

## CHAPTER 4

### RESEARCH FINDINGS

#### 4.1 Introduction

This chapter is broken down into three main major sections, each of which contains the descriptions of analysis of the data gathered. The data of the first research objective are described in Section 4.2. Section 4.3 covers the second objective's findings. The outcomes of the third research objective are provided in Section 4.4.

#### 4.2 The need to develop Fiqh Forensic module for Syariah Officers in Malaysian Syariah Legal Institutions

Under this section, the researcher has provided three subsections to elucidate the first research finding for this study. Subsection 4.2.1 dealt with the mining data from document, Subsection 4.2.2 dealt with the data collection procedure, and Subsection 4.2.3 dealt with the data analysis procedure.

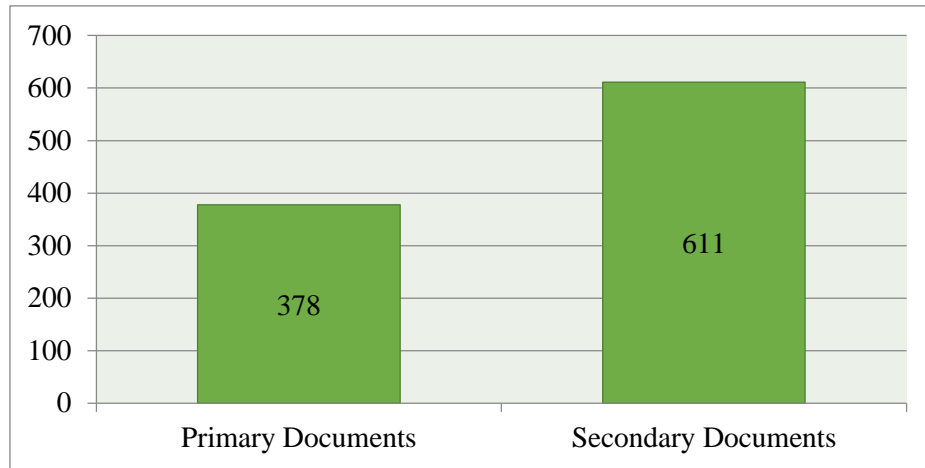
##### 4.2.1 Mining data from primary and secondary documents

On the previous paragraph 3.3, the researcher has briefly elucidated that mining data from documents is part of data collection method in qualitative research. Furthermore, on the same paragraph, it has been stated that this method has been recognized and applied by numerous qualitative methodologists and researchers.

This data gathering method has been utilised by the researcher to collect data for research purposes. As a result, the researcher gathered a total of 989 documents, both primary and secondary.<sup>10</sup> According to the Figure 12 below, 378 of these documents are primary, while the rest 611 are secondary.

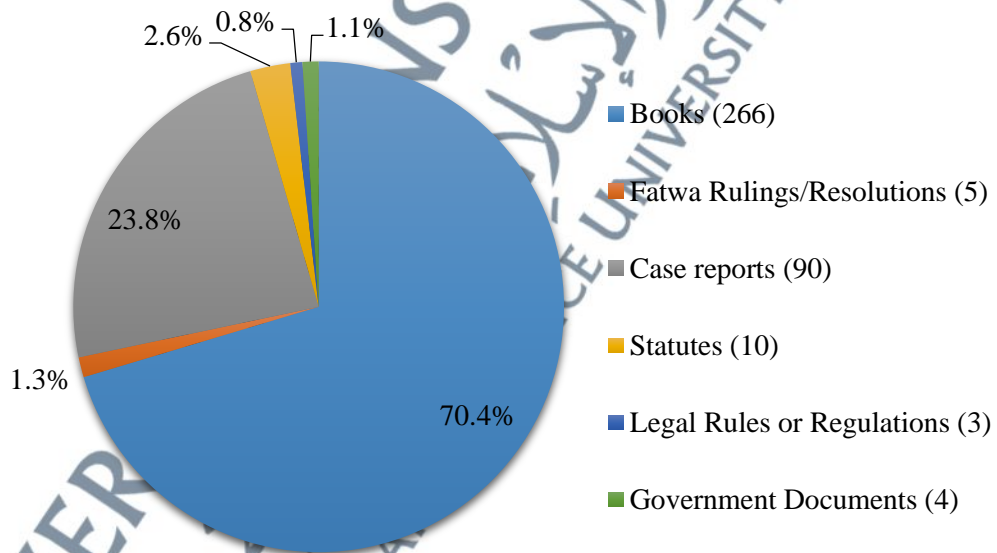
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<sup>10</sup> The researcher has attached the complete list of references from primary and secondary sources for the purpose of first research objectives and findings at the Appendices B of this thesis



**Figure 12:** The number of documents that the researcher successfully collected

After collecting 378 primary documents, researcher has classified them into several types of reference materials, including books, fatwas, case reports, statutes, regulations, and government documents. As shown in the Figure 13 below, each division is represented by the number of relevant primary documents and the percentage of coverage it represents.

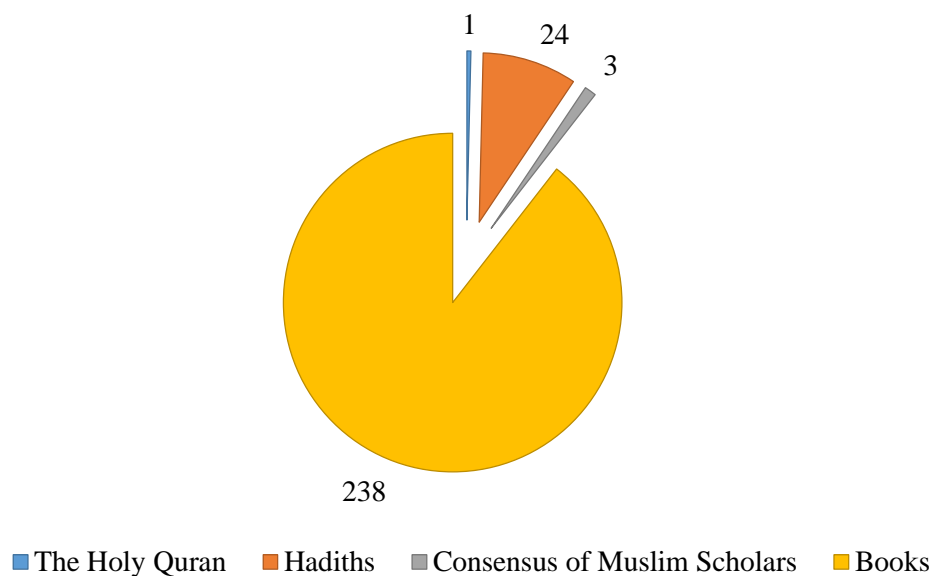


**Figure 13:** Types of primary documents that were collected

It's clear from this Figure that books have taken over the other reference materials. There are 266 books that make up 70.4% of the total. The 90 case reports were the second most, making up 23.8% of the total. In this way, it shows that the main sources of primary data for the researcher's study came from books and case

studies. Government documents, on the other hand, are the least referred when compared to the other sources. This is due to the fact that the government does not divulge a great deal of data or vital information pertaining to the scope of the study being conducted by researcher.

Additionally, the researcher has collected and referred to a total of 266 books that are significant in the field of Islamic law, including the Holy Quran, Hadiths, consensus of Muslim scholars, and major books written by scholars recognised throughout the ages from various schools of Islamic jurisprudence. The Figure 14 below illustrates these four specific types of primary documents in further detail.



**Figure 14:** The intricacies of the books that were referred to

The Quran referred to in this study is “The Meaning of The Holy Quran - Text, Translation & Commentary” by Abdullah Yusuf Ali. The Qur’anic Printing Control and Licensing Board (LPPPQ)<sup>11</sup> of the Ministry of Home Affairs Malaysia has validated and authorised this version of the Quran in terms of content and translation (Ministry of Home Affairs Malaysia, 2022).

Concerning the hadith books referred to by researcher, these are those that have been authenticated over the years by writers such as Malik bin Anas (d.

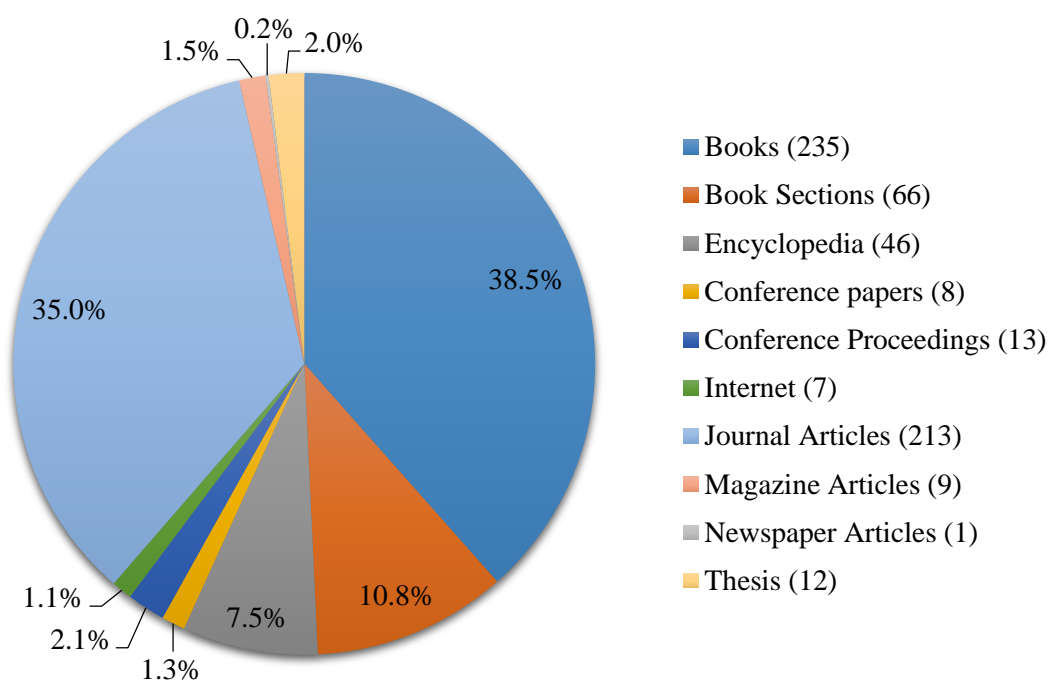
<sup>11</sup> According to H. Zakaria (2016), this board was established pursuant to the Printing of Qur’anic Texts Act 1986 [Act 326] and is responsible for a variety of functions relating to the printing, importation, sale, publication, and distribution of Qur’anic text and Qur’anic materials in Malaysia, including certifying, barring, or correcting the final proof of the Qur’anic text submitted for printing.

179AH/795CE), Abdul Razzāq al-Ṣanʿānī (d. 211AH/827CE), Ahmad bin Hanbal (d. 241AH/855CE), Abu Abdullah al-Bukhārī (d. 256AH/870CE), Muslim al-Hajjaj (d. 261AH/875CE), Ibnu Mājah (d. 273AH/887CE), Abu Dāud (d. 275AH/889CE), at-Tirmidhī (d. 279AH/892CE), an-Nasāī (d. 303AH/915CE), al-Dāruqutnī (d. 385AH/995CE), al-Ṭabrānī (d. 360AH/971CE), and al-Baihaqī (d. 458AH/1066CE).

Regarding Muslim scholars' consensus, the researcher has relied on a number of sources, the three most prominent are *al-Ijmā'* by Ibnu al-Mundhir (d. 319AH/931CE), *Marātibu al-Ijmā'i* by Ibnu Ḥazm (d. 456AH/1063CE), and *al-Iqnā'u fī Masā'ili al-Ijmā'i* by Ibnu al-Qattān (d. 628AH/1230CE), which all specifically deal with this matter.

Then, when looking for important books written by Muslim scholars who have been well-known for a long time from different schools of Islamic jurisprudence, researcher has considered and applied the advice from a number of experts in the field of Syariah law. A lot more about this will be explained in the next part. As a result, the researcher has now found 238 major reference books that are related to their research. These publications address a wide range of subjects, including Islamic exegesis of the Qur'an and Sunnah's legal contents, Islamic legal methodology, Islamic legal objectives, Islamic judicial and advocacy practises, as well as criminal prosecution and evidence.

