

CHAPTER 3

METHODOLOGY

3.1 Introduction

This chapter explains the research design used by the researcher throughout this study. It reflects the process of conducting the qualitative research by determining the design of the study, sample selection, data collection, data analysis, validity and reliability and etc. Section 3.2 describes the design of this study which determine the approach taken by the researcher in conducting the research. Under this subsection, the researcher explained on the qualitative approach adopted as the main research strategy as well as the framework of the study. Section 3.3 demonstrates the data collection method and its sources which consists of armchair research (AR) method and qualitative content analysis (QCA) method. Next is section 3.4 which highlights the steps in analyzing the various forms of qualitative data, followed by section 3.5 which explained the steps and procedure taken by the researcher in ensuring the trustworthiness of findings.

3.2 Research Design

In every research, the researcher needs some idea of what he wants to know and a plan for carrying it out. Merriam (2009) stated that research design is “a logical plan for getting from here to there”, where ‘here’ maybe defined as the initial set of questions to be answered, and ‘there’ is some set of conclusions or answers about these questions. Research designs are types of inquiry within the research approach that

provide specific direction for procedures in a research study. The following subtopics outline the basic steps followed by the researcher to achieve the intended defined goals.

3.2.1 Qualitative Research Design

Unquestionably, qualitative research is used for exploration and to develop a complex understanding of chosen issues. Qualitative research enables the researcher to explore a topic in an open-ended way where there is no any predetermined factors or specific relationships exist (Creswell & Creswell, 2017). The current research is important as the researcher needs to obtain the understanding on the application of forensic document examination from Syariah courts perspectives.

To fulfill the aims of this study, this research adopts qualitative research design as an approach to answer the research questions. Qualitative approach had been chosen by the researcher for several reasons. Firstly, qualitative method of research is favorable for describing, interpreting, contextualizing and gaining in-depth insight into any specific concepts or phenomena. Since the main purpose of this study is to develop an understanding on the association between forensic document examination field and Syariah court practice, it is obvious that qualitative study is the most suitable approach to achieve the objective. This is in line with the work of Creswell and Creswell (2017) who stated that qualitative research is an inquiry process of understanding based on distinct methodological traditions of inquiry that explore a social or human problem. The researcher agreed that qualitative research design is the most ideal way to get a comprehensive understanding of the issue at hand.

As mentioned in the earlier chapter, this study was designed to determine the relationship between forensic document examination and Syariah courts. This study aims to identify the forms of document forgery in Syariah courts' cases, to explain the

principles and process involved in forensic document examination that can be applied in Syariah court's proceeding and to examine in what ways forensic document examination may be applied in Syariah courts. This study is conducted with a faith that it is appropriate to look at civil court's practice to understand in what way the existing rules or principles in common law could be exemplified to strengthen further evidential procedure in Syariah courts. This study utilized qualitative approach to answer these questions.

Within the last few decades, qualitative research has become an established field of study with its own literature base, research journals, special interest groups, and frequently scheduled conferences (Merriam, 2009). The use of qualitative methods in research has received significant attention among the scholars and researchers in recent years (Yeasmin & Rahman, 2012). Qualitative approach is especially useful if a concept or phenomenon needs to be explored and understood due to little research conducted on it or because it involves an understudied sample. Besides, qualitative approaches provide the room to be innovative and to work more within researcher-designed frameworks (Creswell & Creswell, 2017). These features of qualitative research explain why the researcher believes that the qualitative approach is the most suitable approach in conducting the present study.

Table 3.1: Overview of Research Methodology

	OBJECTIVE 1	OBJECTIVE 2	OBJECTIVE 3
RESEARCH METHODOLOGY	Armchair Research and Qualitative Content Analysis Methods		
DATA SOURCES	Collection of data on the forms of document forgery in Syariah courts' cases.	Literature reviews on the principles and process involved in forensic document examination.	Literature reviews on classical and modern sources of Islamic law and scholars' opinion on documentary evidence and expert evidence.
DATA COLLECTION	Primary and secondary data		
DATA ANALYSIS APPROACHES AND THE RESULTS	Approach: Descriptive Results: Description of the forms of document forgery in Syariah courts' cases.	Approach: Descriptive, deductive, inductive Results: Elaboration of the principles and process in forensic document examination.	Approach: Descriptive, deductive, inductive Results: Description of the application of forensic document examination in Syariah court including the legal provisions on expert evidence in both Syariah and civil courts.
ENSURING TRUSTWORTHINESS OF FINDINGS	Strategies: 1) Use member checking to ensure the accuracy of the findings 2) Use rich, thick description to convey findings 3) Peer examination 4) Clarification of researcher bias		

Adapted from Baharuddin (2017)

Figure 3.1 displays the overview of this research design which consists of the phases of study, data collection and its sources, data analysis approaches and the findings, and the strategies taken to ensure the trustworthiness of this study. This study comprises of three phases which used armchair research and qualitative content analysis methods. Further description on these methods are provided in the following sections.

