IJoIS: Indonesian Journal of Islamic Studies
Vol. 7, 1 (January-June, 2026), pp. 41-54
EISSN: 2745-7745, DOI: https://doi.org/10.59525/ijois.1499

Reimagining Judicial Reasoning: The Legal Implications of Neurotechnology in Child Custody Adjudication

Aten Kuswendi[1], Artiyanto[1], Septia Novarisa[1]

[1] Universitas Islam Nusantara Al-Azhaar Lubuklinggau, Indonesia

ARTICLE INFO

Keywords:

Neurotechnology;
Child Custody;
Judicial Reasoning;
Scientific Evidence;
Family Law;
Neurolaw

Article history:

Received 2026-01-29
Revised 2026-03-13
Accepted 2026-05-07

ABSTRACT

This study examines the juridical implications of neurotechnology in judicial reasoning within child custody adjudication. While existing scholarship in neurolaw has largely focused on criminal justice, limited attention has been given to its application in family law, particularly from a doctrinal and evidentiary perspective. Addressing this gap, the study employs a normative legal research approach to analyse the evidentiary status of neurotechnology and its role in supporting judicial decision-making. Child custody adjudication, guided by the best interests of the child, often relies on interpretative assessments that may generate subjectivity and inconsistency. Neurotechnologies such as functional magnetic resonance imaging (fMRI) and electroencephalography (EEG) offer potential empirical insights into psychological and emotional conditions relevant to parental capacity. However, the findings demonstrate that although neurotechnology may be classified as expert scientific evidence, its admissibility remains contingent upon established standards of relevance, reliability, and scientific validity. The study further identifies a critical epistemic gap between neuroscientific data and legally meaningful conclusions, indicating that neurotechnology does not eliminate subjectivity but rather reconfigures it through expert interpretation. Accordingly, this research argues that neurotechnology must be positioned as a supplementary evidentiary tool rather than a determinative basis for judicial decisions. This study contributes theoretically by extending neurolaw into the domain of family law and normatively by proposing a regulatory framework that emphasises procedural safeguards, protection of individual rights, and the preservation of judicial discretion.

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Corresponding Author:
Aten Kuswendi
Universitas Islam Nusantara Al-Azhaar Lubuklinggau, Indonesia; atenkuswendi21@gmail.com

1. INTRODUCTION

Child custody adjudication remains one of the most legally and ethically complex domains within contemporary family law, as it directly engages with the fundamental question of how the

state should intervene in determining the living arrangements and developmental environment of a child following parental separation. Central to this adjudication is the doctrine of the best interests of the child, a principle that has achieved near-universal recognition across jurisdictions and is codified in international instruments such as the United Nations Convention on the Rights of the Child. Despite its normative authority, the doctrine is inherently indeterminate, offering limited operational guidance for judges tasked with translating abstract welfare considerations into concrete legal decisions (Assembly & Directorate, 1991; Mnookin, 1975). A comparable normative orientation can also be identified within Islamic legal tradition, particularly in the doctrine of *ḥaḍānah* (child custody), which emphasises the protection and welfare of the child as a primary consideration (Ahyani & Figueiredo, 2024). Classical jurists recognised that custody decisions require not only formal legal reasoning but also contextual evaluation of parental capacity, moral integrity, and the child's well-being (Nasir, 2009). This parallel underscores that both modern and classical legal systems confront similar challenges in operationalising abstract welfare principles into concrete judicial determinations.

The indeterminacy of the best interests standard has long been identified as a source of both flexibility and inconsistency. On one hand, it allows courts to tailor decisions to the unique circumstances of each case; on the other, it opens the door to subjective judicial reasoning, cognitive bias, and variability in outcomes (Ahmad et al., 2020; Fineman, 1994). Empirical studies have demonstrated that custody decisions often rely on qualitative assessments of parental behaviour, emotional bonds, and perceived moral fitness, frequently mediated through expert testimony from psychologists or social workers (Al-Billeh, 2022; Emery, 2011). While such assessments provide valuable insights, they are not immune to methodological limitations, interpretive ambiguity, and professional disagreement, thereby raising questions about their evidentiary robustness. Within Islamic jurisprudence, similar concerns regarding evidentiary reliability have historically been addressed through a structured hierarchy of proof, including testimony (*shahādah*), confession (*iqrār*), and circumstantial indicators (*qarā'in*). Importantly, *qarā'in*—which may be conceptually analogous to modern scientific indicators—are recognised as supportive rather than determinative evidence (Napisah, 2022). This doctrinal framework highlights an early awareness of the need to balance evidentiary innovation with epistemic caution, a concern that remains highly relevant in contemporary discussions on scientific evidence. In response to the limitations of traditional evidentiary approaches, there has been a growing interest in integrating scientific methodologies into legal decision-making processes, particularly within the emerging field of neurolaw. Neurolaw seeks to explore how advances in neuroscience can inform legal concepts such as responsibility, intent, and risk (J. Jones, 2020). Over the past two decades, neurotechnologies such as functional magnetic resonance imaging (fMRI), electroencephalography (EEG), and other brain-imaging techniques have been utilised in various legal contexts, most notably in criminal law, where they have been invoked to assess issues ranging from deception detection to diminished capacity (Abat Ninet, 2015).