Moving on to the 611 secondary documents that have been successfully gathered, it should be noted that all of these documents were gathered from secondary sources that may be grouped into ten types, as seen in the Figure 15 below. Accordingly, it is the same as in the section of the main text where the book dominates everything. References to these 235 secondary books dominated the other references, accounting for 38.5% of the total secondary document references. The second biggest number of references came from 213 journal articles, accounting for 35.0% of the total.



**Figure 15:** Types of secondary documents that were collected

Meanwhile newspapers, the internet, and conference papers have the fewest references. The combination of these three types of publications can only account for 2.6% of total secondary document references. Furthermore, it is evident that books and journal articles are secondary sources that supply researcher with a plethora of supplementary information to conduct the study.

#### 4.2.2 Procedure in collecting data from primary and secondary sources

Utilizing documentary material as data is not dissimilar to conducting interviews or doing observations. Since researcher intended to utilise this documentary material as data in this study, therefore, researcher applied the three procedures suggested by Merriam (2009), which are as follows: (1) identify the relevant materials; (2) ensure the documents are real and accurate; and (3) coding and cataloguing the documents.

##### 4.2.2.1 Identifying the relevant materials

The initial stage in the procedure is to identify pertinent materials. This is often a methodical approach that develops organically from the subject of investigation. In fact, earlier scholars like Ibnu Jamā'ah al-Kinānī (d. 733 A.H./1332 C.E.), al-'Almawī (d. 981 A.H./1573 C.E.), and Badruddin al-Ghazzī (d. 984 A.H./1577 C.E.) mentioned

that persons should make every effort to acquire the necessary publications that are relevant to their studies

ينبغي لطالب العلم أن يعتني بتحصيل الكتب المحتاج إليها في العلوم النافعة ما أمكنه شراء  
أو إجارة أو عارية؛ لأنها آلة التحصيل

“A student must do what he can to acquire the books he needs, whether by buying, leasing, or borrowing; because they are the tools required to seek knowledge.” (al-‘Almawī, 2004, p. 251; Badruddin al-Ghazzī, 2009, p. 421; Ibnu Jamā‘ah al-Kinānī, 2012, p. 126)

The researcher has relied on the recommendations made by Islamic jurisprudence scholars for reference books since the matter is relevant to the Islamic judicial system and evidentiary law. List of scholars who have made their suggestions are shown below.

- al-Bakri al-Dimyafī (2017) (d. 1310 A.H./1892 C.E.), in his *I‘ānah al-Ṭālibīn ‘ala Ḥalli Alfāz Faḥ al-Mu‘īn*, provided a list of the important books on Islamic jurisprudence specifically in Shafi’i School.
- Ali Jum‘ah (2017), in his *al-Kutub al-Mukawwinah lil-Fikri al-Islāmiy as-Sunniy*, provided a list of the important references in Islamic studies encapsulate various disciplines.
- Muhammad al-Zuḥaylī (2010), in his *Marjī‘ al-‘Ulūm al-Islāmiyyah*, provided a list of essential references in Islamic studies that include a wide range of disciplines.
- Muhammad al-Zuḥaylī (2002) has provided 58 essential classical and modern sources in Islamic judiciary in his *al-Tanzīmu al-Qadā’ī fī al-Fiqh al-Islāmī*.
- Humaysh (2007), in his *Qadāyā Fiqhiyyah Mu‘aṣirah*, provided 112 important references from classical to modern books which can address the emergent issues.
- Khunāin (2010), in his *al-Madkhal ilā Fiqhi al-Murāfa‘āt*, listed 31 essential and relevant classical references in Islamic judiciary from four main School of Islamic jurisprudence.
- Bayyūmī and Abdur-Razak (2017) has highlighted 29 prominent Islamic references in their *Ahammu al-Kutub allati Atharrat fī Fikri al-Ummah - Miḥwar al-Fiqh wal-Qānūn wath-Thaqāfat al-Islāmiyyah*, according to their

analysis, that bring significant impact toward Islamic jurisprudence and judiciary studies.

- al-Hamad (2005), in his journal article entitled *al-Kutub al-Mu'allafat fi al-Qadā' wat-Tawsīq wan-Nawāzil*, enumerated 207 notable references from classical and modern documents within the corpus of Islamic judiciary.

Researcher has identified documents that are substantially relevant to the issue being analysed based on the suggestions of those stated above, including Qur'anic verses, Prophetic traditions, consensus of Muslim scholars, and both primary as well as secondary works. The researcher gathered and merged primary and secondary source materials.

The researcher selected primary books from classical Islamic writings that are substantially relevant to the study subject, while secondary books are formed of classical and modern Islamic writings that serve as a supplement to the primary document's data. Integrating primary and secondary sources in study is something that Islamic jurists encourage when discussing current or emergent concerns in Islamic law. Prof. Dr. Yusuf Qaradawi and Prof. Dr. Ali Jum'ah are two modern Islamic jurists that advocate for this integration approach (al-Qaradāwī, 2013a, 2013b; Ali Jum'ah, 1996, 2009). This is because the primary document actually offers a thorough discussion of principles and theories (al-Qaradāwī, 1998, 2013a; al-Shātibī, 2017b; Ali Jum'ah, 2009), but does not dig into current context and reality; hence, the application of principles and theories into the context of current reality needs assistance from the secondary document (Khunain, 2003, 2018).

In addition, researcher also used literature reviews to glean more data from different main and secondary sources. This is required to gather further information on the present state of Syariah law in Malaysia. Several keywords were used to identify the documents, including Fiqh Forensic, Forensics in Syariah Courts, Modern Qarinah, Scientific Evidence of Syariah Courts, Judicial training and practise of Syariah law, the quality of Syariah courts, human capital development in Syariah Courts, improvements in Syariah Court evidence law, issues and challenges of Syariah criminal law enforcement, the level of mastery of Syariah law among Syariah judges and lawyers in Malaysia, science and technology in Syariah Courts, and the survival and future of Syariah law in Malaysia.

#### 4.2.2.2 Ensuring the documents are real and accurate

Once the documents have been identified, they must be checked for their authenticity and correctness (Merriam, 2009). It is the researcher's obligation to learn all there is to know about the document, including its origins and motives for being produced, the author, and the context in which it was written, before proceeding to further actions.

Aside from that, it has also been advised by certain prior scholars that some verification and authentication be performed on the documents before they are taken, returned, or purchased. It has been informed by Ahmad bin Abdul Rahman bin Wahbi, he said:

ثنا أحمد بن عبد الرحمن بن وهب، قال: قال الشافعي رضي الله عنه: "إذا رأيت الكتاب فيه إلحاق وإصلاح فاشهد له بالصحة".

*That asy-Syafie once said: "If you see many notes and amendments in a book, then, certainly that it is correct." (al-Baihaqī, 1970, p. 36; Ibnu Abi Ḥātim al-Rāzī, 2003, p. 100)*

Similarly, Ibnu Jamā'ah al-Kinānī, al-'Almawī, and Badruddin al-Ghazzī connoted the similar concern as follows:

إذا استعار كتابا فينبغي له أن يتفقدده عند إرادته أخذه ورده، وإذا اشترى كتابا نظر أوله، وآخره، ووسطه، وترتيب أبوابه وكراريسه، وتصفح أوراقه، واعتبر صحته.

*"If a student borrows a book, he must check it thoroughly before taking it and returning it. Likewise, when a student purchases a book, he should check the beginning, the end, the middle, its contents and instalments. He would also do well to examine its pages." (al-'Almawī, 2004, p. 254; Badruddin al-Ghazzī, 2009, p. 427; Ibnu Jamā'ah al-Kinānī, 2012, p. 129)*

At this point, the researcher has verified the validity and correctness of the documents discovered using a variety of means. For materials pertaining to the Quran and Hadith, the researcher conducted a direct and physical verification of the privately held printed edition. If this is not possible, the researcher acquired a digital copy in PDF format and verified the copy. The researcher next checked actual copies of documents involving primary and secondary books at the USIM Library, neighbouring bookshops, and his own library. When revising journal articles, book sections, conference papers and proceedings, researcher used indexed databases such

as Google Scholar and Scopus or directly visited the publisher's website. When it comes to statutes and case reports, researcher authenticated them electronically into the Lawnet, Current Law Journal (CLJ Law), and Lexis Advance Malaysia databases using the USIM Ezproxy online subscription database. Researcher also authenticated them through the Jurnal Hukum at the E-Syariah portal belonging to the JKSM.

#### 4.2.2.3 Coding and cataloguing the documents

After determining the documents' provenance and nature, the researcher must code and catalogue them (Merriam, 2009). Creating basic descriptive categories early on will help the researcher organise data for analysis and interpretation.

At this point, the researcher has assigned the necessary codes and short comments to the documents based on their type and category, as well as catalogued them in the EndNote X8 programme before moving on to the data analysis step. This can be seen in Photo 11 below. Total of 986 documents, both primary and secondary in nature, were documented by the researcher in this study.

Appendix B of this thesis contains a comprehensive list of these materials, including crucial information and coding. The content analysis of these documents will be examined further in the next section.

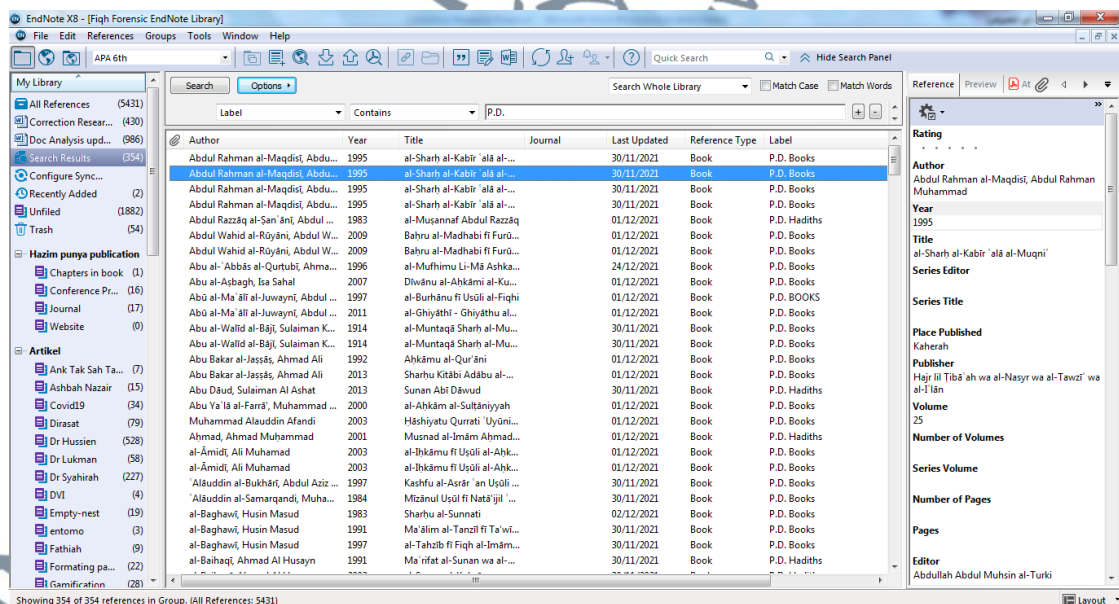


Photo 11: Cataloguing the documents in EndNote X8 software

#### **4.2.2.4 Analysing the data**

A significant aspect of the qualitative analytical process is coding. It is a method by which the researchers break down their data to create new information (Elliott, 2018; Skjott Linneberg & Korsgaard, 2019). Coding, as per Creswell (2016), is the act of dissecting qualitative text data before reassembling it in a coherent fashion. There were 117 codes detected in both main and secondary publications.

After familiarising, dividing and condensing meaning units, and generating codes, the researcher discovered codes that directly indicated to best fit others to build categories and themes. There were some codes that simply linked others. The codes from both primary and secondary data were then grouped into categories and themes based on their commonalities. The codes are included in Appendix B of this thesis.