3.2.2 Conceptual Research Framework

Conceptual framework refers to a visual or written product which explains the main things to be studied and the presumed relationships among them (M. B. Miles & Huberman, 1994). In the current study, the researcher seeks to engage several approaches in conducting the study. This research is conducted using two main methods which are armchair research and qualitative content analysis methods. Figure 3.2 simplifies the conceptual research framework of this study. This research identifies the forms of document forgery in Syariah courts' cases and the principles in forensic document examination that are used to examine the genuineness of documents. By doing so, the researcher would be able to understand the existing relationship of forensic document examination and Syariah courts.

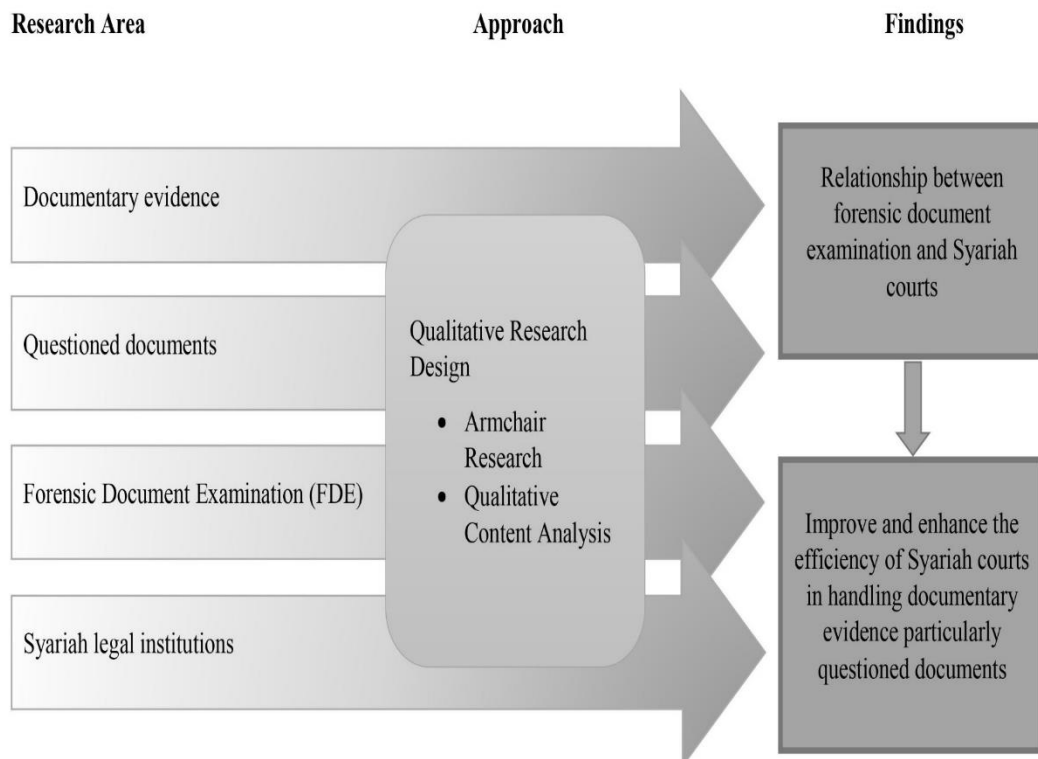


Figure 3.1: Conceptual Research Framework

At the end of the research, the relationship, interaction and the application of forensic document examination in Syariah court could be identified and understood. This research begins with the introductory phase of research which consists of drafting, formulating, justifying significant of research, reviewing literature and developing conceptual framework. Armchair research and qualitative content analysis conducted ensure that all research objectives are obtained. This study enhances the necessity to handle documentary evidence through scientific examination in Syariah courts cases.

3.3 Data Collection and Its Sources

Data collection is very important in any type of research study and they can be collected in a variety of ways from different sources. It involves the process of gathering data, and then making sense of it by grouping data segments into codes, and then themes, and finally larger perspective. In this section, the researcher specified the methods of data collection that will be used in the study. The two methods adopted in this study are armchair research method and qualitative content analysis method.