The extension of neurotechnology into the domain of family law, however, remains largely nascent and under-theorised. Yet, its potential relevance to child custody adjudication is increasingly apparent. Custody determinations often hinge on evaluations of parental psychological stability, emotional responsiveness, and the quality of parent-child attachment factors that are, in principle, amenable to neuroscientific investigation (Feldman, 2015). For example, neuroimaging studies have identified neural correlates associated with empathy, stress regulation, and caregiving behaviours (Swain et al., 2014). These developments raise the possibility that neurotechnology could provide supplementary, empirically grounded insights into parental capacity, thereby enhancing the evidentiary basis of judicial decision-making. However, the introduction of neurotechnology into judicial reasoning is not a straightforward progression from scientific innovation to legal application. Rather, it presents a series of complex juridical challenges that must be addressed with caution and

precision. One of the primary issues concerns the admissibility of neuroscientific evidence within existing evidentiary frameworks (Poldrack, 2006). Legal systems typically impose threshold requirements for the admission of expert evidence, including standards of relevance, reliability, and general acceptance within the scientific community. In jurisdictions influenced by common law traditions, these standards are often articulated through doctrines such as the Daubert v. Merrell Dow Pharmaceuticals, Inc. decision, which emphasises testability, peer review, error rates, and scientific validity (Faigman et al., 2014).

The application of such standards to neurotechnology raises important questions. While neuroimaging techniques have achieved a high degree of scientific sophistication, their translation into legally relevant conclusions is far from unproblematic. Neuroscientific data is inherently probabilistic and context-dependent, requiring careful interpretation by experts. Moreover, there is ongoing debate within the scientific community regarding the extent to which neural activity can be reliably linked to complex psychological states or behaviours, such as parenting capacity or emotional attachment (Poldrack, 2006). These epistemic limitations challenge the assumption that neurotechnology can provide objective or definitive answers to questions that are fundamentally normative and relational in nature. Beyond issues of admissibility and interpretation, the use of neurotechnology in child custody cases also implicates fundamental legal principles related to fairness, autonomy, and the protection of individual rights. Neurotechnological assessments often involve the collection and analysis of highly sensitive data pertaining to an individual's cognitive and emotional processes. The compulsory use of such technologies in legal proceedings may raise concerns regarding bodily integrity, mental privacy, and informed consent (Andorno, 2004). In the context of Islamic legal ethics, similar concerns are reflected in the strong emphasis on the protection of human dignity *(karāmah al-insān)* and the prohibition of harm, as articulated in legal maxims such as *lā ḍarar wa lā ḍirār*. Furthermore, there is a risk that the incorporation of neurotechnology into judicial reasoning may lead to what scholars have described as "neuro-reductionism"—the tendency to reduce complex human behaviours and relationships to purely biological processes (Roskies, 2016). Such an approach risks overlooking the broader social, cultural, and environmental factors that fundamentally shape parenting practices and child development. Classical Islamic scholars, including Abu Hamid al-Ghazali, similarly emphasised that human behaviour cannot be reduced to observable indicators alone, but must be understood within a wider ethical, social, and relational context.