In qualitative research, documents are analysed using a kind of content analysis. This method of analysis has been discussed in detail in Paragraph 3.4 of this thesis. In its simplest form, content analysis is a systematic method for characterising the content of communications. The majority of content analysis research designs, including the instant study, are sequential in nature, progressing from category development through sampling, data collecting, analysis, and interpretation.

#### **4.2.3 Procedure in analysing the content of the primary and secondary documents**

In the third stage of the qualitative content analysis procedures, the “Formulating Codes” phase, the researcher analysed all 989 papers obtained, and as a result, the researcher issued 154 codes connected to the first study’s objective, which is determining the necessity to develop a Fiqh Forensic module.

The researcher then reorganised the following 154 codes according to their resemblance and appropriateness, generating 10 themes or categories in the last part of the qualitative content analysis procedures “Developing Categories and Themes”. Following that, these themes will be discussed further, and as a consequence, the necessity for a Fiqh Forensic module will become clearer.

##### **4.2.3.1 Realizing Syariah Objectives in the Islamic Judicial System**

The theme and its coding are shown in the Table 11 below. There were 5 codes discovered to construct a new abstract of theme “Realizing Syariah Objectives in the Islamic Judicial System”.

All five of the codes have traits that accentuate the objectives of Islamic law in general, as well as in the specific context of the judiciary. The first and second codes indicate unequivocally that the overall purpose of Islamic law is to protect the welfare of humanity regardless of position, colour, or creed (al-Āmidī, 2003; al-Ghazālī, 1971, 1998, 2015; al-‘Izz Ibnī Abdissalam, 2020a; al-Shāṭibī, 2017c; Ibnu ‘Ashūr, 2016; Ibnu al-Qayyim al-Jawziyyah, 2019d; Ibnu Taimiyyah, 1987). Furthermore, it is a consensus of Muslim scholars that Islamic law is meant to safeguard human interests both in this world and in the Hereafter (al-Āmidī, 2003; al-Shāṭibī, 2017b; Fakhruddin al-Rāzī, 1997; Shamsuddin al-Qurṭubī, 2006a).

**Table 11:** Codes of ‘Realizing Syariah Objectives in the Islamic Judicial System’

Theme	No.	Coding
Realizing Syariah Objectives in the Islamic Judicial System	1	The general objectives of Islamic legislation: Realisation of benefits for human beings regardless of any distinction of status, colour and creed.
	2	[Consensus]: Divinely revealed laws were all established in order to preserve human interest both in this world and the Hereafter.
	3	The Syariah objectives for the whole judiciary: Provide justice to the oppressed from the oppressors, hand over the rights to those who deserve them, as well as prevent harm from oppressors and nullifiers.
	4	The Syariah objectives for the whole judiciary: Reveal the truth ( <i>ḥuqūq</i> ) and eliminate untruth ( <i>bāṭil</i> ), whether it is manifest or hidden.
	5	[Consensus]: Courts/Judges were called upon to resolve disputes between opposing parties and to hand over the rights to those who deserve them.

The remaining codes indicate that there are several goals that Islamic law wants to achieve in the judiciary, including delivering justice to those who have been oppressed by their oppressors, passing rights to those who deserve them, putting an end to disputes, caring for those who are unable to care for themselves, encouraging good while prohibiting evil, discovering the truth and eliminating the falsity, apprehending and punishing those who commit crimes, as well as warning others from doing so (al-Damīrī, 2004; al-‘Izz Ibnī Abdissalam, 2020b; al-Khaṭīb al-Shirbīnī, 2000; al-Ṭarābulusi, 2018a; Ibnu ‘Ashūr, 2016; Ibnu Daqīq al-‘Id, 1987; Ibnu Farḥūn, 2016a; Ibnu Hajar al-Haitamī, 2016; Ibnu Qudāmah, 1997; Ibnu Taimiyyah, 1995b;

Muhammad al-Zuḥaylī, 2002, 2016a; Shah Waliyullah al-Dehlawī, 2012a; Syamsuddin al-Ramlī, 2003; Zaydān, 2011).

It can be observed that there are certain general and specific objectives of Islamic law that must be attained in this context. When such objectives include the judiciary, it is the judicial institution and those associated with its administration that has the primary responsibility in making utmost effort to achieve those objectives.

#### 4.2.3.2 The necessity of full grasp of the *Maqāṣid Syariah* and its link to other *Syariah* legal instruments

The theme and its coding are shown in the Table 12 below. There were 10 codes discovered to construct a new abstract of theme “A full grasp of the *Maqāṣid Syariah* and its link to other *Syariah* legal instruments is necessary”.

**Table 12:** Codes of ‘A full grasp of the *Maqāṣid Syariah* and its link to other *Syariah* legal instruments is necessary’

Theme	No.	Coding
A full grasp of the <i>Maqāṣid Syariah</i> and its link to other <i>Syariah</i> legal instruments is necessary.	1	Maqasid in Islamic law should be defined and communicated to the community, particularly <i>Syariah</i> judges, lawyers and other officials.
	2	As mujtahids, <i>Syarie</i> judges must know the <i>Maqasid Syariah</i> before making verdicts or judgements.
	3	<i>Syariah</i> authorities must comprehend the objectives of Islamic law.
	4	<i>Maqasid Syariah</i> is only applied indirectly in the submission and determination processes of the <i>Syariah</i> Court.
	5	Due to the fact that <i>Syariah</i> courts are limited by the fatwas issued in a given state, the usage of <i>Maqasid Syariah</i> is restricted.
	6	<i>Syariah</i> officers are still unsure about <i>Maqasid Syariah</i> ’s functional significance.
	7	The unwillingness of certain <i>Syariah</i> officers to produce fresh arguments based on new sources of reference and evidence restricts the use of <i>Maqasid</i> .
	8	Understanding <i>Syariah</i> ’s general objectives is essential to accurately understand legal texts and deduce suitable decisions from them.
	9	Not knowing and mastering the <i>Maqasid Syariah</i> disqualifies one from making religious decisions.
	10	<i>Syariah</i> officials lack understanding and information on applying <i>Maqasid Shariah</i> in their arguments and judgements.

All ten codes listed above emphasise the necessity of Syariah legal practitioners, such as Syarie judges, lawyers, and enforcers, understanding and mastering *Maqāsid Syariah*. The first three as well as the eighth codes above give the idea that as a tool for the maturity and evaluation of *ijtihad*, the grasp of *Maqāsid Syariah* is very important in formulating and deciding rulings. Whoever understands and becomes an expert in it while taking in the partial evidence has become one of the people of solid knowledge. It's easy for him to get the rulings and figure out what they are with complete clarity.

At this juncture, Shaykh al-Islam Taqiyuddin al-Subkī (d. 756AH/1355CE) provided the following remarks:

واعلم أن كمال رتبة الاجتهاد تتوقف على ثلاثة أشياء... الثالث: أن يكون له من الممارسة والتتبع لمقاصد الشريعة ما يكسبه قوة يفهم منها مراد الشرع من ذلك

*“And bear in mind that the complete stature of ijtihad is based on three factors: ... Third: That he should be practising and adhering to the objectives of Islamic law, as this would provide him the strength, he needs to grasp what is the intention of the legislature by legislating such provision.” (Taqiyuddin al-Subkī & Tājuddin al-Subkī, 2004, pp. 17-18)*

A similar sentiment is expressed by al-Shāṭibī, whereas he reminded us the necessity of having learned about, practised, and adhered to the *Maqāsid Syariah* by making the following feedback:

إذا بلغ الإنسان مبلغاً، فهم عن الشارح فيه قصده في كل مسألة من مسائل الشريعة، وفي كل باب من أبوابها فقد حصل له وصف هو السبب في تنزله منزلة الخليفة للنبي صلى الله عليه وسلم في التعليم والفتيا والحكم بما أراه الله.

*“A person knows the Lawgiver’s intent in every topic and chapter of Islamic law when he reaches a particular degree. When he reached this point, it became clear to him that he had the qualifications to be the Prophet’s successor in terms of teaching, issuing Syariah rulings, and adjudicating between people, as guided by Allah.” (al-Shāṭibī, 2017a, p. 46)*

Without recognising the *Maqāsid Syariah*, standing on them, or taking them into account, the one who makes judgements on people appears to stumble and make numerous errors. This matter has been underlined by the rest of the codes. Additionally, according to Khunain (2010), such a person would take parts of Islamic law while destroying the whole, until all that matters is what appears to him, and he

uses it in his legal opinion without neither knowing its significance nor understanding its meaning. This is, as al-Shātibī (2017a) said, due to the lack of comprehension of Islamic law's objectives and a desire to accomplish ijihad hastily.

Furthermore, Abū al-Ma'ālī al-Juwaynī has emphasised the significance of *Maqāṣid Syariah* in comprehending Islamic legal texts. He said that:

ومن لم يتفطن لوقوع المقاصد في الأوامر والنواهي فليس على بصيرة في وضع الشريعة  
“Whoever is unaware of the objectives inherent in Syariah commandments and prohibitions lacks a clear and accurate prospect of Islamic law ...”  
(Abū al-Ma'ālī al-Juwaynī, 1997, p. 101)

Besides that, Shāh Waliyullah al-Dehlawī (d. 1176AH/1762CE) reinforced the same point when he remarked as follows:

وأولى العلوم الشرعية عن آخرها - فيما أرى - وأعلاها منزلة، وأعظمها مقدارا، هو  
علم أسرار الدين الباحث عن حكم الأحكام ولياتها، وأسرار خواص الأعمال ونكاتها  
... إذ: به يصير الإنسان على بصيرة فيما جاء به الشرع

“The most important religious knowledge in its entirety, in my opinion, with its highest position and supreme rank, is knowledge of the underlying meaning of Islamic law, which discusses the wisdom and philosophy of all Islamic laws and their facts, as well as the underlying benefits of the practise and the effects derived therefrom ... This is because with this knowledge, a person will be clear about the Islamic laws imposed by the Lawgiver ...” (Shah Waliyullah al-Dehlawī, 2012b, pp. 36-37)

In light of the above-mentioned extracts, it can be inferred that understanding the *Maqāṣid Syariah* is necessary in order to accurately appreciate the Islamic legal texts and draw the right decisions from them (al-Bakri, 2014; al-Qaraḍāwī, 2008; Ibnu al-Qayyim al-Jawziyyah, 2019f, 2019i; Wahbah al-Zuhaylī, 2013a; Zaydān, 2013).

#### 4.2.3.3 Evidence as a means to realise the *Maqāṣid Syariah* in judiciary

The theme and its coding are shown in the Table 13 below. There were 11 codes discovered to construct a new abstract of theme “Means of proof as a means (*wasīlah*) to realise the Syariah objectives in relation to the Islamic Judicial System”.

**Table 13:** Codes of ‘Means of proof as a means (wasīlah) to realise the Syariah objectives in relation to the Islamic Judicial System’

Theme	No.	Coding
Means of proof as a means (wasīlah) to realise the Syariah objectives in relation to the Islamic Judicial System	1	Each objective (maqṣid) has its own means (wasīlah)
	2	Evidence and proof are extremely essential in the Islamic judicial system.
	3	Claim/Allegation, Evidencing, Judgment, and Execution are the four major stages of the Islamic judicial system.
	4	Numerous means of proof have been addressed in Islamic law
	5	Evidence is a means to achieve the Syariah objectives in the judiciary.
	6	Parties arguing before the court for rights or to convict allegations must offer evidence to support their claims and allegations.
	7	[Consensus]: The onus of proof is upon the person who alleges or asserts a fact, and the taking of an oath is upon him who denies or disputes.
	8	A person's claim is not accepted solely on the basis of his assertion; it must be substantiated by evidence.
	9	[Consensus]: Unsubstantiated assertions were bound to be rejected
	10	The judge has no knowledge of the matter on which he must decide with certainty until he examines the evidence.
	11	Achieving the Maqāṣid in Islamic law is a collective undertaking that necessitates the participation of the judges, Syariah legal practitioners, and appropriate officials.

