FSIA. (p. 1)

The appellant court affirmed, vacated, and remanded the case back to the district court due to misinterpretation of facts regarding FSIA.

Likewise, in *Kumar v. Republic of Sudan* (2018), where "the district court erred in denying the Republic Sudan's motion to vacate the default judgments entered against it because the district court lacked personal jurisdiction over Sudan" (p. 1). The court stated

that "any judgment entered against a defendant over whom a court does not have personal jurisdiction is void" (p. 1). Specifically, the court reversed in part, vacated in part, and case remanded back to district court. In the case of *Muthana v. Pompeo* (2020), this was the:

> Granting the Government summary judgment as to a father's action seeking, on behalf of his daughter and grandson, permission for them to return to the U.S. and a determination that they were U.S. citizens was proper because the father possessed Vienna Convention on Diplomatic Relations diplomatic immunity when his daughter was born in the U.S., rendering her ineligible for birthright citizenship, and so her son, who was born on foreign soil to parents who were not citizens, also was ineligible for citizenship under 8 U.S.C.S. § 1401(g); [2]-Father's 18 U.S.C.S. § 2339B declaratory claim was properly dismissed for lack of standing as he failed to allege a personal constitutional right affected by its enforcement if he sent money to his daughter and grandson. Because the district court lacked jurisdiction over the father's mandamus petition, it had to be dismissed on remand. (p. 1)

The court dismissed and remanded the case due to misinterpretation of FSIA facts. Also, in *Qandah v. Johor Corp*. (2020), because the United States Court of Appeals for the Sixth Circuit "lacked jurisdiction over the father's mandamus petition, it had to be dismissed on remand" (p. 1). The court ordered the legal case reversed and remanded back to district court.

Another excerpt of a remanded case is *TIG Ins. Co. v. Republic of Arg*. (2020) where the United States Court of Appeals for the District of Columbia Circuit affirmed "a district court's denial of plaintiff creditor's motion for emergency relief" (p. 1). The ruling:

> Was vacated, and the case was remanded since whether the property at was used for a commercial activity in the context of the Foreign Sovereign Immunities Act depended on the totality of the circumstances existing when the motion for a writ of attachment is filed, not when the writ would issue, the district court applied the incorrect legal standard, and it had to determine whether, at the time of filing, the totality of the circumstances supported characterizing the property as one used for a commercial activity, and, if so, whether any of Argentina's other defenses bar attachment of its property. (p. 1)

Specifically, the decision was vacated and remanded.

In addition, in *Vera v. Banco Bilbao Vizcaya Argentaria S.A*. (2019), the United States Court of Appeals for the Second Circuit argued that "the District Court lacked subject-matter jurisdiction over this enforcement proceeding under TRIA" and that "the turnover orders that it issued in the enforcement proceeding were void ab initio" (p. 1). The appeals court reversed the judgment and vacated the turnover orders and remanded the case back to the district court with instructions.

Also, in *Vera v. Republic of Cuba* (2017), the Second Circuit reversed the district court's order and remanded back with instructions. Specifically, the court stated "we

conclude the District Court lacked subject matter jurisdiction to enter judgment against Cuba under the Foreign Sovereign Immunities Act of 1976. The information subpoena served on BBVA to enforce that judgment is therefore void" (p. 1).

Summary

The legal cases analyzed in the above themes and highlighted in Appendix B have answered the research question:

RQ1 - Given the adjudication and interpretation of the 1976 Foreign Sovereign Immunities Act (FSIA) by the courts, what recommendations if any are forthcoming that would decrease ambiguity for public administrators charged with implementing the law?

The results of the research found 180 legal cases addressing the ambiguity of FSIA. Out of 180 selected legal cases, 38 cases made it to the U.S. court system but were eventually dismissed for lack of subject matter jurisdiction due to FSIA immunity; 45 cases were straightway denied and labeled frivolous, and ten cases (see Appendix F) were remanded back to lower courts due to error in interpreting FSIA.

Notably, the FSIA immunity legal cases against foreign diplomats analyzed ranged from reckless driving, sexual harassment, workplace discrimination, cyber security, trafficking/domestic workers' abuse, breach of contract. I will discuss my research results in more detailed in chapter 5 by giving my insight as to the meaning of the data. Publicly available documents were analyzed for triangulation purposes. Content document analysis data were analyzed using a continuous iterative process, and PFT was used to develop efficient changes to FSIA -- an existing policy. The success of an

adopted public policy depends on how successfully it is implemented (Stone & Ladi, 2016).

Chapter 5: Discussion, Conclusions, and Recommendations

This chapter includes interpretation of findings, limitations of study, recommendations, and implications of study. The purpose of this generic qualitative study was to analyze the policy implications of implementing FSIA by public administrators. Mettler and SoRelle's (2016) PFT provided the theoretical foundation for this study. Publicly available documents – 180 legal cases – were analyzed using a continuous iterative process.

U.S. governmental officials and U.S. courts have been encountering FSIA interpretation problems (Tuninetti, 2016). It was found in this study that out of the 180 legal cases from 2016 through 2021 reviewed and analyzed, 45 made it through the court system even though they were frivolous. Also, 55 legal cases were dismissed or denied due to FSIA immunity, 15 were remanded by the appellate courts due to errors in interpretation of FSIA, and six domestic workers' abuse cases were dismissed. In addition, 13 legal cases were filed by consulate employees, 11 were dismissed, and two fell under FSIA commercial activity exception. Thus, enough is not being done to assist public administrators (e.g., law enforcement and attorneys) to better interpret FSIA. Also, this study revealed FSIA needs to be brought up to 21st century standards (see Tuninetti, 2016). Due to the ambiguity of FSIA, too many foreign diplomats are purposefully exploiting the system by using FSIA as a defense to prosecution while on official duty in the United States(Tuninetti, 2016).

Evidence from this study indicated FSIA's ambiguity has incarcerated citizens and fringe groups within the United States under the mistaken belief that FSIA offers

them a viable defense for commission of crimes and not being prosecuted. For example, these incarcerated citizens and fringe groups have collectively invoked FSIA 45 times from 2016 through 2021 as a cause for immunity. It is true that a foreign diplomat is afforded FSIA immunity while on official duty, should they commit a crime or face a civil lawsuit in the United States (Tuninetti, 2016). Also, the DOS has a duty to contact the government of the foreign diplomat and request a waiver of immunity (Tuninetti, 2016). But, if the waiver is not granted, the United States cannot prosecute a diplomat due to FSIA (Tuninetti, 2016). The outcome of these situations is that the diplomat is asked to abort the mission, give up the visa, and the diplomat and family are barred from returning to the United States (Tuninetti, 2016).

This study highlighted that there is not sufficient punishment for the crimes committed by diplomats because the diplomat is allowed to return to the country of origin without serving any jail time. Likewise, when a U.S. diplomat commits a crime in a foreign country the diplomat is not subject to prosecution (Denza, 2016)e United States is not the only country that follows the Vienna Convention of 1961 which includes this general rule. Thus, the Vienna Convention of 1961 is followed by most countries in the world (Denza, 2016). The country in which the crime is committed is usually limited to ordering the offending diplomat to leave the country. In addition, family members take advantage of ambiguity of FSIA immunity and are purposefully committing crimes while under the guiles of diplomatic duty that results in a dismissal and labeled *persona non grata* (Denza, 2016). The results of this study supported this contention.