Despite these limitations, the potential contribution of neurotechnology should not be dismissed. When applied cautiously, it may enhance the transparency and evidentiary grounding of judicial decision-making, particularly in cases where traditional forms of evidence remain inconclusive or contested. Both contemporary legal systems and Islamic jurisprudence acknowledge the value of incorporating new forms of knowledge, provided that such integration does not undermine foundational legal principles. However, existing scholarship in neurolaw has predominantly concentrated on criminal justice, with only limited engagement in the domain of family law. Moreover, studies addressing family law tend to prioritise psychological assessments rather than neuroscientific evidence. This reveals a significant gap in the literature, namely the absence of a systematic juridical analysis of neurotechnology as an evidentiary instrument in child custody adjudication. Addressing this gap is essential for advancing a more comprehensive understanding of how emerging technologies may reshape legal reasoning in sensitive and high-stakes contexts. This study therefore seeks to contribute to the discourse by offering a focused juridical analysis of the use of neurotechnology in judicial reasoning on child custody cases. Specifically, it examines the legal status of neurotechnology within evidentiary frameworks, analyses its role in supporting judicial decision-making, and identifies the legal as well as ethical challenges associated with its application. By situating the discussion at the intersection of law, science, and judicial practice—while

incorporating insights from Islamic legal tradition this research provides a more integrated and comparative perspective on both the potential and the limitations of neurotechnology in legal adjudication. Ultimately, as legal systems confront the rapid expansion of technological innovation, they must determine how new forms of knowledge can be incorporated without compromising the integrity of legal reasoning. The use of neurotechnology in child custody disputes exemplifies this tension, requiring a careful balance between scientific advancement and juridical prudence. The future of judicial reasoning in family law will thus depend not only on technological development, but also on the capacity of legal institutions to critically assess and responsibly integrate such innovations in the pursuit of justice.

2. METHODS

This study employs a qualitative juridical approach grounded in normative legal research to analyse the potential application of neurotechnology in judicial reasoning on child custody cases. Normative legal research is particularly appropriate for this inquiry, as it focuses on examining legal norms, doctrines, and principles governing the admissibility and use of scientific evidence within judicial processes (Hutchinson & Duncan, 2012). Rather than relying on empirical observation, this approach emphasises conceptual clarity and doctrinal coherence, enabling a critical evaluation of how emerging technologies may be situated within existing legal frameworks. The analytical framework is constructed through a combination of statutory, conceptual, and limited comparative approaches. The statutory approach is utilised to examine the legal foundations governing child custody adjudication and evidentiary standards, including family law provisions, child protection regulations, and rules concerning expert evidence. Through this approach, the study identifies the normative boundaries within which neurotechnology may be introduced as a form of evidentiary support (Alfitri, 2022). This analysis is essential for assessing whether current legal structures are sufficiently adaptive to accommodate scientific innovation or whether further doctrinal refinement is required. In parallel, a conceptual approach is employed to critically examine key notions central to this study, including judicial reasoning, the best interests of the child, and neuroscientific evidence. These concepts are not merely descriptive but carry significant normative implications within legal discourse. Judicial reasoning, for instance, entails not only the application of legal rules but also the interpretation of evidence and the exercise of discretion (MacCormick, 2005). Similarly, neuroscientific evidence raises epistemological questions regarding the relationship between neural activity and human behaviour, as well as the extent to which such data can be translated into legally meaningful conclusions (Pardo & Patterson, 2013). From a broader perspective, this conceptual analysis is further enriched by insights from Islamic legal thought, particularly in relation to evidentiary reasoning. Classical Islamic jurisprudence recognises multiple forms of proof, including testimony (shahādah), confession (iqrār), and circumstantial indicators (qarā'in). Within this framework, qarā'in function as inferential evidence that supports, but does not independently determine, judicial conclusions (Nasution et al., 2025). This conceptualisation offers a useful analytical parallel for understanding neurotechnology as a form of supplementary evidence that must be critically evaluated within a broader evidentiary structure rather than treated as conclusive proof.

To complement these approaches, the study incorporates a limited comparative perspective, particularly with respect to the treatment of scientific evidence in jurisdictions influenced by common law traditions. Reference is made to evidentiary standards derived from Daubert v. Merrell Dow Pharmaceuticals, Inc., which establish criteria such as testability, peer review, error rates, and general acceptance as benchmarks for admissibility (Faigman et al., 2014). Although not intended as a full comparative legal study, this perspective provides an important analytical reference point for evaluating the potential integration of neurotechnology within different legal traditions. The study

relies exclusively on secondary data, comprising primary, secondary, and tertiary legal materials. Primary legal materials include statutory regulations and internationally recognised legal instruments relevant to child custody and evidentiary law. Secondary materials consist of peer-reviewed journal articles, academic books, and authoritative reports in the fields of law and neuroscience, with particular emphasis on the emerging field of neurolaw (O. Jones et al., 2016). Tertiary sources, such as legal dictionaries, are used selectively to support conceptual clarification.