All 11 codes presented in the table above have the same goal: to emphasise the significance of evidence in the Islamic legal system as well as to realise the objectives of Islamic law in the judiciary. In code no. 1 above, it is clearly stated that each objective has its own means (al-Qarāfi, 1994b, 2001a; al-Raysūnī, 2014, 2016b). This implies that each objective can be accomplished in its own mechanism (al-‘Izz Ibnī Abdissalam, 2020a; Ibnu ‘Ashūr, 2016). The same is applicable for objectives in judiciary.

According to the preceding statement, evidence is so crucial in the judicial process that codes no. 2 through 7 clearly depicted it. Furthermore, codes no. 8 and 9 stated that any unsubstantiated or unproven charge is void, which is a point of agreement among Muslim scholars (Abu al-Walīd al-Bājī, 1914; al-Nawawī, 2010; al-Zurqānī, 2015; Ibnu Abd al-Bar, 2000; Ibnu al-Qayyim al-Jawziyyah, 2019d). Meanwhile, code no. 10 stated that a judge is not permitted to render a decision

without first hearing and evaluating the facts and arguments of both parties. Furthermore, code no. 11 indicated that the responsibility of fulfilling the objectives of Islamic law in the judiciary must be shared by all parties involved in the process. If a criminal case is involved, they are made up of religious enforcers, Syarie prosecutors, and Syarie judges.

As a result, it is apparent that evidence is one means of achieving the objectives of Islamic law in the judiciary (al-Ṭarābulusi, 2018a; Ibnu ‘Ashūr, 2016; Ibnu Farhūn, 2016a; Wakī‘, 1947).

#### **4.2.3.4 Put an end to the negative stereotypes that exist about Qarinah**

The theme and its coding are shown in the Table 14 below. There were 16 codes discovered to construct a new abstract of theme “End the negative perceptions directed towards Qarinah”.

The full set of 16 codes in the Table 14 below may be separated into two subgroups: (1) the unfavourable impression of Qarinah and (2) the counter-argument to that impression.

The first tiny group includes codes no. 7 through 11, while the remaining codes are from the second group. According to codes no. 7–11, numerous unfavourable views about Qarinah have been cast. This perception, based on the researcher’s investigation, is derived from the classical arguments of scholars who reject Qarinah as evidence for a variety of reasons, including the fact that it is weak evidence, qualifies only as corroborative evidence, requires corroboration from stronger evidence, and cannot be used on its own.

Nonetheless, these arguments might be contested as a result of scientific and technological advancements, as well as the developments carried forth by the more sophisticated periods. Additionally, there are crimes of fabricating testimony and pleading guilty for the purpose of deceit committed today for various reasons. This is the segment in which the remaining codes are utilised as counter-arguments to the classical argument. Additionally, these codes are more relevant and appropriate in the context of Malaysia’s Syaria law.

**Table 14:** Codes of ‘End the negative perceptions directed towards Qarinah’

Theme	No.	Coding
End the negative perceptions directed towards Qarinah	1	The ostensible Qarinah is comparable to witness.
	2	In today’s sophisticated and modern world, forensic, scientific, and trace evidence is all part of Qarinah.
	3	Weak Qarinah should be dismissed, and intermediate Qarinah should be explored further until it is clear.
	4	Forensic evidence has the probative value of a strong or conclusive Qarinah, which corresponds to the degree of <i>Dhan Ghalib</i> .
	5	Qarinah is applicable in criminal offences punishable with Takzir punishments
	6	Malaysian Syariah criminal law enacted offences punishable with Takzir punishments
	7	Favouritism and prejudice have developed among Shariah law practitioners who favour witness and confession over Qarinah.
	8	Qarinah is seen as weak and untrustworthy, making it unlikely to be recognised in any Shariah criminal prosecution.
	9	Qarinah can only be served as corroborative evidence.
	10	Qarinah is always in need of evidence that is more strong and powerful than it.
	11	Syariah legal practitioners are reluctant to recognise and acknowledge Qarinah on its own accord.
	12	Qarinah must be theoretically and practically studied, comprehended, and mastered by Syariah legal practitioners.
	13	If Qarinah is not properly understood and mastered, it will result in miscarriage of justice, denial of rights, and concealing of the truth.
	14	All of the unfavourable perceptions arose from practitioners’ lack of comprehension about Qarinah.
	15	Whether it is “Relevant Facts” or “Evidence”? There is inconsistency and ambiguity in defining Qarinah’s standing.
	16	In today’s more sophisticated society, where criminal behaviour is becoming more intricate and craftier, Qarinah’s significance cannot be overlooked.

It is therefore important to put an end to such stigma and dubious perspectives and to begin confronting today’s more sophisticated and complex reality. The modern era requires considerable evidence of Qarinah since illegal activities are no longer conducted in plain view of the public.

Thus, relying only on witness and confession is not something that is suitable; in fact, it may defeat the purpose of Islamic law to ensure the welfare of Muslims.

#### **4.2.3.5 The absence of comprehensive guideline for handling forensic evidence and expert opinion**

The theme and its coding are shown in the Table 15 below. There were 12 codes discovered to construct a new abstract of theme “No comprehensive Syariah legal guideline or manual for handling forensic evidence and expert opinion available”.

Taken together, the 12 codes in the Table 15 above suggest that Malaysia’s Syariah Courts still lack a comprehensive reference on the handling of forensic evidence and expert opinion. According to code no. 12, the Syariah Court previously referred to fatwas issued by the National Fatwa Council, but no fatwa has been issued on the basis of forensic scientific evidence.

Although JKSM published Arahan Amalan No. 4 of 2020 on forensic evidence in Syariah Courts as stated in code no. 1, the Arahan Amalan is very simplistic and falls short of the objective of making a Arahan Amalan as stated in code no. 2. Additionally, codes no. 7 and 8 demonstrate that no state’s Syariah Court of Appeal has yet issued statutory interpretation of forensic science provisions such as Section 33 (1) Syariah Court Evidence (Federal Territories) Act 1997 and Section 194 Syariah Criminal Procedure (Federal Territories) Act 1997.

For the time being, Syariah Courts often resort to the practises and principles governing forensic evidence used in Civil Courts. Additionally, codes 3 to 6 and 9 to 10 demonstrate the significant importance of a judge possessing understanding of forensic evidence prior to practising with it in cases before him. This is because if a judge adjudicates anything without having knowledge of it, his decision is null and void, as stated in code no. 10. Additionally, code no. 11 specifies that acting without knowledge results in mistakes and neglect, which only benefit diverse parties.

**Table 15:** Codes of ‘No comprehensive Syariah legal guideline or manual for handling forensic evidence and expert opinion available’

Theme	No.	Coding
No comprehensive Syariah legal guideline or manual for handling forensic evidence and expert opinion available.	1	The JKSM’s Arahan Amalan No. 4 of 2020 does not give detailed instructions for handling forensic evidence and expert opinion in Syariah Courts.
	2	Arahan Amalan should aid parties in court processes, standardise Syariah Court administration, guide Syariah legal practitioners, and assist judges in upholding justice.
	3	Must be able to understand all aspects of criminal processes from investigation to conviction.
	4	The criminal law and proceedings are part of the conduct towards one another ( <i>al-mu ‘āmalāt</i> ).
	5	The Malaysian Syariah Court lacks comprehensive Syariah guidelines or modules dealing with forensic science.
	6	Since Syariah courts lack their own rules, Syariah lawyers resorted to those utilised in civil courts.
	7	In order to apply a statute’s implicit and explicit meaning and intent to a given factual circumstance, legal interpretation is necessary.
	8	The lack of statutory interpretation, annotation, or commentary on Qarinah and Expert Opinion from the Syariah apex court.
	9	Everyone must be informed before expressing or acting.
	10	The judge’s decision is invalid if made in ignorance or disregard for Allah’s revealed decree.
	11	The collection, processing, and management of scientific evidence and materials were handled carelessly.
	12	No fatwa available that may be utilised to regulate forensic evidence or expert opinions.

#### 4.2.3.6 Expert opinion is becoming more necessary in response to new and emerging concerns

The theme and its coding are shown in the Table 16 and 17 below. There were 32 codes discovered to construct a new abstract of theme “Expert opinion is becoming more necessary in response to a variety of new and emerging concerns”.

**Table 16:** Codes of ‘Expert opinion is becoming more necessary in response to a variety of new and emerging concerns’

Theme	No.	Coding
Expert opinion is becoming more necessary in response to a variety of new and emerging concerns.	1	Modern science and technology have created a multitude of new fields of study, discoveries, and experts.
	2	The human mind cannot simultaneously acquire, grasp, and master all information.
	3	Unsolved issues must be referred to experts.
	4	Modern forensic specialists are among the “Ahlu al-Dhikri” or “Ahlu al-Khibrah”.
	5	Using expert opinions does not change the character or ability of judges to implement ijihad.
	6	Judges must understand two types of comprehension: (1) general event judgements and (2) facts and people’s situations.
	7	Judges can better comprehend facts and people’s situations by consulting experts in their fields.
	8	Islamic jurists defined, acknowledged, and specified expert duties.
	9	Expert’s responsibility: Provide the court with scientific facts presumably beyond the judge’s expertise and experience.
	10	Expert’s responsibility: Preserving, documenting and reconstructing the crime scene.
	11	Expert’s responsibility: Conducting searches and investigations, while collecting necessary traces and physical evidence.
	12	Expert’s responsibility: Seizing evidence.
	13	Expert’s responsibility: evaluating a witness’s credibility.
	14	Expert’s responsibility: Translating foreign languages.
	15	Expert’s responsibility: Examine and authenticate the questioned document.
	16	Expert’s responsibility: Confirm and explain the report's content, and answer any related queries.
	17	Expert’s responsibility: Confirming one’s mental or psychiatric status.
	18	Expert’s responsibility: determining one’s lineage, and not denying it.
	19	Expert’s responsibility: Tracking the suspect’s trails and impressions.
	20	Expert’s responsibility: Conducting scientific research and experiments.

**Table 17:** Codes of ‘Expert opinion is becoming more necessary in response to a variety of new and emerging concerns’ (Cont.)

Theme	No.	Coding
Expert opinion is becoming more necessary in response to a variety of new and emerging concerns.	21	Expert’s responsibility: Calculating, distributing, and valuating a certain property, asset, commodity, or liability.
	22	Expert’s responsibility: Assist the court in interpreting legislation.
	23	Expert’s responsibility: Identifying or profiling identities through fingerprints.
	24	An important and major miscarriage of justice came from the judge’s failure to consider the experts’ opinion.
	25	The expert’s opinion is not binding on the court but should be considered.
	26	A competent expert is proficient in his profession, acquired via significant study and practise.
	27	Expert opinion was considered in several Mu’amalat cases.
	28	Expert opinion was considered in several Munakahat cases.
	29	Expert opinion was considered in several Criminal cases
	30	There were cases concerning expert opinion in the judicial process.
	31	Expert opinion in a trial is one of the exigencies ( <i>al-hājah</i> ) that replaces necessity ( <i>al-darūrah</i> ).
	32	Criminals have exploited advances in science, technology, and information to conduct crimes online.

The demand for expert opinion is expanding every year, as seen by the 32 codes in the Table 16 and 17 above. Codes 1 and 2 say that this requirement is rising rapidly as a response of advances in science and technology that have resulted in the emergence of several contemporary fields of knowledge, as well as the inherent difficulty of the human intellect to learn multiple subjects in detail at the same time.

Furthermore, code no. 30 contributes another point to the demand whereas the criminals nowadays have exploited the advances in science and technology to conduct crimes online. By these reasons, code no. 31 makes things clearer by mentioning that expert opinion in a trial is one of the exigencies (*al-hājah*) that replaces necessity (*al-darūrah*).

In the framework of Shariah law, as stated in codes 3–8, if the judge lacks the expertise and experience to handle the issue before him, he is required to submit the subject to an expert in the relevant field. References to these experts in no way

diminish the judge’s status as a mujtahid. Instead, it will get the judge closer to the truth while also speeding up the trial and decision-making process.