This study revealed that both NYC and D.C. are the two prevalent metropolitan cities that hold the most FSIA decisions and dismissed FSIA cases for lack of jurisdiction. NYC has 21 decided cases with 10 dismissed, and D.C. has 10 decided cases with six dismissed. Public administrators in NYC are forbidden from entering offices or apartments of foreign diplomats to affect an eviction even though the property is private and not owned by foreign state (see Denza, 2016). Notably, Article 31 of the Vienna Convention and FSIA offer immunity to foreign diplomats from all civil cases except those involving private immovable property.

Interpretation of the Findings

As the theoretical framework for this study PFT is an accumulation of changes within a policy. Mettler and SoRelle (2014) created the term policyscape that defined the gradual accumulation of policies. Policyscape describes why existing policies need updating to accommodate the progression of change. This term applies to FSIA because this study found that FSIA is ambiguous and should be updated to incorporate 21st century demands and challenges. In addition, FSIA can be categorized as being a policy which is self-reinforcing due to the continuous problems caused by ambiguous directives (Mettler & SoRelle, 2014).

PFT is the process through which a public policy affects actors and influences ensuing policy making in ways that may ultimately lead to changes in the original policy (Mettler & SoRelle, 2014). Using PFT as a theoretical framework for this study established that FSIA can be strengthened through positive feedback or weakened through negative feedback. Thus, the scope and intricacy of FSIA have created both

positive and negative feedback that have effect on distinctively different elements (Mettler & SoRelle, 2014).

This pattern can indubitably be seen with respect to the frivolous legal cases filed by incarcerated citizens and fringe groups. Also, this pattern can be seen in FSIA dismissed legal cases due to established FSIA immunity and legal cases filed by consulate employees for relief but denied due to FSIA immunity. In addition, the remanded legal cases returned to lower courts due to misinterpretation of FSIA are a representation of this pattern. To say the least, these legal cases garnered both positive and negative feedback.

Hence, there are different impacts PFT has on policy implementation and the ability to achieve goals. Thus, that is the reason scholars have often included both elements in their definitions of PFT. In a way PFT implies that feedback that strengthens a policy implement will also support the achievement of its goals. On the other hand, negative policy feedback can also contribute to the removal of an ineffective policy implement and its alternate replacement (Mettler & SoRelle, 2014). Some characteristics of PFT are policy changes that are continuous, coming from different actors, and offers negative/positive feedback that affect change to a policy.

Theme 1 generated in this study was frivolous foreign diplomat immunity which involved legal cases filed by mainly incarcerated individuals and fringe groups that fall within the PFT characteristic of different actors who offer continuous feedback that can affect policy change to FSIA. Theme 2 is FSIA foreign diplomat immunity which involved legal cases filed by victims of crime that has been committed by foreign

diplomats who are operating under official duty. These cases fall within all characteristics of PFT – policy change, continuous feedback from 2016-2021, and different actors. Specifically, these legal cases were filed against foreign diplomats who were found to be immune under FSIA even though they committed substantiated crimes. In addition, these legal cases could affect FSIA policy change by giving continuous feedback as to errors or omissions of FSIA.

Theme 3 in this study was legal cases filed by consulate employees against consulate employers who are foreign diplomats. The legal cases analyzed within this theme are continuous feedback from 2016-2021, involve different actors, and can affect policy change to FSIA. Also, Theme 4 was foreign diplomat human trafficking/abuse of domestic workers which involves legal cases of victims who mainly offer negative feedback about FSIA which can affect policy change. Theme 5 was remanded cases and relates to all PFT characteristics being that these cases involve errors made in rendering a FSIA decision. Thus, this directly affects FSIA policy change, offers continuous feedback from the courts, and cases are filed by different victims.

PFT combines existing policies with changes that contribute to the policymaking process (Weible & Sabatier, 2017). My study has revealed the areas of ambiguity of FSIA where DOS can use this information to implement changes to FSIA. Thus, public administrators can use the findings of this study as a tool to correct the ambiguity of FSIA. This study also revealed that foreign diplomats and others are taking advantage of the immunity it now offers. Due to ambiguous verbiage of FSIA, a large part of this community does not respect nor follow the laws and regulations of FSIA. Thus, FSIA

immunity is used as a license to commit unprosecuted crimes. In addition, this study revealed that violation of the law by foreign diplomats and foreign states has included espionage, human trafficking, child custody law violations, breach of contract, cybersecurity, workplace harassment, and workplace discrimination.

Up until *Samantar v. Yosuf et al.*, (2010), FSIA has not been sufficient to deal with the ambiguities of immunity determinations as espoused by Bergmar (2014). This study revealed prior rulings did not determine the responsibility of public administrators in deciding which officials can be tried in U.S. courts. Specifically, the *Samantar v. Yosuf et al.* decision did not address the ambiguity of FSIA. The fact that Kurland (2019) stated that diplomatic immunity began with the Vienna Convention which included several international treaties observed by most nations, diplomats, and embassy staff, this study concluded that FSIA affords additional special protections and privileges. Specifically, foreign diplomats cannot be arrested, charged, or levied a tax by the United States. This legal case aligns with both Theme 2 and Theme 5.

In addition, Denza (2016) was correct that some forms of diplomatic immunity are extremely important. Thus, public administrators need to make sure foreign diplomats and our own diplomats overseas are protected and are not subjected to arrest for political reasons. All forms of diplomatic immunity are important and should be recognized by foreign diplomats in the United States and our diplomats working overseas. Also, the legal cases analyzed show Denza was correct that public administrators are encountering FSIA ambiguity and that any foreign operative can claim and be granted immunity in the United States by invoking FSIA as a defense to prosecution. A review of the literature

showed that most previous research focused on commercial activities' violations, human trafficking, cybercrimes, and espionage involving foreign diplomats.

These legal case decisions offer recommendations to the lower courts as to the correct interpretation of FSIA. Thus, in *Architectural Ingenieria Siglo XXI, LLC v. Dom.* (2019), defendant Dominica Republic (DR) was able to get the default judgment vacated even though there was a delay in answering the complaint. The appellate court ruled that it was excusable neglect where the judgment was based on an erroneous formation of the contract.

The plaintiffs did prevail in their argument that DR had waived sovereign immunity, and the court did have subject matter jurisdiction of the suit. The appellant court voided the district court's judgment not because it did not have subject matter jurisdiction. The appellant court voided the district court's judgment due to documents received independent of the contract. Thus, the appellate court ruled that defendant had waived its sovereign immunity. This legal case aligns with Theme 5 which is remanded cases and was returned to the lower court for correction due to error in FSIA decision.

In the remanded case of *Eisenberg v. Permanent Mission of Eq. Guinea* (2020), the appellant court held that the district court correctly ruled that it had jurisdiction over plaintiffs' suit for damages and other relief based on intrusions into their property. These intrusions were caused by trespass of intrusive features installed on a property owned by a foreign state. Thus, plaintiffs' claims did arise out of alleged property trespasses by this foreign state that indirectly questioned right of possession and other property rights of both parties. Also, the court ruled that plaintiffs' complaint was a good example of

FSIA's immovable property exception. In addition, the court ruled that the defendant submitted no viable evidence that rebutted the conclusion that plaintiffs' dispute concerned rights in immovable property. This is another legal case that aligns with Theme 5 which is remanded cases that was returned to the lower court for correction.

In the remanded case *Everard Findlay Consulting_LLC v. Republic of Surin.* (2020), the court held that the district court erred in holding that FSIA barred plaintiff's suit because it fell under FSIA's commercial activity exception. The defendants' offer and acceptance of the contract and promotional services breach of agreement with plaintiff did fall within the commercial activity exception of FSIA. Thus, plaintiff's commercial activity had substantial contact with the United States. This is another legal case that aligns with Theme 5 which is remanded cases stating the lower court erred in its FSIA decision.