3.3.1 Data Collection for Armchair Research (AR) Method

Armchair research or doctrinal research is essentially a library-based study where the materials needed by the researcher can be found in libraries, archives and other databases (Yaqin, 2007). Merriam (2009) insisted that using documentary material as data does not differ greatly from using interviews or observations. In library research, the data collection is guided by questions, educated hunches, and emerging findings. The investigator is the primary instrument for gathering data.

In this qualitative study, library research method is adopted to gather documents in the form of statutes or enactments, legal rule and regulation, legal history or

judgments, text books, periodicals, commentaries, case laws, conference papers, official webpages and electronic articles, journal articles including thesis documents, and newspaper articles. The researcher read the substantive legal rules, concepts and judicial decisions on documentary evidences in Islamic law as much as possible in a holistic manner, analyse and formulate the conclusions and subsequently write up the findings.

Since the researcher chooses the concept of documentary evidence in Shariah law as the focus of this study, the data include not only the laws in statute, but also legal cases and comparable statutes in civil courts jurisdiction. Ultimately, this study aims to discover, explain and describe the working of laws on documentary evidence in a systematic manner.

The various sources of information can be classified into two main types of sources namely primary and secondary sources. Primary sources refer to the sources that contain authoritative records of law made by law making bodies. For examples, legislation, rules, regulations and orders by delegated authorities, and the authoritative decisions of the courts. Meanwhile, sources that refer and relate to the law while not being themselves primary sources are known as secondary sources. Examples of secondary sources are legal commentaries, abstracts, dictionaries, encyclopedia and index.

3.3.2 Data Collection for Qualitative Content Analysis (QCA) Method

The next method of data collection is the QCA method. Content-analysis is a method of data collection which analyses the contents of documentary materials such as books, magazines, newspapers and the contents of all other verbal materials, either spoken or printed. Since this study is a document-based research, the analysis of content is a central activity.

In this study, the data are gathered from various documentary sources including classical and modern sources from book or book section category, conference paper and case report categories, official government documents, documents of statutes, legal rule and regulation, official webpages and electronic articles, journal articles including thesis documents, reports, standards, internet publication and newspaper articles. All these types of documents are divided into primary or secondary sources.

Primary sources provide the researcher with raw evidence from the basic and original material whereas secondary sources copy, interpret, or evaluate material found in primary sources (Sapsford & Jupp, 1996). As a result, primary data is acquired from scratch and for the first time making it original in nature. Secondary data on the other hand, are those information that have been gathered by someone else and have already been passed through the statistical process.

Both types of data from primary and secondary sources are analysed to obtain the research objectives. To understand documentary evidence in Islamic law, sources from prominent books in the field were used in analysis as suggested by Baharuddin and Roslan (2017). As for the forensic document examination discipline, library research is conducted to gain data from the sources such as books, reports, internet publications, and standards. A review of research in forensic document area entails the evaluation of the contents of previously published research articles. These data were recorded into citation and bibliography.

3.3.3 Data Collection according to Research Objectives

In purposive sampling, the sample were selected based on the researcher's judgment about some particular characteristics required of the sample units. The researcher adopted purposive sampling to answer all of the research questions due to its

convenience and relevance to this study. This type of sampling allows the researcher to achieve the specific research purpose. This is in line with Merriam (2009) who stated that in qualitative inquiry, it is important to select a sample from which most can be learned. In this type of sampling, a sample was selected in a way that serves a specific purpose even if the sample does not fully represent the population. The researcher uses his own judgment to select and picks only those who meet the purpose of the research (Yaqin, 2007).

The researcher collected data on the forms of document forgery in Syariah court to answer the first research question. The forms of document forgery were identified from the legal cases reported and accessible through library online databases. Among the prominent legal journals utilized in this study include Jurnal Hukum, Current Law Journal (Syariah), Shariah Law Reports and Malayan Law Journal. The cases that were analyzed include any cases relating to forgery of documents such as forged marriage certificate, forged signature in documents, forged contractual agreement, invalid faraid certificate and forged gift-deed transaction. These cases were found through the search of relevant keywords such as 'forgery', 'forgery of document', 'document forgery' and 'forged document'. The selected cases were chosen based on their association with forgery activities. The data collected are in the form of court cases which are considered as primary sources. The timeframe of the selected cases were between the years 2004 until 2019. The researcher initially planned to collect the cases directly from Syariah Courts situated at several districts in Negeri Sembilan. Unfortunately, due to limited access to judicial institutions as a consequence of Movement Control Order (MCO) and time constraint, there has been a change of plan in data collection process where the researcher decided to utilize online library databases. The cases chosen were also not limited to the state in Negeri Sembilan.