References to experts are not uncommon in Islamic jurisprudence, since code nos. 8 to 23 provide a list of the responsibilities of experts outlined in works by both classical and contemporary Islamic scholars. According to code no. 26, experts who are entitled to testify before the Syariah Court must be qualified, have a strong educational background, and have substantial experience in their area of competence.

Additionally, codes 27–30 demonstrate that expert opinion referral has been used in Syariah Courts for a variety of different sorts of cases, including Munakahat, Mu'amalat, and Criminal cases. While expert opinion is not binding on the judge, codes 24 and 25 oblige him to consider it while reaching his judgement. Failure to do so will constitute a legal error, which will necessitate an appeal to a higher court.

#### 4.2.3.7 All legal requirements regarding the quantity, status, and quality of certain evidence must be complied

The theme and its coding are shown in the Table 18 below. There were 4 codes discovered to construct a new abstract of theme “Syarie judges and lawyers must follow all legal requirements regarding the quantity, status, and quality of evidence”.

**Table 18:** Codes of ‘Syarie judges and lawyers must follow all legal requirements regarding the quantity, status, and quality of evidence’

Theme	No.	Coding
Syarie judges and lawyers must follow all legal requirements regarding the quantity, status, and quality of evidence.	1	It is a legal requirement to meet all regulations pertaining to the expert necessary to establish any fact.
	2	The judge may appoint specialists he thinks qualified.
	3	An expert in court must meet certain qualifications, qualities, and ethical requirements.
	4	A judge cannot assess a person’s competence to testify as an expert in court without knowing the required elements.

All four codes listed above basically refer to the obligation of Syarie judges and lawyers to comply with all legislative standards regarding the number, status, and

quality of expert witness. This is also specified in code number one. While codes 2 and 3 specify that the judge has the authority to choose any expert who is considered competent and meets all of the specified criteria.

Meanwhile, code no. 4 emphasises the significance of judges having understanding of forensic science in order to evaluate and decide a forensic expert's competence to testify in a Syariah Court. This is because the judge is unqualified and hence unable to assess a person's expertise and credentials when he lacks the necessary information and experience.

#### **4.2.3.8 Islam has addressed forensic science both conceptually and operationally**

The theme and its coding are shown in the Table 19 below. There were 18 codes discovered to construct a new abstract of theme "The Qur'an and Sunnah address forensic science both conceptually and operationally".

In the Table 19 below, a total of 18 codes demonstrate that Islam has long discussed forensic science conceptually and operationally. At code no. 2, it is said that this may be recognised via the stipulations in Islam's fundamental sources, namely the Quran and Sunnah. According to code no. 3, the oldest record of the use of forensic science concepts in the Qur'an and Sunnah is in the period of Prophet Ya'qub and Yusuf, as well as Prophet Daud and Sulaiman. The concepts of forensic science revealed in the Quran and Sunnah are then detailed in codes 5 through 18. According to code no. 4, the researcher's analysis discovered that the verses of the Quran and Sunnah that discuss the principles of forensic science are in reality provisions that serve as proof for the use of Qarinah in proving or denying anything in court. This returns to code number one, which states that Islam welcomes helpful scientific research while rejecting detrimental research. As a result, scientific study in forensic science is permissible in Islam since it obviously helps various stakeholders, particularly the Syariah Court in terms of evidentiary.

**Table 19:** Codes of ‘The Qur’an and Sunnah address forensic science both conceptually and operationally’

<b>Theme</b>	<b>No.</b>	<b>Coding</b>
The Qur’an and Sunnah address forensic science both conceptually and operationally.	1	Islam values beneficial scientific research but scorns harmful research.
	2	Islamic legal sources include some forensic science principles.
	3	The Qur'an and Sunnah record the basic ideas and notions of forensic science found during the days of Prophet Jacob - Prophet Yusuf - and Prophet David - Prophet Solomon.
	4	The Qur'an and Sunnah express forensic science aspects and ideas in Qarinah legal texts.
	5	Forensic scientists are specialists in the utilisation of evidence and scientific analysis in court.
	6	Locard’s Exchange Principle: Every contact leaves a trace.
	7	Forensic biology: Serology and bloodstain pattern analysis on textile.
	8	Forensic Podiatry: Footprints and gait analysis.
	9	Forensic Toxicology: Preliminary alcohol screening test.
	10	Forensic Toxicology: Field sobriety test.
	11	Forensic Serology: Screening test for the presence of seminal fluid staining on intimate swabs, garments, or at crime scenes.
	12	Forensic DNA: Parentage and kinship testing.
	13	Crime Scene Investigation
	14	Criminology: Criminal heredity & filicide
	15	Forensic Pathology: Identification of a dead body
	16	Forensic entomology: Determining the minimal Post-mortem Interval (PMI).
	17	Principle of uniqueness: No two individuals possess identical characteristic.
	18	Examination and analysis of rips and tears in textile evidence.

#### 4.2.3.9 Malaysian Syariah evidentiary law and procedural must be improved

The theme and its coding are shown in the Table 20 below. There were 15 codes discovered to construct a new abstract of theme “Malaysian Syariah evidentiary law and procedural issues must be improved”.

**Table 20:** Codes of ‘Malaysian Syariah evidentiary law and procedural issues must be improved’

Theme	No.	Coding
Malaysian Syariah evidentiary law and procedural issues must be improved.	1	Practitioners and academics from have expressed concerns and suggestions for improving Syariah evidence law.
	2	Syarie practitioners and judges must be educated on the forensic procedures used to authenticate documents and their contents.
	3	Syariah courts are presently using civil court forensic guidelines.
	4	Improving pertinent human capital with forensic science knowledge and evidence management.
	5	There should be guidelines for forensic evidence and expert opinions that are in line with Islamic law and Malaysian Syariah law.
	6	The highest Syariah Courts must offer legislative interpretation on expert opinion provisions.
	7	It is vital to design standard operating procedures for gathering scientific evidence.
	8	Determination of whether expert opinion is confined to Section 33.
	9	Experts’ areas of expertise, number of experts, credentials, conflicting opinions, <i>voir dire</i> processes, and jurisdiction to appoint experts must be specified.
	10	Expert opinion is required when committing Syariah crimes over the internet or electronic devices such as social media and websites.
	11	Uncertainty regarding the implementation of Qarinah in Syariah Court evidence regulation requires a practical and efficient solution.
	12	Civil law principles and standards should be used with caution by Syariah lawyers.
	13	Section 33’s structure is underutilised.
	14	Encourage synergy between traditional Syariah principles and contemporary science.
	15	Syarie judges need to be more proactive in enforcing the law

The 15 codes that the researcher put in the Table 20 above talk about the complaints and suggestions that people have made about Malaysia’s Syariah Court evidence law. They say that these ideas are in line with the development of the law. In

Code No. 1, it is clear who gave the criticisms and suggestions: people who work with Syariah law as well as people who study Syariah law. Then, from code no. 2 to 15, they are very specific as to what they say about expert opinions and forensic evidence. A lot of constructive responses have been given, and they're all aimed at making Malaysia's Syariah evidence law better.

#### **4.2.3.10 Improving the existing capabilities on Syariah principles and legislation**

The theme and its coding are shown in the Table 21 and 22 below. There were 31 codes discovered to construct a new abstract of theme "Human capital development and management in an organisation must be approached holistically".

In the Table 21 and 22 above, there are 31 codes that show how important they are to the study. They all deal with things that need to be done to improve existing knowledge and skills about Syariah principles and laws. Codes 1–3 stress the need of enhancing human capital in terms of spiritual, physical, intellectual, and emotional well-being.

Then, codes 4 and 5 demonstrate that the reason of Muslims' backwardness in the fields of law, science, and technology is ignorance, obscurantism, and conservatism. This backwardness may be resurrected by a variety of ways, including the removal of all of the attitudes outlined previously and the further development of the heritage of classical Islamic knowledge. In terms of quality management, codes 6 and 7 demonstrate that although not all Syariah Courts have adopted Syariah-compliant QMS standards, almost all have applied Malaysian Syariah Index standards.

**Table 21:** Codes of ‘Human capital development and management in an organisation must be approached holistically’

Theme	No.	Coding
Human capital development and management in an organisation must be approached holistically.	1	Human capital is essential for a person or organisation to achieve their goals.
	2	The most important human resource in Syariah law is Syariah practitioners.
	3	A balance of spiritual, physical, intellectual, and emotional aspects is required for Islamic human capital development.
	4	The classical Islamic knowledge tradition must be further developed.
	5	Law, science, and technology are all stagnating because of Muslim ignorance, obscurantism, and conservatism.
	6	The Syariah Court has yet to establish Shariah-compliant QMS standards.
	7	The Malaysian government established the Malaysian Syariah Index benchmark to improve the country’s Syariah legal administration.
	8	Syarie judges and lawyers have jurisdictional challenges, as well as a dearth of legal knowledge and training.
	9	The establishment of a Syariah judicial training centre is essential to enhancing service and judgement quality.
	10	Syarie judges and lawyers must be able to consult legal materials in order to practise law.
	11	[Consensus]: Pass judgment according to what is in the Qur’an, the way Prophet (s.a.w.) passed judgment, the way the righteous passed judgment, if all of these were not available, then let strive to work it out.
	12	Malaysian Syariah judges and lawyers must be professionals who understand Syariah both conceptually and practically.
	13	The wise person is the one who has had a lot of experience.
	14	Experience is gained via a series of trainings and tests.

**Table 22:** Codes of ‘Human capital development and management in an organisation must be approached holistically’ (Cont.)

Theme	No.	Coding
Human capital development and management in an organisation must be approached holistically.	15	[Consensus]: Priority must be given in every investiture to the individual who is more competent and suited for the respective office.
	16	Syariah and Islamic affairs officials should be chosen from among those who are qualified and suitable for the position.
	17	Syarie judges and lawyers must always be well-prepared with the required knowledge and expertise.
	18	Any discipline requires empirical knowledge and experience.
	19	Syarie judges, lawyers, and other officials should routinely attend training courses to sharpen their senses and understanding.
	20	Practice to resolve current cases by utilising Syariah evidencing principles and procedures.
	21	Syarie judges do not understand the importance of methodology in making decisions and judgments.
	22	The judicial process must be well-managed to provide fairness to all parties.
	23	Discrepancies between Syariah and man-made criminal law are so great that they cannot be combined or used arbitrarily.
	24	Syarie judges are not bound by juristic view and may adopt alternative opinions that benefit the community welfare.
	25	Syarie judges and lawyers must be well-versed in Syariah and law to conduct their responsibilities effectively and professionally.
	26	Professionals in the realm of Syariah and law must constantly upgrade their knowledge, competence, and skills.
	27	The Head of Department must ensure that his subordinates are educated and trained by qualified professionals.
	28	Judiciary and advocacy are ever-changing fields of knowledge that need focused study, practise, and mastery.
	29	Religious Enforcement Officers are not well prepared to enforce Syariah law.
30	Belief in established aims and priorities, while being flexible on methods and procedures makes Tajdid possible.	
31	A Muslim should never tolerate weakness or triviality, but should constantly strive for greatness and mastery.	

On the list above, there are a lot of things that need to be looked at, like not having enough legal knowledge and training on code no. 8, not being able to find and use legal materials on code no. 10-11, not understanding Syariah both conceptually and practically on code no. 12, the quality of the officers appointed on code no. 13-16, not being prepared enough in terms of knowledge and skills on codes 17-18 and 24-29, understanding the importance of methodology in decision making and

considerations on code no. 19-22, Syariah principles and man-made principles shall not be combined or used arbitrarily on code no. 23, and changes for the better on code no. 30-31.

These are all aspects that need improvement in terms of existing knowledge and skills on the Syariah principles and legislation.

### 4.3 The content of the Fiqh Forensic module

Under this section, researcher has provided three subsections to elucidate the first research finding for this study. Subsection 4.3.1 dealt with the mining data from document, Subsection 4.3.2 dealt with the data collection procedure, and Subsection 4.3.3 dealt with the data analysis procedure.