Data collection is conducted through systematic library research, involving the identification, selection, and review of relevant literature from academic databases such as Scopus, Web of Science, and Google Scholar. The selection process is guided by criteria of relevance, academic credibility, and citation impact. Keywords including "neurolaw," "neurotechnology," "judicial reasoning," and "child custody" are employed to ensure comprehensive and interdisciplinary coverage of the topic. The analytical process is carried out using a qualitative normative method, involving the interpretation of legal norms and the synthesis of scholarly arguments. The analysis proceeds in several stages. First, relevant legal principles governing evidence and judicial reasoning are identified and systematised. Second, neuroscientific findings are critically examined in terms of their reliability, limitations, and potential legal relevance. Third, an integrative analysis is conducted to assess the compatibility between existing legal frameworks and the prospective use of neurotechnology, including the identification of normative gaps and tensions (Marshall & Rossman, 2014).

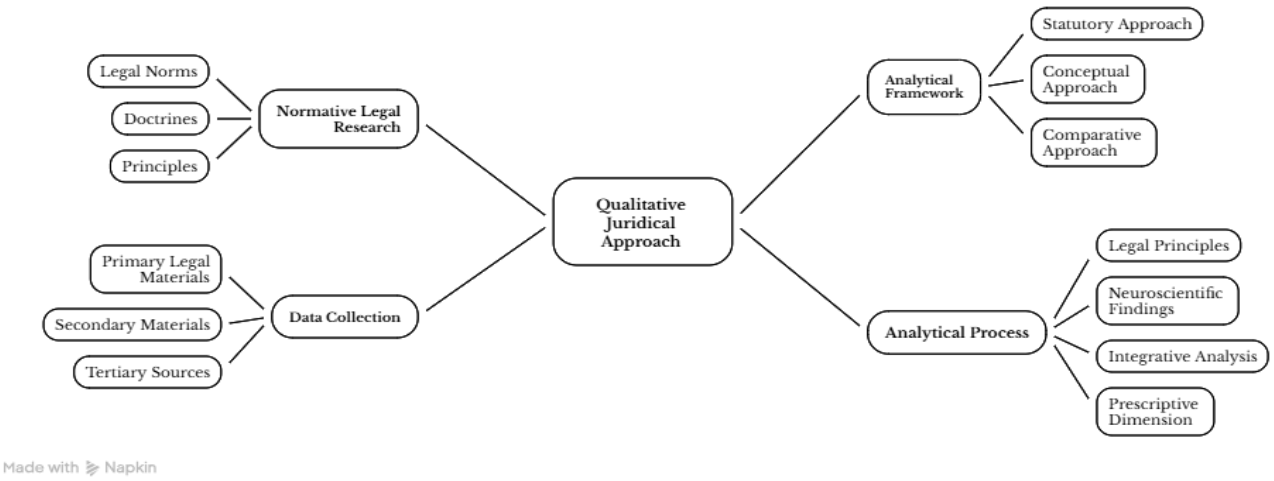


Figure 1 Qualitative Juridical Approach to Neurotechnology in Child Custody Cases

Finally, the study adopts a prescriptive dimension by formulating normative arguments regarding the appropriate conditions under which neurotechnology may be utilised in child custody adjudication. This includes considerations of evidentiary standards, procedural safeguards, and the protection of individual rights. While the research is limited by its normative nature and does not incorporate empirical validation, its strength lies in providing a theoretically grounded and legally rigorous framework for analysing an emerging issue at the intersection of law, science, and judicial practice.

3. FINDINGS AND DISCUSSION

3.1. The Legal Status of Neurotechnology as Scientific Evidence in Child Custody Adjudication

The rapid advancement of neuroscience and its associated technologies has prompted a significant re-examination of the role of scientific evidence within contemporary legal systems. In the context of child custody adjudication, where judicial decisions profoundly shape the welfare and long-term development of children, the emergence of neurotechnology presents both a promising opportunity and a complex juridical challenge (Ienca & Andorno, 2017). The central issue, therefore, is whether neurotechnology can be recognised as admissible, reliable, and legally meaningful evidence within existing evidentiary frameworks. Traditionally, courts rely on established categories of evidence, including witness testimony, documentary proof, and expert opinion. In child custody disputes, expert testimony particularly from psychologists, psychiatrists, and social workers plays a pivotal role in assisting judges to evaluate parental fitness, emotional bonds, and the developmental needs of the child. However, such expertise is often grounded in behavioural observation and interpretative assessment, which may vary depending on methodological approaches and professional perspectives (Assembly & Directorate, 1991; Emery, 2011). This inherent subjectivity has generated longstanding concerns regarding evidentiary consistency and reliability.