Since the second aim of this research is to identify the principles and process involved in forensic document examination, the data were collected from the sources such as textbooks or prominent books in forensic science field, reports, journal articles, internet publications and standards. The data on the fundamentals of forensic document examination were gathered to understand the principles and process of document examination. The researcher ensures that the data gathered were taken from the prominent scholars in the field of forensic document examination. It is important to note that although the researcher has little background in forensic science field, the researcher has duly consulted the main supervisor who is certified in the field and referred to the peers with background of forensic science. Both supervisor and peers provided useful guidance for the researcher to ensure that the researcher is on the right track. The purposive sampling strategy was used by the researcher in collecting data on the principles of forensic document examination.

To achieve the third objective of the study, the researcher gathered and analysed the literature and authorities from various credible sources. The researcher began by reading through the recent texts of documentary evidence and *kitābah* and noted their references, and examine the cited works for their references and eventually analysed the classical and modern sources of Islamic law and scholars' opinion on forensic science as evidence. The data gathered are also in the form of legal dictionaries, textbooks, journal articles, statutes, constitution, legal commentaries and legal provisions relating to expert opinion from both Syariah and common law perspectives. The data were later examined and analysed to understand their similarities and differences.

3.4 Data Analysis

Since data analysis is one of the critical parts of this study, this section provides the detailed process and steps involved in coding text data, making sense of them, and then using the interpretations in this qualitative research report. As suggested by Huberman, Miles, and Saldana (2014), data analysis in this study will be concurrent with data collection. Merriam (2009) also argued that in qualitative research, data collection and data analysis must occur simultaneously. This section comprises of AR analysis approach and QCA method.

3.4.1 AR Analysis Approach

In order to answer the research questions, this raw data collected must be analysed so as to reflect the direction of the study. It is important for the analysis to be systematic and arranged, so that the researcher can quickly locate the data set information and trace the results back to the context of the data (J. Miles & Gilbert, 2005). Therefore, the researcher had organized this analysis process into several steps as shown in Figure 3.3. The first step of analysis is data preparation where the data gathered are thoroughly organized and sorted. This stage allows the researcher to read the entire data set in order to get a complete picture of the studied phenomenon. The next step in the analysis process starts by dividing the data into distinctive meaning units. The meaning units are the units with which the researcher does the analysis. Then, the data are sorted into domains that provide the conceptual framework for the data as recommended by Hill, Thompson, and Williams (1997). After that, the meaning units are then coded or categorised inside each of the domains they have been divided into. The word category means the arrangement of data in classes according to their similarity or affinity. Finally, the categories generated end with the next step of abstracting the main findings from

the category structure. This step is regarded as extracting the results of the study in its simplest way (J. Miles & Gilbert, 2005).

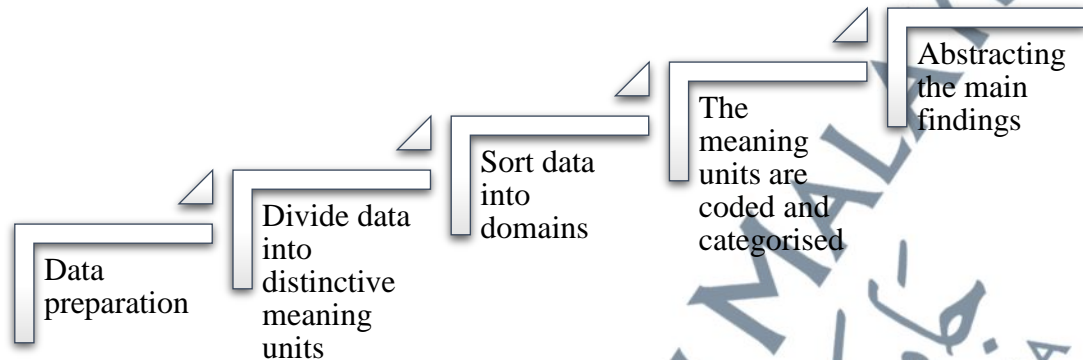


Figure 3.2: Data Analysis Steps in Armchair Research Analysis Approach

3.4.2 QCA Method of Analysis

Webster's Dictionary of the English Language defined *content analysis* as "analysis of the manifest and latent content of a body of communicated material (as a book or film) through classification, tabulation, and evaluation of its key symbols and themes in order to ascertain its meaning and probable effect" (Merriam-Webster, n.d.-a). In content analysis literature, there are many definitions available given by scholars. Content analysis is a research technique for establishing replicable and accurate inferences about the settings in which texts or other significant content are used (Krippendorff, 2004).