In the remanded case *Hosn v. Iraq Ministry of Transp.* (2017), the court held that although a defendant normally has the burden of claiming its status as a foreign state for purposes of FSIA immunity, the district court assumed that defendant was indeed a foreign state. Also, plaintiff did not challenge the court's assumption which is a presumption of immunity under FSIA. Thus, the burden of production shifted to plaintiff for rebuttal to show that an enumerated exception applied under FSIA. If plaintiff had been successful in showing that an exception applied to his business activity with defendant, the burden would have shifted to defendant to demonstrate that its actions did not satisfy the claimed exception.

The burden of persuasion would then have remained with defendant to show that it was immune from suit under the FSIA. Thus, the commercial activity exception is relevant which is an activity carried on in the United States. by a foreign state–IMT–and was an act performed in the United States connected to commercial activity of a foreign state. It does not matter that this commercial activity took place outside the territory of the United States or elsewhere because that act caused a direct effect in the United States. Thus, this case aligns with Theme 5 which is remanded cases.

In the remanded case *Kumar v. Republic of Sudan* (2017), the court held that the district court erred in denying the defendant's motion to vacate the default judgments entered against it. Thus, the district court lacked personal jurisdiction over defendant because plaintiffs did not comply with the "addressed and dispatched" requirement of FSIA when plaintiffs submitted a mailing packet by the clerk of court via the United States' Postal Service certified mail system to the Sudanese embassy in D.C. This method would violate the inviolability provision of the Vienna Convention on Diplomatic Relations, and there was no evidence in the record that defendant waived that provision. This case aligns with Theme 5 which is remanded cases that was returned to the lower court for correction due to error in FSIA decision.

In remanded case *Muthana v. Pompeo* (2020), the court held that granting the government summary judgment as to a father's action seeking permission for daughter and grandson to return to the United States and a determination that they were U.S. citizens was proper. The court stated that because the father possessed Vienna Convention on Diplomatic Relations diplomatic immunity when his daughter was born in

the United States, that status rendered the daughter ineligible for birthright citizenship. Also, the son was born on foreign soil to parents who were not citizens and that made the son ineligible for citizenship under U.S. law. Thus, the father's claim was properly dismissed for lack of standing. The court also stated that the father failed to allege a personal U.S. constitutional right affected by its enforcement if he sent money to his daughter and grandson. According to the court, the remanded mandamus petition had to be dismissed due to lack of jurisdiction. Also, this legal case aligns with Theme 5 which is remanded cases.

In remanded case *Qandah v. Johor Corp.* (2020), the court held that an employee's action against a foreign organization and official alleging fraud in the inducement, discrimination, and intentional infliction of emotional distress, the district court properly found that the established foreign status of the organization was an instrument of a foreign state under FSIA. Thus, the district court erred in granting the motion to dismiss because it placed the burden of persuasion on the employee. Also, the court stated that although the burden moved to the employee to show an exception under the FSIA, the foreign organization and official had the ultimate burden of persuasion. This legal case also aligns with Theme 5 which is remanded cases where the lower court erred in FSIA decision.

In remanded case *TIG Ins. Co. v. Republic of Arg.* (2020), the court held that the district court's denial of plaintiff creditor's motion for emergency relief was vacated and remanded. This action by the court was due to the property being used for a commercial activity in the context of FSIA and depended on the totality of the circumstances existing

when the attachment motion is filed. Specifically, this action did not depend on when the writ would issue but when filed. Thus, the district court applied the incorrect legal standard, and the court had to determine at the time of filing whether the totality of the circumstances supported depicting the property as one used for a commercial activity. If such is the case, then it must be determined if defendant's defenses, bar attachment of its property. Another legal case that aligns with Theme 5 which is remanded cases that was returned to lower court due to error in FSIA decision.

In remanded case *Vera v. Banco Bilbao Vizcaya Argentaria S.A.* (2019), the court held that in the families' action, pursuant to § 201(a) of the Terrorism Risk Insurance Act of 2002, used to enforce several default judgments obtained against the Cuban government in Florida state courts. Thus, the district court erred in failing to independently analyze the record to determine if the exception to sovereign immunity provided for in FSIA applied because the jurisdictional facts were not fully and fairly litigated in the Florida actions. In addition, the court stated that the families failed to establish that Cuba was designated as a state sponsor of terrorism resulting from the pre-1982 acts underlying their judgments or that the acts underlying their judgments occurred after 1982. Thus, without presenting these facts, the state-sponsored terrorism exception under FSIA did not permit the court to exercise jurisdiction over Cuba's assets. This legal case aligns with Theme 5 which is remanded cases that was returned back to lower court due error in FSIA decision.

In remanded case *Vera v. Republic of Cuba* (2017), the court held that the DOS did not designate Cuba a state sponsor of terrorism until 1982--6 years after plaintiff's

father was killed--and the record before the court failed to establish that Cuba was designated a state sponsor of terrorism resulting from father's death. Thus, the terrorism exception of FSIA did not apply and was the only potential basis for subject matter jurisdiction in the case. According to the court, defendant was immune from plaintiff's federal action, the district court lacked subject matter jurisdiction to enter judgment against it, and the subpoena issued to enforce the invalid judgment was void. Also, the court stated that plaintiff's other claim of Full Faith and Credit Act had no bearing on the question of whether a district court has subject matter jurisdiction to hear a claim. This is the last legal case that aligns with Theme 5 which is remanded cases that was returned to lower court for correction in FSIA decision.

There were 45 frivolous cases brought by *pro se* inmates and fringed groups. Specifically, the courts ruled that all cases regarding the Moorish Movement were filed due to misplaced assertions. The courts' rulings on these cases are consistent. According to the courts, there is a Moroccan--American Treaty of Peace and Friendship on the books in the U.S. which was ratified by President Andrew Jackson in 1837. This treaty does not contain any language implying that any citizen of the U. S. or its territories is immune from prosecution. Also, as to these petitioners invoking the courts' diversity jurisdiction under FSIA, this study revealed this assertion is also misplaced.

The convoluted act of *pro se* prisoners invoking diplomatic immunity, the courts have ruled that allegations of a *pro se* complaint are held to less stringent standards than formal pleadings composed by attorneys. The courts are straightway stating these matters are obviously frivolous. Also, the courts stated that a finding of factual frivolousness is

appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, regardless of whether there are judicially noticeable facts available to contradict them. In additions the courts stated that even if these claims are not frivolous these complaints are deficient because they fail to establish subject matter jurisdiction and state a viable claim upon which relief can be granted.

There were 55 FSIA immunity cases where foreign diplomats were committed crimes and brought to court, but due to FSIA immunity could not be prosecuted and the case was dismissed. Even though these cases are egregious, the cases are often dismissed due to FSIA immunity where the courts do not have jurisdiction. The only time these cases are successful are when the matter is regarding commercial activity, then the courts are ruling under FSIA commercial activity exception where the court has jurisdiction.

The ten domestic workers abuse cases were classified as human trafficking because the actions of the foreign diplomat/foreign state were so egregious. These workers were brought over to the U.S. and treated as slaves. The foreign diplomats were aware that FSIA immunity gave them protection from prosecution and the case would be dismissed (Vanderberg & Bessell, 2016). Thus, NYC created a separate statute that affords domestic workers extra protections, and the U.S. has written in a special protection law within the human trafficking laws that provides extra protections for these workers. Making it possible for these workers to receive a remedy without being blocked by FSIA immunity (N.Y. State Senate Bill S5064, 2021).