#### 4.3.1 Mining data from primary and secondary documents

Data gathering in this part is not significantly different from the approach employed in paragraph 4.2.2, namely, collecting information from both primary and secondary sources as in the previous section. In this part, the researcher has divided the material of the Fiqh Forensic module into six sections, each of which is labelled with the title of the module. The following are the total number of primary and secondary documents that have been collected to meet the objectives of the study.

**Table 23:** Total collected documents for Fiqh Forensic module

Chapter	Primary Documents	Secondary Documents	Total collected documents
1	65	63	128
2	115	96	211
3	66	54	120
4	57	30	87
5	18	53	71
6	66	41	107

On the basis of the data in the preceding Table 23, Chapter 2 has the greatest number of collected documents, totalling 211 documents. This is followed by Chapter 1 with 128 documents and Chapter 3 with 120 documents. In the following six tables

(Table 24 to 29), readers will find information on each primary and secondary document for Chapters 1 through 6 of the Fiqh Forensic module.<sup>12</sup>

**Table 24:** Total collected documents for Chapter 1

Chapter One	Category	Types of Documents	Total
	Primary Documents		Holy Qur'an
		Hadiths	14
		Statute	8
		Government Documents	3
		Books	35
		Case Reports	4
Secondary Documents		Journal Articles	21
		Books	32
		Book Sections	5
		Conference Proceedings	3
		Thesis	2

**Table 25:** Total collected documents for Chapter 2

Chapter Two	Category	Types of Documents	Total
	Primary Documents		Holy Qur'an
		Hadiths	18
		Statute	2
		Case Reports	19
		Books	75
Secondary Documents		Journal Articles	33
		Books	54
		Encyclopedia	2
		Conference Proceedings	5
		Thesis	1
		Book Sections	1

<sup>12</sup> The complete list of the references for each Chapter of the Fiqh Forensic module can be accessed at the end of every Chapter.

**Table 26:** Total collected document for Chapter 3

Chapter Three	Category	Types of Documents	Total	
	Primary Documents	Holy Qur'an		1
		Hadiths		13
		Statute		3
		Books		43
		Case Reports		5
	Secondary Documents	Journal Articles		6
		Books		41
		Encyclopedia		1
		Internet		2
Thesis			2	
	Book Sections		3	

**Table 27:** Total collected documents for Chapter 4

Chapter Four	Category	Types of Documents	Total	
	Primary Documents	Holy Qur'an		1
		Hadiths		19
		Statute		2
		Books		35
	Secondary Documents	Journal Articles		3
		Books		23
		Conference Proceedings		1
Book Sections			3	

**Table 28:** Total collected documents for Chapter 5

Chapter Five	Category	Types of Documents	Total	
	Primary Documents	Holy Qur'an		1
		Statute		2
		Books		15
	Secondary Documents	Journal Articles		17
		Books		15
		Encyclopedia		1
		Internet		10
Thesis			1	
	Book Sections		5	

**Table 29:** Total documents collected for Chapter 6

Chapter Six	Category	Types of Documents	Total	
	Primary Documents		Holy Qur'an	1
			Hadiths	7
			Statute	2
			Books	42
			Case Reports	9
			Government Gazette	5
	Secondary Documents		Journal Articles	1
			Books	36
			Encyclopedia	3
			Conference Proceedings	1

#### 4.3.2 Procedure in collecting data from primary and secondary sources

The approach for gathering primary and secondary documents for this part is the same as indicated in paragraph 4.3.2. To minimise duplication of information, the researcher will not discuss it again.

#### 4.3.3 Procedure in analysing the content of the primary and secondary documents

The researcher has successfully developed 30 codes that are relevant and suited to the Fiqh Forensic module's content. The researcher has then reorganised the codes according to their resemblance and relevance to arrive at a suitable theme. As an outcome, the researcher has identified six themes that were deemed eligible for inclusion in the Fiqh Forensic module's contents. All of these themes will be discussed in further detail later.

##### 4.3.3.1 Introduction to Fiqh Forensic

The theme and its coding are shown in the Table 30 below. There were 5 codes discovered to construct a new abstract of theme "The introduction of Fiqh Forensic".

The Table 30 below shows that there are only five codes in it, and it only covers the introductory to the Fiqh Forensic module. It addresses topics including epistemology, theory, the objectives of Islamic jurisprudence, and how science and Syariah can work together.

**Table 30:** Codes of ‘The introduction of Fiqh Forensic’

Theme	No.	Coding
The introduction of Fiqh Forensic	1	Epistemology of Fiqh Forensic
	2	Theoretical Fiqh Forensic
	3	The Syariah objectives of judiciary and achieving it through evidence
	4	Understanding and mastering Fiqh Forensic is very important
	5	Integration of science and Syariah in Malaysian Syariah Courts’ Evidence law

#### 4.3.3.2 Admissibility of Forensic Science as Evidence and Its Application

The theme and its coding are shown in the Table 31 below. There were 6 codes discovered to construct a new abstract of theme “Admissibility of forensic science as evidence”.

**Table 31:** Codes of ‘Admissibility of forensic science as evidence’

Theme	No.	Coding
Admissibility of forensic science as evidence	1	Practical scientific evidence principles in the Qur'an and Sunnah
	2	Legislations governing Qarinah evidence
	3	Public documents’ admissibility in Syariah Courts and their importance to forensic science
	4	Legislations governing expert opinion evidence
	5	Expert opinion is frequently used in Islamic law discussions.
	6	Expert opinion and scientific hints have evidential value

The Table 31 above contains six codes, all of which pertain to the admission of forensic science as evidence in the Syariah Court. Code No. 1 provides various instances of forensic science ideas being used in the Qur'an and Sunnah. In the framework of Shariah law, forensic science is inextricably linked to the three types of evidence specified in codes 2–6, namely Qarinah, document, and expert opinion.

#### 4.3.3.3 Qualifications and Credibility of Forensic Experts in Malaysia from the Perspective of Islamic Jurisprudence and Syariah Law

The theme and its coding are shown in the Table 32 below. There were 9 codes discovered to construct a new abstract of theme “Qualifications and credibility of forensic experts in Malaysia from the perspective of Islamic jurisprudence and Syariah law”.

**Table 32:** Codes of ‘Qualifications and credibility of forensic experts in Malaysia from the perspective of Islamic jurisprudence and Syariah law’

Theme	No.	Coding
Qualifications and credibility of forensic experts in Malaysia from the perspective of Islamic jurisprudence and Syariah law	1	Etymology of <i>al-Khibrah</i> and <i>al-Khabīr</i>
	2	Experts that may be consulted in a Syariah Court.
	3	Expert opinion’s similarities to testimony, notification, and judgement, as well as its contrasts from testimony, inquisitory, and judgement.
	4	The importance of <i>al-Khabīr</i> and <i>al-Khibrah</i> in the Syariah judicial system.
	5	Experts’ qualifications and credibility in the legal context of Syariah Court evidence.
	6	Expert requirements from an Islamic legal perspective.
	7	Qualifications and credibility of forensic experts as <i>al-Khabīr</i> in Syariah Courts.
	8	Ethics concerns for forensic experts.
	9	Expert references do not invalidate the judges’ character and abilities in <i>ijtihad</i> .

From diverse angles, the nine codes listed above explain the qualifying standards and credibility of forensic experts. Codes 5, 7, and 8 express the viewpoint of the Syariah Court's evidence law, and code 6 expresses the perspective of Islamic evidence jurisprudence. According to Code No. 3, expert opinions have parallels and contrasts with some entities under Shariah law. Codes 1, 2, and 4 explain the ideas of *al-Khabīr* and *al-Khibrah* and how they are used in the Syariah Court. Code No. 9 ensures that a reference to an expert does not jeopardise the judge's standing as a mujtahid.

#### 4.3.3.4 Crime Scene Management and Procedures for Spying, Investigating, Raiding, and Arresting a Suspect

The theme and its coding are shown in the Table 33 below. There were 4 codes discovered to construct a new abstract of theme “Crime Scene Management and Procedures for Spying, Investigating, Raiding, and Arresting a Suspect”.

**Table 33:** Codes of ‘Crime Scene Management and Procedures for Spying, Investigating, Raiding, and Arresting a Suspect’

Theme	No.	Coding
Crime Scene Management and Procedures for Spying, Investigating, Raiding, and Arresting a Suspect	1	Crime scene management
	2	Spying
	3	Investigation
	4	Raids and arrest

There are only 4 codes in the Table 33 above, and all of them are clear without the need to elaborate further.

#### 4.3.3.5 Handling of Scientific Evidence and its Management

The theme and its coding are shown in the Table 34 below. There were 2 codes discovered to construct a new abstract of theme “Handling of Scientific Evidence and its Management”.

**Table 34:** Codes of ‘Handling of scientific evidence and its management’

Theme	No.	Coding
Handling of scientific evidence and its management	1	Management of scientific evidence materials before, during, and after collection.
	2	Methods for managing and handling digital evidence materials

There are only 2 codes in the Table 34 above, and all of them are clear without the need to elaborate further.

#### 4.3.3.6 Evidence Practices and Procedures in Syariah Courts, as well as the Opinion of Forensic Experts

The theme and its coding are shown in the Table 35 below. There were 4 codes discovered to construct a new abstract of theme “Evidence Practices and Procedures in Syariah Courts, as well as the Opinion of Forensic Experts”.

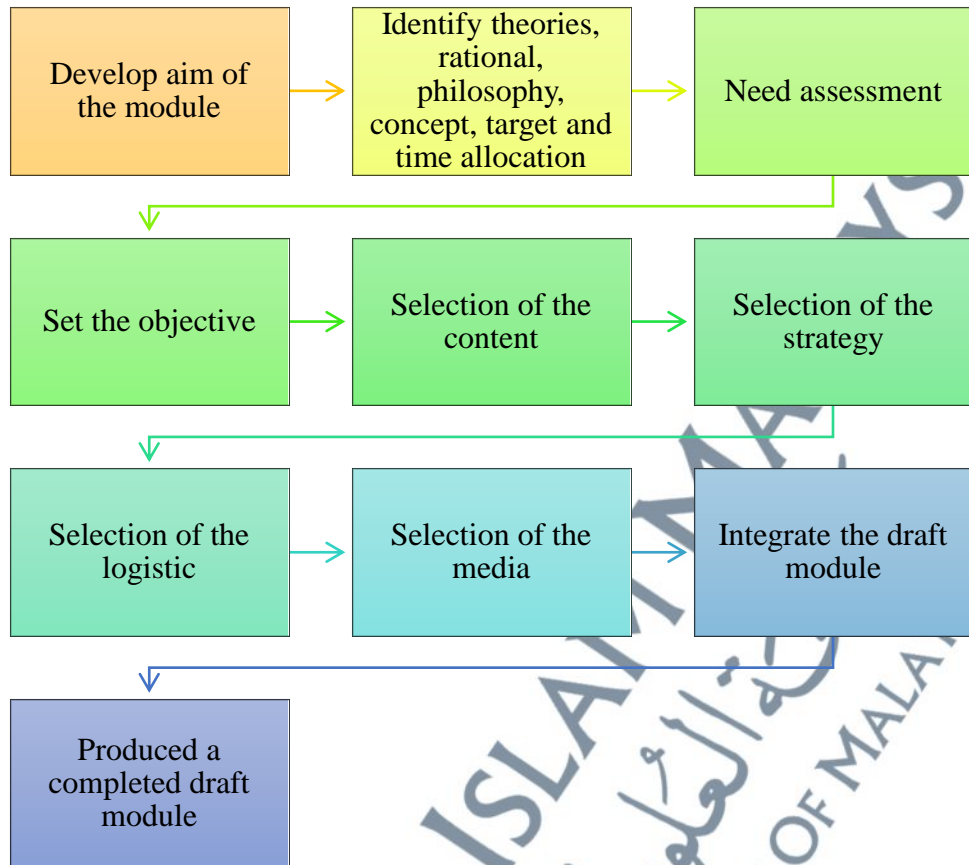
**Table 35:** Codes of ‘Evidence practices and procedures in syariah courts, as well as the opinion of forensic experts’

Theme	No.	Coding
Evidence practices and procedures in syariah courts, as well as the opinion of forensic experts	1	Situations in which the presence of an expert is required to provide evidence.
	2	Practices and procedures for giving expert evidence in Syariah Courts.
	3	The role of judges in evaluating expert evidence.
	4	Conflicts and priorities between expert evidence and other evidence.