According to Berelson (1952), content analysis is a research approach for describing the manifest content of communication in an objective, systematic, and quantitative manner. Holsti (1968) defined content analysis as any technique for making inferences by systematically and objectively recognising defined properties of messages. Content analysis is also defined as a method of study that utilizes a set of procedures to create valid inferences from text (Weber, 1990). It's a technique for deciphering written,

spoken, or visual communication messages (Cole, 1988; Mohajan, 2018). It is widely described as a method in which the message's content is used to generate the basis for drawing inferences and conclusions about the content (Nachmias & Nachmias, 1976). It is also known as a method of analyzing a document or text data (Elo & Kyngäs, 2008; Hsieh & Shannon, 2005).

Particularly, the current research involved the use of QCA as the main research method to achieve all the three research objectives. QCA is commonly used for analyzing qualitative data in research (Elo et al., 2014). Within this framework, qualitative content analysis is defined as an empirical, methodologically controlled analysis of texts in their context of communication, based on content analytical rules and step by step models, to avoid premature quantification (Mayring, 2001).

A sampling plan is needed to ensure that the textual units sampled to give the research questions a fair chance of being answered correctly. As mentioned previously, there are three objectives in this study. To fulfil these objectives, this study will use descriptive, inductive, and deductive approaches to analyse the data. Descriptive approach can be either quantitative or qualitative (Baharuddin, 2017). It can include collections of quantitative data that can be tabulated in numerical form or it can explain categories of information.