Neurotechnology emerges as a potential response to these limitations by offering empirically grounded insights into cognitive and emotional processes. Techniques such as functional magnetic resonance imaging (fMRI) and electroencephalography (EEG) enable the measurement of neural activity associated with emotional regulation, stress responses, and attachment-related behaviour (Feldman, 2015). In principle, such data may enrich the evidentiary landscape by providing additional layers of analysis that extend beyond observable behaviour, thereby contributing to a more informed judicial assessment. From a doctrinal perspective, neurotechnological data is most plausibly classified as a form of expert scientific evidence. However, its admissibility remains contingent upon its compliance with established legal standards of reliability and validity. In jurisdictions influenced by common law traditions, these standards are often articulated through the principles established in Daubert v. Merrell Dow Pharmaceuticals, Inc., which require that scientific evidence be testable, subject to peer review, associated with known error rates, and generally accepted within the relevant scientific community (Assembly & Directorate, 1991; Faigman et al., 2014). When evaluated against these criteria, neurotechnology demonstrates both strengths and limitations. On one hand, neuroimaging techniques are grounded in established scientific methodologies and have undergone extensive validation in clinical and research contexts. On the other hand, the translation of neural data into legally relevant conclusions—particularly in relation to parental capacity and caregiving behaviour—remains highly contested. Neuroscientific findings are inherently probabilistic and context-dependent, and their interpretative scope is subject to ongoing debate within the scientific community (Pardo & Patterson, 2013).

This epistemic limitation highlights a critical gap between scientific observation and legal inference. Neural activity may indicate correlations with certain psychological states, but it does not necessarily provide definitive evidence of behaviour in real-life parenting contexts. As such, the probative value of neurotechnology must be approached with caution, particularly in child custody cases where legal decisions demand a high degree of certainty and normative evaluation. A similar caution can be observed within Islamic evidentiary theory, which distinguishes between conclusive proof (*ḥujjah qaṭʻiyyah*) and probabilistic indicators (*qarāʼin*). Classical jurists recognised *qarāʼin* as supportive forms of evidence that may assist judicial reasoning but cannot independently determine legal outcomes. In this sense, neurotechnology can be analogically understood as a modern form of *qarīnah*—a supplementary evidentiary tool that must be corroborated by more direct and reliable forms of proof (Abdulghani & Alrumayh, 2025; Al-Syathibi, 2004). This perspective reinforces the

argument that neurotechnology should not be treated as determinative evidence in custody adjudication. Furthermore, the interpretative nature of neurotechnological evidence introduces an additional layer of complexity. Such data requires expert mediation, and different experts may produce divergent interpretations of the same findings. This raises concerns regarding the potential for inconsistency and the risk of over-reliance on expert authority (Brown & Keshavjee, 2025). Judges, who may lack specialised scientific training, face the challenge of critically evaluating complex technical evidence without deferring excessively to expert opinion.

The risk of overvaluation is further intensified by what has been termed the "seductive allure" of neuroscience, whereby scientific explanations accompanied by brain-based data are perceived as inherently more credible, even when their relevance is limited (Abdallah, 1985). This cognitive bias may lead to disproportionate reliance on neurotechnological evidence, thereby distorting the evidentiary balance within judicial proceedings. In addition to concerns of reliability and interpretation, the admissibility of neurotechnology must also be assessed in terms of its relevance to the legal issues at stake. Child custody adjudication involves not only empirical evaluation but also normative judgment concerning the child's best interests. While neurotechnology may offer insights into certain psychological attributes, it cannot fully capture the relational, social, and environmental dimensions of parenting (Djawas et al., 2023). Consequently, its evidentiary role must remain complementary rather than determinative. Moreover, the integration of neurotechnology into legal proceedings necessitates the establishment of robust procedural safeguards. Courts must ensure that such evidence is presented transparently, that experts are properly qualified, and that opposing parties are given adequate opportunities for cross-examination and rebuttal (Arief et al., 2025). These safeguards are essential to maintaining procedural fairness and preventing the misuse of complex scientific data. From a broader juridical standpoint, the introduction of neurotechnology reflects an ongoing tension between the pursuit of objectivity and the recognition of human complexity. While scientific advancements offer valuable tools for understanding behaviour, they must be integrated into legal reasoning in a manner that respects both their potential and their limitations. Legal systems must therefore adopt a cautious and critically informed approach, ensuring that technological innovation enhances rather than undermines the integrity of judicial decision-making. In conclusion, the legal status of neurotechnology as scientific evidence in child custody adjudication remains conditional and context-dependent. Although it holds significant potential as a supplementary evidentiary tool, its admissibility must be carefully regulated in accordance with established legal standards and epistemic limitations. Both modern legal frameworks and classical legal traditions emphasise that evidence must be evaluated within a broader context of judicial reasoning, ensuring that the pursuit of objectivity does not compromise the fundamental principles of justice.