The thirteen consulate employee cases were often a result of unpaid wages, sexual harassment, workplace harassment, and workplace discrimination, where the foreign

diplomats were able to invoke immunity and the employees left without any recourse. These cases are often filed under FSIA commercial activity exception claiming breach of contract, but the courts ruled that these cases do not fall within FSIA commercial activity exception and are dismissed. Specifically, these cases are ruled as non-commercial in nature and thus the consulate is entitled to immunity under FSIA.

Limitations of Study

An issue did arise from execution of the study that contributed to limitations to trustworthiness. The issue was not having access to personal interviews which made the study somewhat constraining for this research but did not affect or influence the results. Also, during the initial stages of the pandemic, many workers moved the majority of their job duties to their home (Haynes et al., (2021). Conducting personal interviews is a cause for future research which will contribute additional information to the results. The limitations in a research study are the constraining aspects that may have influenced or affected the research (Creswell, 2012). Thus, this study involved the analysis of legal cases to determine the best policy implementation needed to clear up ambiguities in FSIA.

This study was limited to the years of 2016 through 2021, and I reviewed data from all 50 states but focused on the northeastern region of the U.S. The biases were eliminated by relying on court decisions that were rendered by U.S. courts. The legal cases were meticulously assessed and examined subjectively and so was the interpretation of the data to protect the credibility of the research (Bowen, 2014). Also noted previously as a limitation is the fact that some of the participants may have had a

problem with recollection of events and situations that could have rendered questionable responses. Thus, no interviews were held, and this limitation did not materialize.

Recommendations

Further research could elaborate on the types of crimes not prosecuted due to FSIA committed by foreign diplomats. Further research could also take a historical perspective and ask if FSIA immunity is being granted as its intended enactment and whether it significantly changed in the last several decades. Further research could explore why incarcerated citizens and fringe groups in U.S. believe FSIA is a viable defense from prosecution for them. Thus, this would provide valuable information to public administrators who are tasked with granting immunity. In addition, further research could provide information as to the volume and types of crimes foreign diplomats are committing and not being prosecuted.

Finally, further research would enhance knowledge about how DOS determines who is entitled to FSIA immunity. Further research can highlight the dynamics of knowledge dissemination, sharing, and exchange among the public administrators. Also, asking both individually and as a group what sort of setup the public administrators need to support the knowledgeability of FSIA. In addition, these public administrators could and should examine the processes in which information and data are turned into actionable evidence to enhance their role in granting FSIA immunity.

For future research it is recommended that interviews be used in order to obtain lived experiences of public administrators who are responsible for granting FSIA immunity. Thus, future research is recommended that obtains interview data from

participants located in a northeastern, metropolitan city that is in close proximity to a U.S. embassy/consulate. Interviews should include participants from a variety of departments that deal with FSIA issues. These would include parking authority, housing authority, tax assessor's office, advocates for domestic workers, and advocates against impaired driving.

Implications

As to the implications for social change, this research has delved into the underpinnings of U.S. courts by highlighting legal cases decided from 2016 through 2021 pertaining to FSIA. This research has highlighted the legislative aspect of FSIA by analyzing legal cases addressing the statutory intricacies. This research has highlighted abuse of domestic workers by foreign diplomats which could aid advocate groups in obtaining additional protections for these workers. This research may lead or contribute to social change by highlighting ambiguity of FSIA in which the players can embrace and implement changes to FSIA and other statutes. This knowledge my spur interest by public administrators to affect changes to FSIA which may cause a reduction in frivolous and remanded cases. Thus, the knowledge from this study may compel public administrators to implement the recommendations gathered from FSIA court decisions.

This study found that although the rule of law is fast becoming a foundational determinant of health, it is one which engages other socioeconomic, political, and cultural issues related to health outcomes. In addition, the implications for social change in this study may include encouraging policymakers to consider revising FSIA to account for

continuous problems encountered and documented by public administrators when granting immunity to foreign diplomats.

The methodological implication of the study is that content document analysis is useful in addressing policy related work because bias is eliminated by analyzing decisions of legal cases that have established legal precedent. The theoretical implications of this research materialized using content analysis of documents. Interviews can be used in further studies for analysis to gather information about lived experiences of participants.

This study was of an exploratory and interpretive nature, thereby raising several queries for future research, both in terms of theory enhancement and concept validation which will be improved by using feedback from interviews. Additional research is encouraged to refine and further elaborate the findings of this study.

Given the sampling strategy focused on analyzing 180 court decisions, this study could be extended in terms of statistical analysis utilizing the frequency of the theme diplomatic immunity that grants FSIA immunity versus the theme Vienna Conventional Diplomatic Relations (VCDR) granted immunity. This study offers the opportunity to refine and validate the perceptions and constructs that emerged from the inductive analysis. One could also ask whether and to what extent it is possible to identify different legal cases that go beyond ambiguity of FSIA.

In addition, future research could, specifically, explore foreign officials who are involved in human trafficking/domestic workers' abuse. This study briefly addressed this issue and highlighted cases from 2016-2021 but did not concentrate on the intricacies of

this issue. Another recommendation for future studies would be to expand on DOS' annual crimes report that document crimes committed by foreign diplomats. Also, the NYC Department of Finance (DOF), Parking Unit's annual reports regarding illegal parking and unpaid parking fines by foreign diplomats should be included.

Thus, the challenges foreseen in this study were that the DOS would deny the FOIA request for its annual crimes report or delay responding to it. Under federal law DOS is required to respond within 20 days of a FOIA request and must supply legitimate information to the requestor. My FOIA requests to both the DOS for annual crimes reports and NYC DOF Parking Unit's illegal parking reports were met with limited success due to staffing shortages caused by the pandemic. Hence, both requests were delayed or did not result in information being provided. To alleviate this problem, it is recommended that all FOIA requests be submitted immediately once IRB approval has been received. I received three extensions to a FOIA request sent to New York City, Department of Finance stating the FOIA request would be acted upon.

The first FOIA request was sent out on December 17, 2021, and an email was received a week later requesting an extension to February 24, 2022. On February 24, 2022, I received an extension to April 7, 2022. Then on April 7, 2022, I received an extension to May 19, 2022. Then on May 19, 2022, I received an extension to July 1, 2022. Also, on December 21, 2021, I sent a FOIA request to the U.S. DOS and received an email on February 16, 2022 that the response is delayed due to short staff. On May 14, 2022, I received another email that stated the request had been delayed with no specific

date being given as to receiving the reports. No documents were received from DOS nor NYC-DOF.

Another challenge noted in the Proposal was that DOS would release a general list of all crimes committed without identifying the crime as being committed by a diplomat. This challenge never materialized due to not receiving any response to the FOIA request from DOS.

The findings of this study benefits both DOS and U.S. Congress by highlighting needed changes to FSIA that will enhance the efficiency and alter the process in prosecuting these non-prosecutable crimes committed by foreign diplomats. Hence, the present ambiguities in policy of FSIA is enabling foreign diplomats to perpetuate crimes and not be prosecuted. It was the intent of this study that this research would encourage DOS and U.S. Congress to review the findings and use them as a tool to clear up the ambiguity of FSIA and bring this statute up to 21st century demands and challenges.

Conclusion

This study reviewed 180 legal cases from 2016 through 2021 from U.S. district courts and U.S. appellate courts. The decisions clearly reveal ambiguity of FSIA is a problem. The study reviewed 45 frivolous cases brought by *pro se* plaintiffs or incarcerated citizens, 11 remanded cases sent back to lower court due to error, six domestic workers abuse by foreign diplomats, 13 consulate employee cases, and 39 cases dismissed for lack of subject matter jurisdiction–FSIA immunity. In the U.S. diplomatic immunity started in the 19th century when the Vienna Convention was created. History

shows that diplomats of sovereign states have always been bestowed certain rights and privileges (Roberts, 2017).