The 35 above contains four codes, all of which pertain to the practise and method of expert evidence in Syariah Courts. Code no. 1 specifies a number of instances in which the participation of an expert witness is required. Code No. 2 outlines critical processes and methods for expert testimony. Naturally, code no. 3 says that the judge has exclusive authority to evaluate the expert evidence given before him or her. Code no. 4 discusses the possibility of resolving a discrepancy between expert testimony and other evidence using the most suitable way.

#### 4.4 Develop the Fiqh Forensic module for Syariah Officers in Syariah Legal Institutions

The researcher briefly indicated in paragraphs 1.7 and 3.2.3 that the Fiqh Forensic module was built utilising the Sidek Module Development model. Essentially, this model contains two stages, but the one employed in this study is solely the first, which involves several steps, as in Figure 16 below which beginning with the development of the module’s aim and ending with a full drafting of the module.



**Figure 16:** First stage of the Sidek's Module Development model

As for reference, perusal, and further action, a manuscript of the completed Fiqh Forensic module has already been attached to section Appedix A of this thesis.

#### 4.4.1 Develop aim of the module

Determining the aim of developing a module will, in general, define the module's content and intended audience (Noah & Ahmad, 2019). This is in line with what James D. Russell said:

*“When you can specify the objectives for your module, you have overcome the biggest hurdle in instructional development.” (Rusell, 1974, p. 45)*

The development of this Fiqh Forensic module is guided by several aims, the most significant of which are as follows:

- Clarify and explain expert opinion legislation; so Muslims appreciate the Islamic provisions and every new case in the judicial system is resolved more fairly and equitably.

- Explain how Syariah evidence law relates to scientific and modern methodologies.
- Filling the intellectual gap in the forensic evidence discussion. Only a few sources were located, yet they were largely on Syariah in general. In Malaysia, there is currently no comprehensive discourse on Syariah Court evidence law.
- Assist Syariah legal practitioners in understanding and comprehending forensic expert evidence in theory and practise. These involve establishing forensic specialists' qualification and credibility, conducting investigations, collecting and handling scientific evidence, and offering expert opinions in Syariah Courts.
- To redirect the perspectives of Syariah legal practitioners on expert opinion from civil practise to Syariah practise prepared by the Muslim scholars, in line with Section 131 of the Syariah Court Evidence (Federal Territories) Act 1997.

Researcher has mentioned these aims in the Introduction section of the Fiqh Forensic module.

#### **4.4.2 Identify theories, rational, philosophy, concept, target and time allocation**

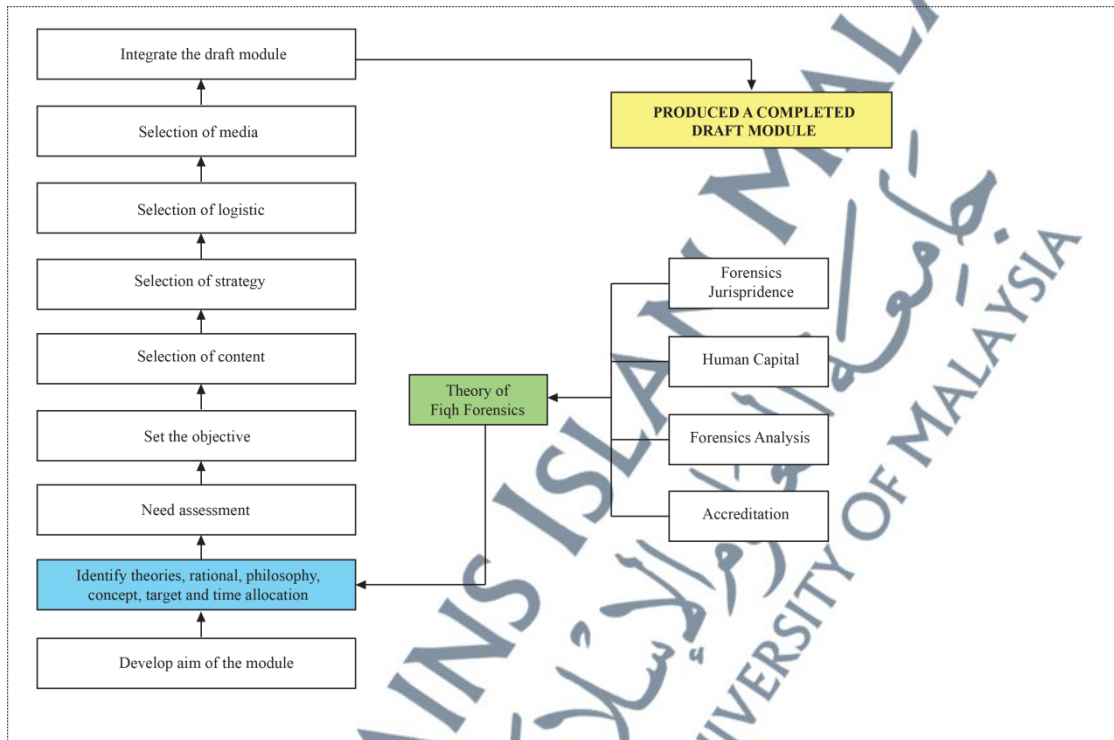
According to Noah and Ahmad (2019), six elements must be identified before developing a module: theories that make up the core or basis of a module, rationale of needs and desires, philosophy associated to module usage, module conception, target group, and time allocation to complete a module.

The following six elements were identified by the researcher:

##### **(a) Theories that make up the core or basis of a module**

Module builders should do their utmost to determine which theories serve as a basis or underpinnings for the module to be constructed. The theory that is being employed might be a single theory or a composite of many theories (Noah & Ahmad, 2019). It is possible to develop a model from the theory, which will then constitute the basis for module creation, particularly in terms of content, module arrangement, and module sequence. Theory is very significant since it serves as the underpinning for a module's overall performance.

Researcher adopt and adapt the theory of Fiqh Forensic developed by Baharuddin (2017c) in his doctoral dissertation. To him, the four components that formed the core of the theory of Fiqh Forensic, which he established, were forensics jurisprudence, human capital, forensics analysis, and accreditation. This is illustrated under the following Figure 17.



**Figure 17:** The application of theory of Fiqh Forensic in Fiqh Forensic module

Additionally, the researcher has discussed the idea and theory of Fiqh Forensic in detail across many prior parts of this thesis, including paragraphs 1.8.1 and 2.2.

**(b) Rationale of needs and desires**

Module developer should also, as be proposed by Noah and Ahmad (2019), describe the rational needs and desires for the module to be built in more detail. Pertaining to this matter, the researcher has presented some of these rationales in the Introduction section of Fiqh Forensic module.

The first of these rationales is that Syariah legal practitioners are always in need of professional reference and assistance. In the Fiqh Forensic Module, Introduction section, page 2, the researcher has stated the following:

*“Hakikatnya, para pengamal perundangan Syariah tidak boleh terlepas daripada bantuan pakar; Hal ini demikian kerana sebilangan besar kes memerlukan dan hubungan antara keduanya saling terkait rapat. Bahkan dalam kepelbagaian situasi di mana perselisihan itu berlaku, mustahil bagi pengamal undang-undang untuk mengetahui kesemuanya, itulah sebabnya mereka perlu meminta bantuan pakar pada perkara yang memerlukan kepakarannya. Keterangan pakar sebenarnya mencakupi bidang ilmu pengetahuan yang sangat luas. Dalam perbahasan fiqh mazhab klasik, al-khibrah dan al-khabīr terpakai pada kebanyakan perbahasan cabang fiqh (furū‘ al-fiqhiyyah) dari hal-hal ibadah hinggalah jenayah. Akan tetapi, dalam konteks semasa, al-khibrah dan al-khabīr kebanyakannya tertumpu pada keterangan pakar forensik.” (Modul Fiqh Forensik, p. 2)*

The second rationale is connected to the current breakthroughs in science and technology. On the same page of the Module, the researcher has stated the following:

*“Seiring dengan perkembangan dalam bidang sains dan teknologi pada hari ini, keterangan pakar forensik telah mula mendapat perhatian dari kalangan para pengamal perundangan Syariah di peringkat kebangsaan dan antarabangsa. Selain itu, institusi-institusi fatwa di peringkat kebangsaan dan antarabangsa juga tidak terkecuali dalam mengeluarkan fatwa beramal dengan keterangan saintifik dalam konteks pembuktian jenayah Syariah.” (Modul Fiqh Forensik, p. 2)*

The third rationale relates to the neglected and underutilized Syariah Court evidence provisions pertaining to the expert opinions and forensic science. On the same page of the Module, the researcher has stated the following:

*“Dalam konteks perundangan Syariah di Malaysia, bermula dari tahun 1997, al-khibrah dan al-khabīr telah dikanunkan ke dalam Seksyen 33 Akta Keterangan Mahkamah Syariah (Wilayah-Wilayah Persekutuan) 1997 dan dijenamakan sebagai Pendapat Pakar. Peruntukan ini telah membuka jalan yang luas bagi para pengamal perundangan Syariah untuk mengamalkan keterangan pakar, terutamanya pakar forensik, di Mahkamah Syariah. Sungguhpun demikian, peruntukan ini sangat jarang digunakan atau tidak digunakan sebaiknya sejak dari tahun pertama ianya dikanunkan secara rasmi. Sekalipun ianya digunakan, rujukan akan tertumpu kepada prosedur dan amalan dari perundangan sivil, walhal perundangan Syariah dan perbahasan Hukum Syarak mempunyai epistemologi khusus berkaitan prosedur dan amalan keterangan pakar.” (Modul Fiqh Forensik, p. 2)*

The fourth rationale is addressed toward JKSM’s Arahan Amalan No. 4 of 2020, which is still deemed inadequate and has not achieved the standard expected of it in

line with its categorization under the category of “Trial and Procedure”.<sup>13</sup> On the same page of the Module, the researcher has stated the following:

*“Terkini, pada 21 Disember 2020 yang lalu, pihak Jabatan Kehakiman Syariah Malaysia telah bersetuju dan mengesahkan sebuah Arahan Amalan berjudul “Arahan Amalan No. 4 Tahun 2020 – Pengemukaan Bukti Forensik Dalam Prosiding di Mahkamah Syariah”. Penguatkuasaan Arahan Amalan ini secara langsung mengiktiraf bukti forensik sebagai salah satu pembuktian yang sah untuk digunakan di Mahkamah Syariah. Akan tetapi, Arahan Amalan ini sekadar memberikan kenyataan, tanpa disertakan penghuraian berkenaan amalan dan prosedur yang perlu dipatuhi dalam menggunakan bukti forensik di Mahkamah Syariah. Berbeza jika dibandingkan dengan Arahan Amalan No. 1 Tahun 2006: Amalan Hakam Mahkamah Syariah dan Arahan Amalan No. 2 Tahun 2006: Amalan Sumpah Mahkamah Syariah, di mana kedua-duanya mempunyai kenyataan dan disertakan sekali dengan huraian berkenaan amalan dan prosedur yang perlu dipatuhi.” (Modul Fiqh Forensik, p. 2)*

Taking into consideration these four aspects, it becomes evident that there is an immediate need and desire to develop a specific module that can be utilised to lead the process of referring to expert opinions and dealing with forensic scientific evidence.