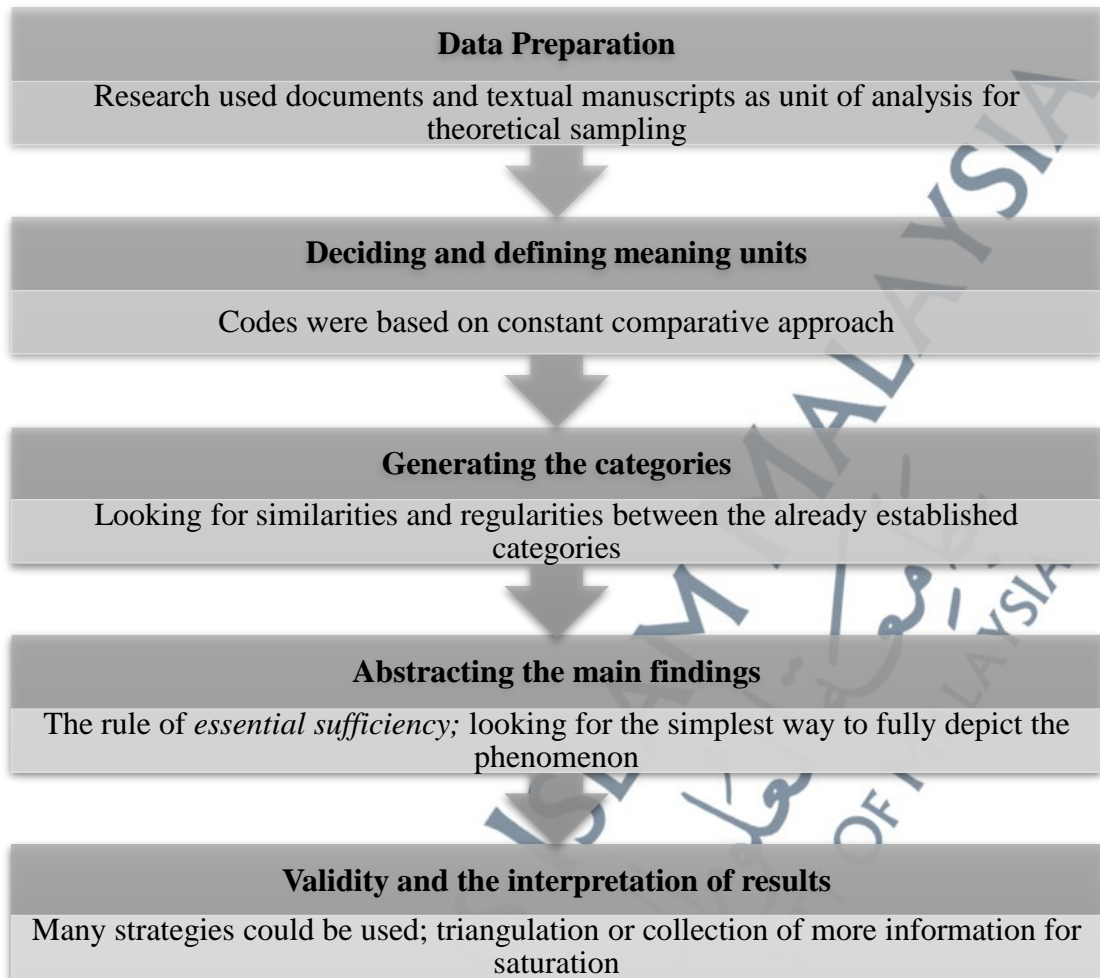


Figure 3.3: Procedure for A Qualitative Descriptive Approach of Content Analysis
Adapted from Elliott and Timulak (2005)

Fawcett and Garity (2008) stated that the objective of descriptive research is to give a name to something or a phenomenon, or to define the features of something (Ivey, 2016). It entails gathering data that characterizes events and subsequently organises, tabulates, depicts, and describes the data collection (Glass & Hopkins, 1984). In descriptive studies, visual aids such as graphs and charts are frequently utilised to help the reader understand the data distribution. Because the human mind is incapable of extracting the full value of a big amount of raw data, descriptive statistics are critical in reducing the data to a manageable size (Elliott & Timulak, 2005).

Deductive analysis has been used in this study. The deductive procedures are as follows:

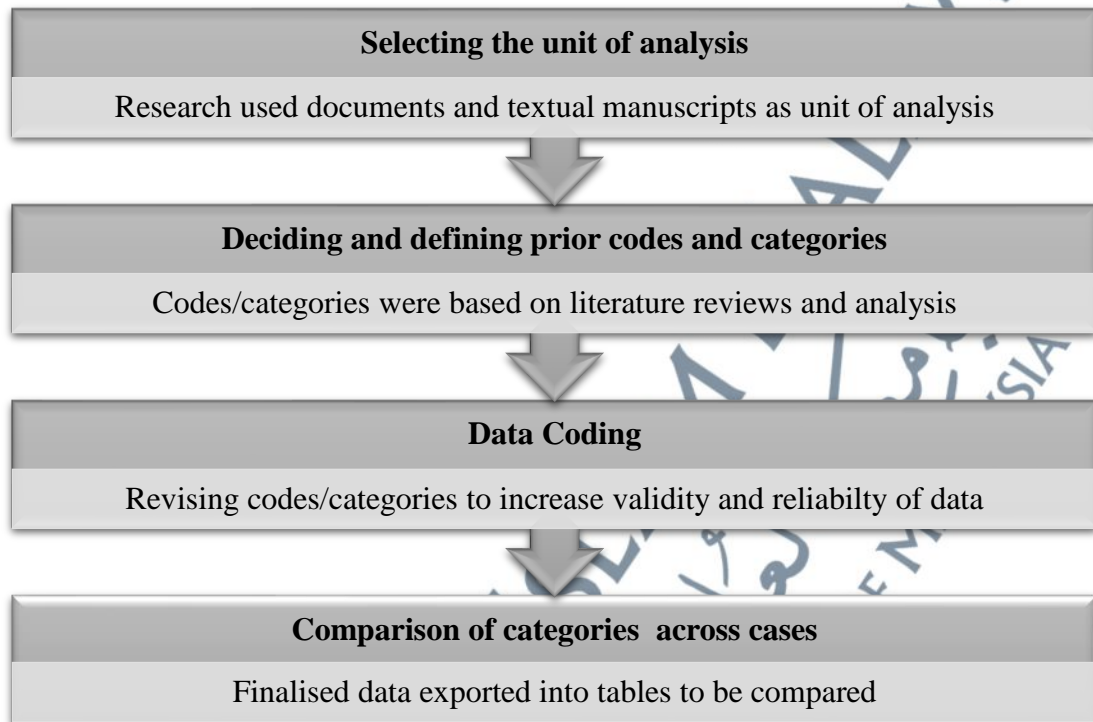


Figure 3.4: Procedure for A Deductive Approach of Qualitative Content Analysis
Adapted from Cho and Lee (2014)

This study used documents and textual manuscripts in analysis process. These units refer to primary raw data in this research. Next, the process of defining categories/codes was completed also by the extensive literature reviews made in the preceding chapters. The codes/categories covered on the principles in document forensic examination and the admissibility of expert evidence in Islam. Thus, coding process started manually and recorded into table and research notes. Next, data were analysed inductively to answer the research questions. The research questions were discussed thoroughly using inductive analysis.