In 1963 the United Nations adopted the Vienna Convention on Consular Relations which contains 53 articles (Vandenberg & Bessell, 2016). Also, the Vienna Convention on Consular Affairs was used as a guide to make FSIA determinations. Thus, treaties were the breadth of diplomatic law, especially in the U.S., before the creation of FSIA. In fact, the judicial and executive branches of the U.S. government were chosen to make immunity determinations. Confusion as to immunity privileges was rampant at this time, and the trend was that diplomats often became involved in conspiracies against the host state. Thus, the custom of states was to expel the diplomat due to the diplomat could not be tried or punished (Denza, 2016). This was at a time when abuse of diplomatic immunity was as serious a problem as it became in the 20th century (Denza, 2016). Thus, policymakers should consider revising FSIA to account for continuous problems encountered and documented by public administrators when granting immunity to foreign diplomats and the remanded cases analyzed in this study.

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Appendix A: Participation Invitation Letter

Dear Invitee,

My name is Barbara Ahmed, and I am a doctoral student in Walden University's School of Public Policy and Administration, Law and Public Policy Program. I am kindly requesting your participation in a doctoral research study that I am conducting entitled "Public Administrator Perceptions of the Foreign Sovereign Immunities Act of 1976 (FSIA).

The intention is to document issues encountered when a foreign official is arrested in the U.S. and invokes FSIA as a defense. The study involves participating in an Internet interview about the ambiguity of FSIA when assessing fines on foreign officials. Participation is completely voluntary, and you may withdraw from the study at any time.

If you would like to participate in the study, please read and sign and return the included Consent Form. Your participation in the research will be of great importance to assist in social change in ensuring that the ambiguity of FSIA is corrected.

Thank you for your time.

Sincerely,

Barbara Ahmed, M.S.,
Doctoral Student
Walden University

Appendix B: Demographic Questionnaire

1. What is your current employment status?

    a. Full-time employment

    b. Part-time employment

    c. Self-employed

    d. Student

    e. Retired

2. What is or was your employment position?

3. What agency do you work for?

    a. Within the parking authority

    b. Within the housing authority

    c. Within the property assessor's office

    d. Within Mothers Against Drunk Driving

    e. Within National Domestic Abuse Alliance

Appendix C: Interview Questions

1. How do you feel about the Foreign Sovereign Immunities Act of 1976?
2. Can you describe a time when you encountered a foreign diplomat and needed assistance to interpret the Act to grant immunity?
3. What specific problem did you face in interpreting the Act when a foreign diplomat invoked immunity?
4. Tell me more about your interaction with foreign diplomats.
5. What recommendations do you suggest for improvement of the FISA?
6. Please list all violations in the last five years that have been effectuated on foreign officials – there is no limit so take your time.
7. Out of all these violations, how many invoked FSIA as a defense?
8. Out of all these violations, how many have had FSIA immunity reversed due to lawsuit?
9. Please state the instances where you had to confer with a DOS staff before granting FSIA immunity?
10. Please state the guidebook that you relied on when making your decision to grant FSIA immunity to these foreign officials and whether it was difficult to follow?
11. Is there anything else you would like to add before we end?

Thank you for that valuable information.

Appendix D: Site Permission Letter

Dear Invitee:

I am completing a PhD dissertation at Walden University, Minneapolis, Minnesota. The dissertation title is: Public Administrator Perceptions of the Foreign Sovereign Immunities Act of 1976.

I would like your permission to interview staff to speak about their experience with FSIA when granting immunity from citations and fines to foreign diplomats. The interview will only take an hour and will be an Internet, electronic recording.

The requested permission extends to all staff from your office. If these arrangements meet with your approval, please sign this letter where indicated below and return it to me in the enclosed return envelope.

Thank you very much.

Sincerely,

B. L. Ahmed, M.S.
Doctoral Student

PERMISSION GRANTED FOR THE INTERVIEW REQUESTED ABOVE:
____

Date: ____________

Appendix E: Courts with Three or More FSIA Decided Cases

U.S. District Court, New York

1. *Mashud Parves Rana v. Islam*
   United States District Court for the Southern District of New York
   March 1, 2016, Decided; March 1, 2016, Filed 14-Cv-1993 (SHS)

2. *Rana v. Islam*
   United States District Court for the Southern District of New York
   May 12, 2016, Decided; May 12, 2016, Filed 14-Cv-1993 (SHS)

3. *United States v. Khobragade*
   United States District Court for the Southern District of New York
   March 12, 2014, Decided; March 12, 2014, Filed 14 Cr. 008 (SAS)

4. *Ayekaba v. Ndong Mba*
   United States District Court for the Southern District of New York November 25, 2019, Decided; November 25, 2019, Filed 1:18-cv-12040 (PGG) (SDA)

5. *Bardales v. Consulate General*
   United States District Court for the Southern District of New York
   September 28, 2020, Decided; September 28, 2020, Filed 1:17-cv-8897 (ALC)

6. *Bateman v. Permanent Mission of Chad*
   United States District Court for the Southern District of New York
   March 15, 2021, Decided; March 15, 2021, Filed 18-CV-00416 (PMH)

7. *Broidy v. Global Risk Advisors LLC*
   United States District Court for the Southern District of New York
   March 31, 2021, Decided; March 31, 2021, Filed 1:19-cv-11861 (MKV)

8. *Figueroa v. Ministry for Foreign Affairs of Swed*.
   United States District Court for the Southern District of New York
   November 26, 2016, Decided; November 28, 2016, Filed 16-cv-00682 (JGK)

9. *Fontaine v. Permanent Mission of Chile*
   United States District Court for the Southern District of New York
   August 18, 2020, Decided; August 18, 2020, Filed 7 Civ. 10086 (AT)

10. *Georges v. U.N.*
    United States Court of Appeals for the Second Circuit March 1, 2016, Argued; August 18, 2016, Decided No. 15-455-cv

11. *Green v. First Liberty Ins. Corp.*
United States District Court for the Eastern District of New York
May 7, 2018, Decided; May 8, 2018, Filed 17-CV-6975 (NGG) (CLP)

12. *Hilt Constr. & Mgmt. Corp. v. Permanent Mission of Chad to the United Nations* United States District Court for the Southern District of New York
June 14, 2016, Decided; June 15, 2016, Filed 15 CV 8693 (VB)

13. *Kingdom of Morocco v. United States*
United States District Court for the Southern District of New York, October 18, 2019, Decided; December 11, 2019, Filed No. 19-mc-00396 (NSR)

14. *Lewis v. Permanent Mission of Cote D'Ivoire to the United Nations*
United States District Court for the Southern District of New York
August 7, 2019, Decided; August 7, 2019, Filed 19 Civ. 1375 (GBD)

15. *Martinez v. Consulate Gen. of Algeria in N.Y.*
United States District Court for the Southern District of New York
November 15, 2016, Decided; November 15, 2016, Filed 16 Civ. 2390 (HBP)

16. *Mourmouni v. Permanent Mission*
United States District Court for the Southern District of New York
September 28, 2021, Decided; September 28, 2021, Filed 20-CV-3603 (JPO)

17. *Pharo Gaia Fund, Ltd. v. Bolivarian Republic of Venez.*
United States District Court for the Southern District of New York
October 7, 2021, Decided; October 7, 2021, Filed 20 Civ. 8497 (AT)

18. *United States v. Zhong*
United States District Court for the Eastern District of New York
November 26, 2018, Decided; November 26, 2018, Filed 16-cr-614 (DLI)