**(c) Philosophy associated to module usage**

In addition, the philosophy related to the benefits of using the module should also be stated (Noah & Ahmad, 2019). In the Fiqh Forensic Module, Introduction section, page 1 & 2, the researcher has stated the following:

*“Isu pembuktian adalah salah satu topik terpenting yang telah diberikan perhatian khusus oleh Syariah Islam. Ia menyatakan kaedahnya, menjelaskan hukum-hakamnya, dan berusaha untuk mengatur sistem kehakiman dan keadilan. Pembuktian membantu dalam menyampaikan hak kepada pemiliknya yang sah, dan mengambil hak tersebut dari tangan penindas untuk menentang kezaliman yang telah dilakukan. Tugas pengamal perundangan Syariah adalah untuk menegakkan keadilan di antara manusia, mengadili pertikaian mereka serta menyelesaikannya, menyempurnakan hak yang diabaikan, dan menyerahkannya kepada pemiliknya yang lebih layak. Terdapat banyak kaedah pembuktian yang telah dibahasakan oleh para fuqaha, dan salah satu daripadanya adalah keterangan pakar (al-khibrah), manakala pakar yang memberikan keterangannya pula dinamakan sebagai al-khabīr.*

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<sup>13</sup> According to M. N. A. R. Ibrahim (2020), the “Trial and Procedure” category accounts for 30% of all JKSM’s Arahan Amalan. He went on to say that this is the most essential category since it includes specific directions to offer guidance to Syarie judges, lawyers, prosecutors, court administrators, and anyone who deal directly in the courtroom.

*Keterangan pakar bukanlah sesuatu yang asing dalam Islam. Hal ini kerana sejak dari awal pensyariatannya, para pengamal perundangan Syariah akan merujuk kepada pakar sekiranya mereka tidak jelas tentang sesuatu permasalahan. Hal ini kerana untuk menyelesaikannya memerlukan kepada kepakaran yang khusus, sedangkan mereka tidak mempunyai kepakaran yang diperlukan. Sebagai contoh, Rasulullah (s.a.w.) dan para Sahabat (r.a.) baginda telah merujuk keterangan pakar dari pelbagai bidang dalam menyelesaikan permasalahan yang mereka hadapi, antaranya ialah penghubung nasab atau ahli fisiognomi (al-qā'if), juru analisa tapak kaki atau ahli podiatri (al-qā'if), penterjemah, juru bahagi (al-qāsim), juru taksir (al-muqawwim), pemeriksa saksi (al-muzakkiy), dan lain-lain. Pada masa yang sama, baginda (s.a.w.) dan para Sahabatnya (r.a.) juga pernah menjadi al-khabīr dalam beberapa situasi dan keadaan yang memerlukan.” (Modul Fiqh Forensik, p. 1-2)*

Expert testimony is not uncommon in Islam. This is because practitioners in Islamic law, from the inception of its legislation, would resort to specialists if they are uncertain about a matter. This is due to the fact that solving it requires specific skill set, which is something that they totally lack.

#### **(d) Module conception**

According to Noah and Ahmad (2019), it is also needed to describe the module's concept, which provides an overview of how the module will be implemented in an actual setting. The Fiqh Forensic module is structured in the same way as an academic module would be. According to Noah and Ahmad (2019), the academic module is a module that is built around the principle of delivering resources to the target audience. This sort of module is quite comprehensive, since it comprises all of the necessary teaching and learning materials and resources for the course. Typically, these modules enable the intended audience to study independently, without the need for assistance from an instructor or lecturer. In addition, people who work full-time yet desire to enhance their academic performance would benefit greatly from this session.

#### **(e) Target group**

The target group must be specifically identified so that the course of the module is appropriate and accurate (Noah & Ahmad, 2019). As the researcher has clearly

stated in paragraphs 1.7 and 1.9.3 in this thesis, the target group for this module is Syarie Judges, lawyers, and religious enforcement officers.

**(f) Time allocation to complete a module**

According to Noah and Ahmad (2019), the time required to finish a module must be correctly estimated so that the time allotted is adequate and capable of achieving the intended goals. However, since this study only executes the first stage in the module's production, which is developing a full draft of the module, the researcher is unable to identify the precise time period. This is due to the fact that each reader's reading time period is varied. It necessitates more field research, yet it is beyond the scope of the researcher's investigation.

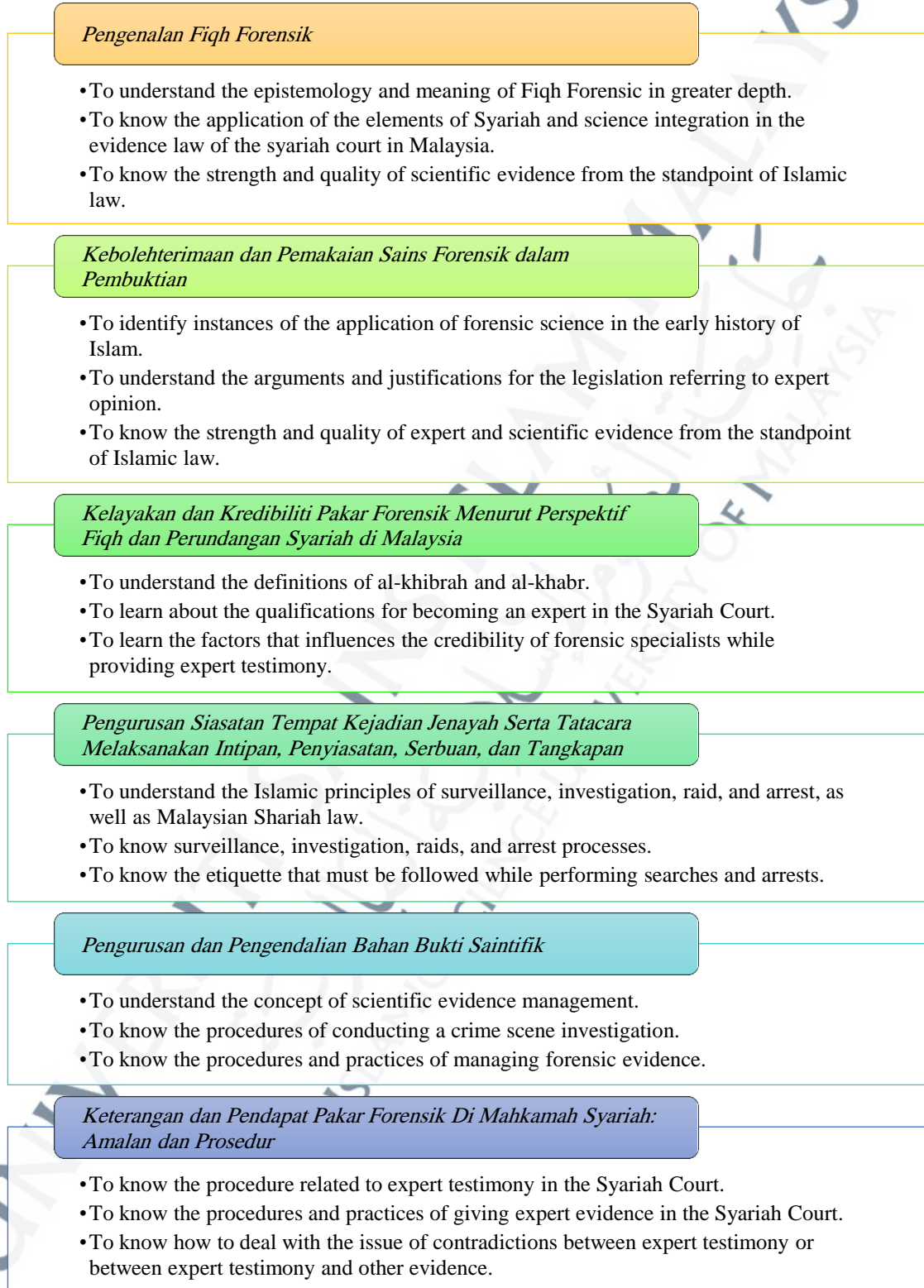
**4.4.3 Need assessment**

The researcher has conducted the need assessment to determine the necessity for a Fiqh Forensic module. This is discussed in further detail in paragraph 3.9 of this thesis. The necessity for this module is driven by ten factors:

- Realizing Syariah Objectives in the Islamic Judicial System.
- The necessity of full grasp of the Maqasid Syariah and its link to other Syariah legal instruments.
- Evidence as a means to realise the Maqāsid Syariah in judiciary.
- Put an end to the negative stereotypes that exist about Qarinah.
- The absence of comprehensive guideline for handling forensic evidence and expert opinion.
- Expert opinion is becoming more necessary in response to new and emerging concerns.
- All legal requirements regarding the quantity, status, and quality of certain evidence must be complied.
- Islam has addressed forensic science both conceptually and operationally.
- Malaysian Syariah evidentiary law and procedural must be improved.
- Improving the existing capabilities on Syariah principles and legislation.

#### 4.4.4 Set the objective

The Fiqh Forensic module is divided into six chapters, each with its unique objective. The following Figure 18 provided the module's objectives for each chapter:



**Figure 18:** Objectives for every chapter in Fiqh Forensic module

#### 4.4.5 Selection of the content

Module builders must list, choose, and filter the material that will be included in the module to ensure that it is correct and acceptable. Noah and Ahmad (2019) held that what is vital is that the material that will be placed into the module is capable of achieving the module's specific purpose or objectives. The content of the modules developed must take into consideration the target group characteristics.

Fiqh Forensic module comprises of six sub-modules called *Bab* (Chapters). It covers the main forensic theories and practises, as well as expert opinions in Syariah Court. These are the Chapters:

<i>Pendahuluan</i>	
<i>Bab 1</i>	: <i>Pengenalan Fiqh Forensik</i>
<i>Bab 2</i>	: <i>Kebolehterimaan dan Pemakaian Sains Forensik dalam Pembuktian</i>
<i>Bab 3</i>	: <i>Kelayakan dan Kredibiliti Pakar Forensik Menurut Perspektif Fiqh dan Perundangan Syariah di Malaysia</i>
<i>Bab 4</i>	: <i>Pengurusan Siasatan Tempat Kejadian Jenayah Serta Tatacara Melaksanakan Intipan, Penyiasatan, Serbuan, dan Tangkapan</i>
<i>Bab 5</i>	: <i>Pengurusan dan Pengendalian Bahan Bukti Saintifik</i>
<i>Bab 6</i>	: <i>Keterangan dan Pendapat Pakar Forensik Di Mahkamah Syariah: Amalan dan Prosedur</i>
<i>Penutup</i>	

The researcher did a qualitative study to determine the content of module. This has been discussed in further detail in paragraph 4.3.2 of this thesis.

#### 4.4.6 Selection of the strategy

The researcher concentrated on strategies and measures that would ensure the modules' smooth implementation. Among the strategies and measures are to use straightforward language that is easy to understand, to emphasise Syariah principles through scientific evidence and expert opinion, to include case reports from relevant Syariah Courts, to provide legal interpretations in any section deemed necessary based on the opinions and descriptions of Islamic jurists, and to ensure that the module's structure and organisation are orderly and easy to understand.

#### **4.4.7 Selection of the logistic**

The researcher employed photographs, charts, diagrams, tables, and sketches as module supplementary materials to aid in smoothing and enabling the Fiqh Forensic module's progression.

#### **4.4.8 Selection of the media**

The Malay language was employed as the medium of teaching in this module by the researcher. This is because the Syariah Court has adopted the Malay language as the medium of education, and industry practitioners are more receptive to its usage. This also complies with Section 8 of the National Language Act, which requires that the Court's language be the Malay language.

Additionally, the researcher has included several photographs, the most of which were sourced from Google Image, to provide readers with a quick summary of the subject at hand. Similarly, the use of diagrams and diagrams by researcher in this module attempts to aid readers in comprehending the information being given.

#### **4.4.9 Integrate the draft module**

After completing the preceding phases, the module developer must consolidate the module drafts to create a complete module draft. The completed draft module will proceed to the second stage of development, which will include attempting to assess the module. This second step, however, is irrelevant to the present investigation.

At this stage, the draft of the Fiqh Forensic module which was originally separated into six has been combined by the researcher to form a complete draft module.

#### **4.4.10 Produced a completed draft module**

The researcher has attached the completed draft module in the Appendix G of this thesis.