The procedure of using inductive analysis is as follows:

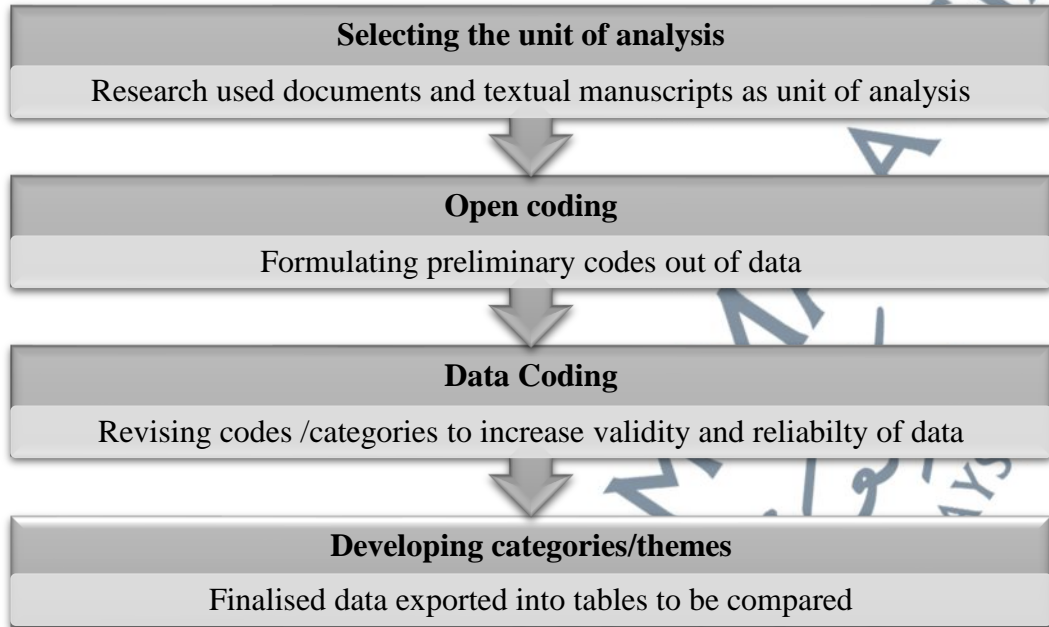


Figure 3.5: Procedure for An Inductive Approach of Qualitative Content Analysis
Adapted from Cho and Lee (2014)

In case the prior knowledge regarding the phenomenon under investigation is limited or fragmented, it is appropriate to adopt inductive approach (Cho & Lee, 2014; Elo & Kyngäs, 2008). In the inductive technique, codes, categories, or themes are derived directly from the data, but in the deductive approach, predefined codes or categories established from prior relevant literature are used. (Cho & Lee, 2014).

Data is provided in words and themes in qualitative content analysis, allowing for some interpretation of the findings (Bengtsson, 2016). In qualitative content analysis, coding can attend to both the manifest and latent content meaning of communications. The researcher has chosen that the analysis used in this study is a manifest analysis where the researcher sticks close to the text, employs the words themselves, and describes the visible and obvious in the text.

3.4.3 Data Analysis according to Research Objectives

To analyse the legal cases, the researcher begins by sampling a selected set of legal cases connected to document forgery activities. The cases were chosen selectively during the data collection phase as aforementioned. Then, the researcher identified and divided each cases into segments that can be treated as separate units of analysis. This process can be seen from the Table 3.6 below whereby the outcome of analysis were divided according to its field or category.