19. *United States v. Aldrich*
United States District Court for the Western District of New York
June 3, 2021, Decided; June 3, 2021, Filed 20-CR-6169CJS

20. *United States v. Khobragade*
United States District Court for the Southern District of New York
March 12, 2014, Decided; March 12, 2014, Filed 14 Cr. 008 (SAS)

21. *Yashua Ank Bey El v. Knuckles, Komoshinski, Manfro LLP*
United States District Court for the Southern District of New York
October 1, 2019, Decided; October 1, 2019, Filed 19-CV-7632 (CM)

<u>United States District Court, District of Columbia</u>

1. *Leonard A. Sacks & Assocs._ P.C. v. Int_l Monetary Fund*
   United States District Court for the District of Columbia
   March 26, 2021, Decided; March 26, 2021, Filed Civil Action
   No. 20-2266 (TJK)

2. *Miango v. Democratic Republic of Congo*
   United States District Court for the District of Columbia
   June 29, 2020, Decided; June 29, 2020, Filed Civil Action No. 15-1265 (ABJ)

3. *Micula v. Gov't of Rom.*
   United States District Court for the District of Columbia November 20, 2020, Decided; November 20, 2020, Filed Case No. 17-cv-02332 (APM)

4. *TIG Ins. Co. v. Republic of Arg.*
   United States Court of Appeals for the District of Columbia Circuit
   May 13, 2020, Argued; July 28, 2020, Decided No. 19-7087

5. *United States v. Sharaf*
   United States District Court for the District of Columbia
   May 2, 2016, Decided, Criminal No. 15-mj-139 (BAH)

6. *United States v. Tai Tan Nguyen*
   United States District Court for the District of Columbia
   September 18, 2018, Decided Case No. 1:17-cr-00238 (TNM)

7. *Hill v. Smith*
   United States District Court for the District of Columbia
   March 3, 2016, Decided; March 3, 2016, Filed Case: 1:16-cv-00466

8. *Howard v. Smith*
   United States District Court for the District of Columbia
   March 30, 2016, Decided; April 1, 2016, Filed Case: 1:16-cv-00617

9. *Brown-Bey v. North Carolina*
   United States District Court for the District of Columbia
   April 14, 2017, Decided Case: 1:17-cv-00722 (G-Deck)

10. *In re Perry*
    United States District Court for the District of Columbia
    July 6, 2017, Decided; July 6, 2017, Filed Civil Action No. 17-1241 (UNA)

United States District Court for the Eastern District of Virginia, Alexandria Division

1. *Butigan v. Al-Malki*
   United States District Court for the Eastern District of Virginia, Alexandria Division, May 12, 2014, Decided; May 12, 2014, Filed Case No. 1:13-cv-00514-GBL-TCB

2. *Hussain v. Irfan Shaukat and Rania Shaukat*
   United States District Court for the Eastern District of Virginia, Alexandria Division; Case No. 1:16cv322 LOG/MSN

3. *Khadija Laamime v. Sanaa Abouzaid, et al.*
   United States District Court for the Eastern District of Virginia, Alexandria Division; Case No. 1:13-cv-793 CMH/JFA

4. *U.S. v. Amal*
   United States District Court for Eastern District of Virginia Alexandria Division; Case No. 1:14-MJ-118

5. *Salman v. Saudi Arabian Cultural Mission*
   United States District Court for the Eastern District of Virginia, Alexandria Division January 17, 2017, Decided; January 17, 2017, Filed Case No. 1:16cv1033 (JCC/IDD)

United States District Court, California

1. *Moncada v. Pompeo*
   United States District Court for the Central District of California
   February 3, 2020, Decided; February 3, 2020, Filed Case No. 2:19-cv-01293-AB-AGRx

2. *Simon v. California*
   United States District Court for the Central District of California
   February 4, 2021, Decided; February 4, 2021, Filed Case No. 2:21-cv-00746-JAK-JC

3. *Simon v. Cal.*
   United States District Court for the Central District of California
   April 7, 2021, Decided; April 7, 2021, Filed Case No. 2:21-cv-00746

4. *Fisher v. Dir. of Ops of CDCR*
   United States District Court for the Eastern District of California February 2, 2016, Decided; February 3, 2016, Filed Case No.: 1:14-cv-00901-BAM PC

5. *Bledsoe v. Guiliani*
   United States District Court for the Eastern District of California January 23, 2020, Decided; January 23, 2020, Filed No. 2:19-cv-02553-TLN-CKD PS

U.S. District Court, Texas

1. *Bekendam v. Tex.*
   United States District Court for the Northern District of Texas, Dallas Division, March 17, 2021, Decided; March 17, 2021, Filed Civil Case No. 3:21-CV-573-G-BK

2. *Brakchi v. Consulate General of the State of Qatar*
   United States District Court for the Southern District of Texas, Houston Division October 1, 2018, Decided; October 1, 2018, Filed, Entered Civil Action No. H-17-1926

3. *Harmouche v. Consulate Gen. of Qatar*
   United States District Court for the Southern District of Texas, Houston Division, June 12, 2018, Decided; June 12, 2018, Filed, Entered CIVIL ACTION NO. H-17-3698

4. *Thervil v. Jones*
   United States District Court for the Eastern District of Texas, Tyler Division April 26, 2018, Decided; April 26, 2018, Filed Civil Action No. 6:16cv1336

5. *Thervil v. Saldana*
   United States District Court for the Western District of Texas, San Antonio Division, April 5, 2017, Decided; April 5, 2017, Filed Civil Action No. SA-17-CV-00265-XR

U.S. District Court, Eastern District Washington

1. *Engle v. Grant Cnty. Sheriff's Office*
   United States District Court for the Eastern District of Washington January 26, 2016, Decided; January 26, 2016, Filed NO: 2:15-CV-245-RMP

2. *Wortham v. Holbrook*
   United States District Court for the Eastern District of Washington August 2, 2016, Decided; August 2, 2016, Filed NO: 2:16-CV-0073-TOR

3. *Engle v. Grant Cnty. Sheriff's Office*
   United States District Court for the Eastern District of Washington January 4, 2016, Decided; January 4, 2016, Filed NO: 2:15-cv-00245-JPH

U.S. District Court, Nevada

1. *Bernard-Ex v. Molinar*
   United States District Court for the District of Nevada, May 3, 2021, Decided; May 3, 2021, Filed Case No. 2:21-cv-00704-APG-NJK

2. *Bernard-Ex v. Molinar*
   United States District Court for the District of Nevada June 8, 2021, Decided; June 8, 2021, Filed Case No. 2:21-cv-00704-APG-NJK

3. *Gray v. United States DOJ*
   United States District Court for the District of Nevada April 17, 2020, Decided; April 17, 2020, Filed Case No.: 2:19-cv-00854-APG-BNW

U.S. District Court, North Carolina

1. *Brown-Bey v. North Carolina*
   United States District Court for the District of Columbia April 14, 2017, Decided; Case: 1:17-cv-00722 (G-Deck)

2. *Razzak v. Clelland*
   United States District Court for the Middle District of North Carolina September 12, 2016, Decided; September 12, 2016, Filed 1:16CV1042

3. *United States v. Taylor*
   United States District Court for the Western District of North Carolina, Asheville Division, June 2, 2021, Decided; June 2, 2021, Filed 1:20-cr-76-MOC-WCM-1

4. *United States v. Approximately $252,140.00 in United States Currency Seized from Coleman*
   United States District Court for the Western District of North Carolina, Charlotte Division, April 2, 2021, Decided; April 2, 2021, Filed Civil Action No. 3:18-CV-00646-DSC

Appendix F: Courts With Two or Less FSIA Decided Cases

1. *Fun v. Pulgar*
   United States District Court for the District of New Jersey, January 14, 2014, Decided; January 14, 2014, Filed Civil Action No. 13-3679 (SRC) (CLW)

   Davis v. Warden Camden Cty. Corr. Facility
   United States District Court for the District of New Jersey, June 19, 2020, Decided; June 19, 2020, Filed 1:19-cv-9083 (NLH)

2. *Lipenga v. Kambalame*
   United States District Court for the District of Maryland, December 19, 2014, Case No. 8:14-cv-03980-GJH

3. *Afr. Growth Corp. v. Republic of Angl.*
   United States District Court for the Southern District of Florida November 25, 2019, Decided; November 25, 2019, Filed Case No. 19-21995-Civ-WILLIAMS/TORRES

4. *Bechard v. Terner-Mnuchin*
   United States District Court for the District of Puerto Rico, January 31, 2019, Decided; January 31, 2019, Filed Civil No. 17-1432 (PAD)

5. *Nwoke v. Consulate of Nigeria*
   United States District Court for the Northern District of Illinois, Eastern Division February 27, 2018, Decided; February 27, 2018, Filed No. 17-cv-00140

   United States v. Salley
   United States District Court for the Northern District of Illinois, Eastern Division April 28, 2021, Decided Case No. 19-cr-797

6. *Phillips v. Oosterbaan*
   United States District Court for the District of Utah, December 18, 2020, Decided; December 18, 2020, Filed Case No. 2:18-cv-508

7. *Sheik v. Kan. City*
   United States District Court for the Eastern District of Missouri, Eastern Division October 15, 2020, Decided; October 15, 2020, Filed No. 4:20-CV-1477-SRW

   Engel v. Jefferson County Sheriff's Dep't
   United States District Court for the Eastern District of Missouri, Eastern

Division December 28, 2020, Decided; December 28, 2020, Filed No. 4:20 CV 1226 MTS

8. *Duncan v. Doe*
United States District Court for the District of Montana, Billings Division April 9, 2019, Decided; April 9, 2019, Filed Cause No. CV-18-160-BLG-SWP-TJC

9. *Hogquist v. Mercy Hosp*.
United States District Court for the District of Minnesota, October 12, 2021, Decided; October 12, 2021, Filed Case No. 21-cv-2080 (SRN/TNL)

10. *Bey v. Sec'y, United States State Dept.*
United States District Court for the Middle District of Florida, Orlando Division, June 26, 2018, Decided; June 27, 2018, Filed Case No. 6:18-mc-40-Orl-37TBS

Demos v. United States
United States District Court for the Middle District of Florida, Tampa Division, July 6, 2018, Decided; July 6, 2018, Filed Case No: 8:18-cv-1030-T-33JSS

11. *Hidalgo v. Overmyer*
United States District Court for the Western District of Pennsylvania, March 13, 2018, Decided; March 13, 2018, Filed Case No. 3:18-cv-49-KAP

12. *Smith-El v. Louisiana*
United States District Court for the Western District of Louisiana, Shreveport Division September 26, 2016, Decided; September 26, 2016, Filed CIVIL ACTION NO. 16-1310

13. *U.S. Bank Trust, N.A. v. Fonoti*
United States District Court for the District of Hawaii, June 29, 2018, Decided; June 29, 2018, Filed Civil No. 18-00118 SOM-KJM

14. *Davis v. United States*
United States District Court for the Northern District of Indiana, South Bend Division September 7, 2021, Decided; September 7, 2021, Filed Cause No. 3:21-CV-214-JD-MGG

15. *Nolt v. Foxall*
United States District Court for the District of Nebraska March 3, 2017, Decided; March 3, 2017, Filed 8:16CV561

United States v. Parsons
United States District Court for the District of Nebraska February 7, 2018, Decided; February 7, 2018, Filed 4:17CR3038

16. *Habin Yah ex rel. Smith v. Kentucky 14th Amendment Citizenship Ben.*
United States District Court for the Western District of Kentucky June 15, 2017, Decided; June 15, 2017, Filed Civil Action No. 3:17CV-P20-JHM

17. Holmes v. Grant Cty. Sheriff Dep't
United States District Court for the District of New Mexico September 26, 2018, Filed No. CIV. 18-0189 JB\GBW

Appendix G: Aggregate Coding References

Table G1

Aggregate Coding References

Codes	Number of coding references	Aggregate number of coding references	Number of items coded	Aggregate number of items coded
Codes\\Consulate Employees	41	41	13	13
Codes\\Court Denied Cases	31	31	25	25
Codes\\Cyber Security	2	2	1	1
Codes\\Dismissed Cases	48	48	32	32
Codes\\Domestic Workers	15	15	2	2
Codes\\Family Court	1	1	1	1
Codes\\Frivolous FSIA Immunity	191	191	25	25
Codes\\FSIA Immunity	88	88	42	42
Codes\\FSIA-Tucker Act	12	12	2	2
Codes\\Human Trafficking	14	14	5	5
Codes\\Incarcerated Citizens	50	50	6	6
Codes\\Moorish Movement	38	38	11	11
Codes\\NYC U.S. Dist. Court	30	30	20	20
Codes\\Other U.S. Dist. Courts	74	74	44	44
Codes\\Remand to Court	19	19	11	11
Codes\\U.S. Appellate Court	23	23	19	19