Table 3.2: Cases of forgery and their fields

Cases Citation	Field
Kholed bin Dinyati <i>lwn.</i> Ketua Pendakwa Syarie Melaka [2009] JH 29 Bhg. 2 275	Marriage
Syarie Prosecutor v Azlan Daniels bin Abdullah [2008] 2 ShLR 158	Polygamy
AHMG v AGMG & Ors [2019] 3 ShLR 1	Distribution of property (<i>hibah</i>)
Mohd Salim bin Said & Ors v Tang Pheng Kee & Anor and another appeal [2014] 3 MLJ 504	Distribution of property (<i>faraid</i>)
Sulaiman bin Ahmad & Ors (beneficiaries for the estate of the deceased, Jemain bin Mohamed ½ portion and beneficiaries for the estate of the deceased, Kechot bin Mohamed ½ portion held by Zabidah bt Sembob as administratrix and trustee) v Jemain bin Mohamed & Ors [2020] 11 MLJ 616	Distribution of property (<i>faraid</i>)
Shariffa Zainab bt Syed Wadzid Ali v Ismail Fekri bin Ishak [2009] 2 ShLR 101	Distribution of property (<i>harta sepencarian</i>)
Ahmad bin Abd Majeed <i>lwn.</i> Habibah bte Abdul Majid dan satu lagi [2007] 3 MLJ 418	Distribution of property (<i>faraid</i>)
Pendakwa Syarie Kelantan <i>lwn.</i> Mat Rahim Saman dan satu lagi [2004] CLJ (Sya) 2004 513	Marriage
Zainuddin bin Annuar v. Khadijah bte A Hijazi [2012] MLJU 101	Distribution of property (<i>faraid</i>)

Mst Kulsoom Bibi and Anor. v. Muhammad Arif & Ors [2006] 1 CLJ (Sya) 262	Distribution of property (<i>hibah</i>)
Abd Halim bin Md Hashim v Azila bt Ramli @ Ismail [2017] 2 ShLR 57	Marriage
Rosniza bt Mustaffa v Abu Bakar bin Dawam [2013] 4 ShLR 28	Marriage
Norazimah bt Man v Mohd Hamdan bin Ismail [2013] 3 ShLR 45	Marriage
Majlis Agama Islam Negeri Pulau Pinang v Abdul Latiff bin Hassan (as executor of the estate of Hj Mohammad bin Hj Abdul Rashid, deceased) & Anor [2018] 2 ShLR 15	Distribution of property (<i>waqf</i>)

To fulfil the second objective, the materials and textual data representing the fundamentals of forensic document examination were collected. Since the data were unstructured, the researcher begins by arranging all the data into a text format manually in writing. The data were manually recorded in the files of personal computer belongs to the researcher. The data were then organised and categorised according to subchapters based on the findings' attributes and properties. During this phase of analysis, the researcher had consulted her supervisor and her colleague with background of forensic science degree to ensure that the data were categorized according to its group properly. Deductive approach was used to identify the most relevant principles and process in forensic document examination field.

For the third research objective, the researcher first located the sources of the law related to the admissibility of expert opinion in Islamic and common law perspectives. The researcher then analysed the data from authoritative sources which come from statute laws, judicial decisions and other legal texts to verify the legal proposition and reach to a conclusion. In this study, inductive approach was taken to identify the attributes and opinions of the scholars regarding the admissibility of expert evidence and application of forensic document examination in Syariah courts.

3.5 Ensuring Trustworthiness of Study

Unquestionably, qualitative research is highly interpretive in nature where the inquirer makes a personal interpretation of information (Creswell & Creswell, 2017). Thus, the researcher uses multiple validity strategies to assess the accuracy of the interpretations. The following strategies will be employed:

1. Member checking: An ongoing dialogue with postgraduate friends and supervisor regarding the interpretations of the data will ensure the truth value of the data.
2. Use rich, thick description to convey findings: The provision of rich, comprehensive, extensive descriptions to assure external validity and provide a solid basis for comparison for anyone interested in transferability (Merriam, 2009).
3. Peer examination: a postgraduate student in the field of forensic science will serve as a peer examiner.
4. Clarification of researcher bias: At the outset of this study, researcher bias will be stated in the proposal writing.

3.5.1 Strategies to Improve Reliability of Research Results

In qualitative research, ensuring validity and reliability requires conducting the study in an ethical manner (Merriam, 2009). In this study, three strategies for ensuring reliability will be used. First, the researcher will describe the study's purpose, the researcher's function, and justification for selection, and the context in which data will be collected. Second, triangulation using numerous data sources, which is comparing and cross-checking data acquired from various sources in order to improve reliability and internal validity (Creswell & Creswell, 2017; Merriam, 2009). Finally, in order to

provide a comprehensive and accurate picture of the procedures employed in this work, data collecting and analysis strategies will be reported in detail. An external auditor with experience in qualitative research methods will scrutinise all parts of this study.

3.6 Summary

This chapter clarifies the methodological aspect of this study. This research used the qualitative research design to fulfill research objectives through armchair or library-based research and qualitative content analysis methods. Qualitative content analysis method employed descriptive, inductive and deductive approaches to achieve the study purposes. Besides, this chapter explained the steps taken by the researcher to ensure the validity and reliability of findings.