Appendix H: Figures

Figure H1

Frivolous FSIA Immunity

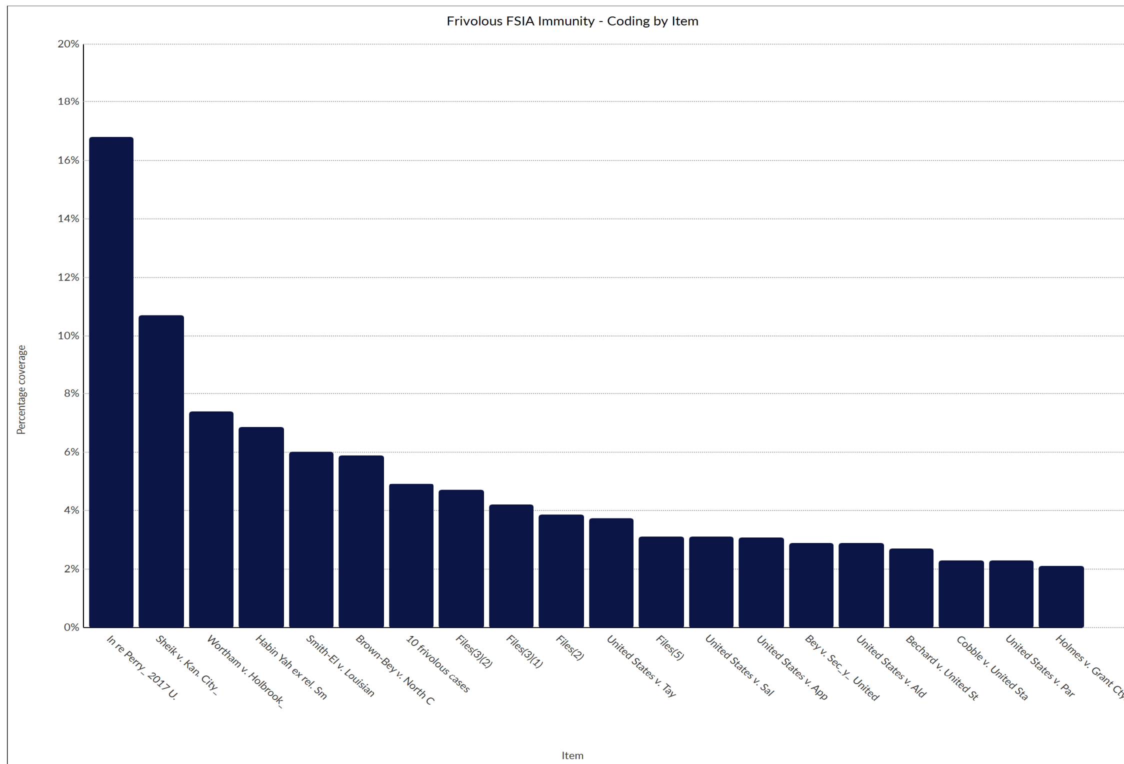

Figure H2

FSIA Immunity Cases

Figure H3

Consulate Employees

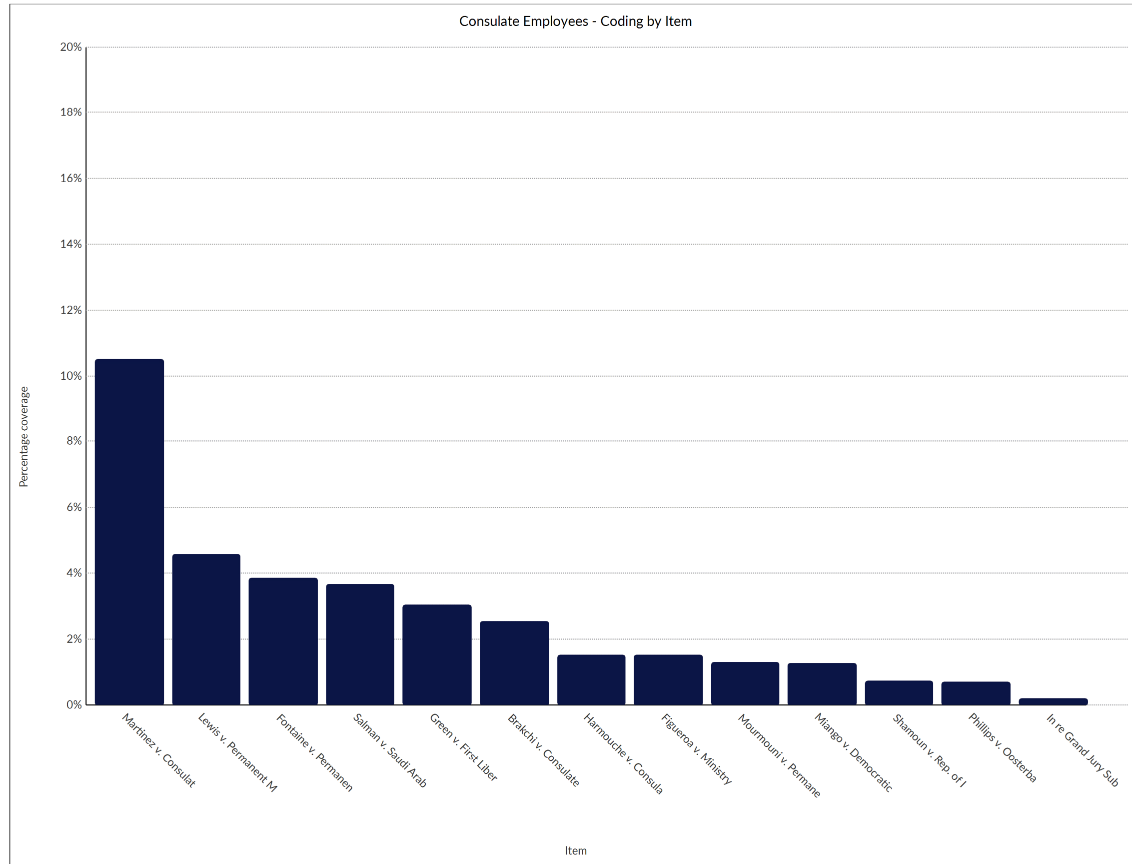

Figure H4

Human Trafficking

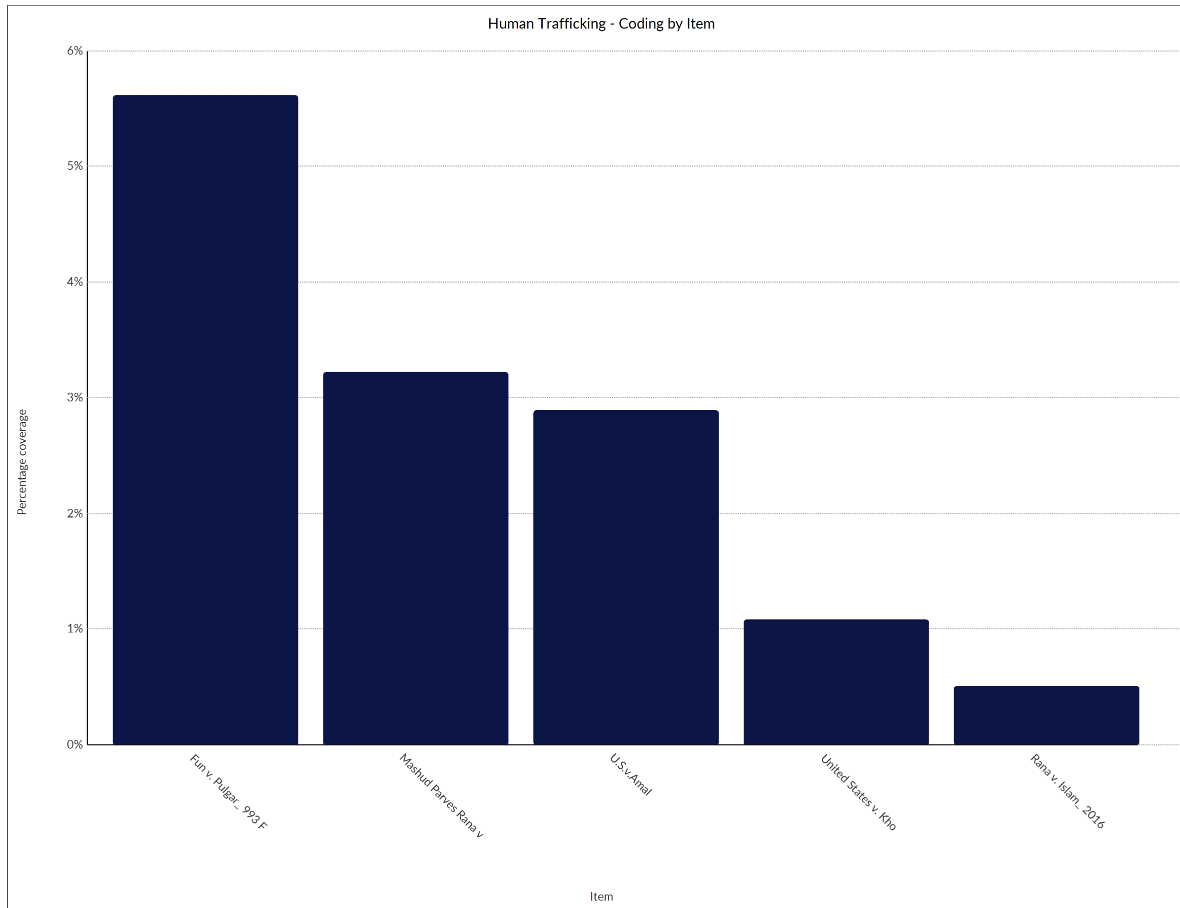

Figure H5

Remand to Court