3.2. The Role and Limits of Neurotechnology in Judicial Reasoning on Child Custody Cases

Beyond the threshold question of admissibility, a more fundamental juridical issue concerns the role that neurotechnology should occupy within the broader architecture of judicial reasoning in child custody adjudication. Judicial reasoning in such cases extends beyond mere fact-finding; it constitutes a normative and evaluative process in which legal principles, evidentiary inputs, and discretionary judgment converge to determine outcomes that profoundly affect the lives of children and families (Suryadi & Puspita, 2023). The introduction of neurotechnology into this process has the potential to recalibrate the balance between objectivity and discretion, thereby raising critical questions regarding the scope and limits of scientific influence in legal decision-making (Abdullah et al., 2024). At its core, judicial reasoning in child custody cases is structured around the principle of the best interests of the child, a standard that is both foundational and inherently indeterminate. This indeterminacy necessitates judicial discretion, allowing judges to consider a wide range of factors, including

emotional bonds, parental capacity, environmental stability, and the developmental needs of the child (Mnookin, 1975). While such flexibility is indispensable for accommodating diverse factual contexts, it also introduces the risk of subjectivity and inconsistency. Within this framework, neurotechnology is often proposed as a means of enhancing objectivity by providing measurable indicators of psychological and emotional conditions.

Proponents argue that neurotechnology may mitigate the limitations of traditional evidentiary methods, particularly psychological assessments that rely on interviews, behavioural observations, and self-reported data (Emery, 2011). By accessing neural correlates of emotional regulation, empathy, and attachment, neurotechnological tools may offer additional layers of insight into parental capacity (Berber & Blanc, 2024). However, the assumption that such technologies inherently enhance objectivity requires critical examination. Scientific data, especially in neuroscience, is not self-interpreting. It is produced and understood within specific methodological frameworks that are subject to theoretical assumptions and interpretative variability (Bala & Schuman, 1999). Consequently, the apparent objectivity of neurotechnology may obscure underlying epistemic uncertainties. This creates a risk that judges may attribute unwarranted certainty to neuroscientific evidence, thereby distorting the evaluative process and undermining balanced judicial reasoning. A central concern in this regard is the potential shift in epistemic authority from judges to scientific experts. In traditional legal systems, judges retain ultimate authority in evaluating evidence and applying legal norms. However, the technical complexity of neurotechnology may create a dependency on expert interpretation, resulting in what can be described as "epistemic displacement." In such circumstances, judicial reasoning risks being subordinated to scientific authority, potentially diminishing the normative autonomy of the court (Faigman et al., 2014).

This concern resonates with classical Islamic legal thought, where the role of the judge (qāḍī) is not merely to assess evidence but to exercise informed judgment (ijtihād) grounded in justice, context, and human understanding. Scholars such as Ibn Qayyim al-Jawziyyah emphasised that legal rulings must reflect both evidentiary considerations and the broader realities of human conditions. From this perspective, any overreliance on technical expertise that marginalises judicial discretion would be inconsistent with the fundamental nature of adjudication (Hamid & Putra, 2021; Ibn al-Qayyim, 2005). Closely related to this issue is the problem of reductionism. Neurotechnology, by its nature, operates through the identification of neural correlates associated with specific cognitive or emotional states. While this reduction is methodologically valid within scientific inquiry, its translation into legal reasoning risks oversimplifying complex human relationships. Parenting, for instance, cannot be reduced to neurological indicators alone; it is shaped by social, cultural, economic, and relational factors that extend beyond measurable brain activity (Akbar, 2021). Islamic intellectual tradition similarly rejects reductive understandings of human behaviour. Classical scholars, including Abu Hamid al-Ghazali, emphasised the multidimensional nature of human action, which encompasses not only observable conduct but also ethical intention, social context, and moral development (Badri, 2018; Herawati, 2014). This perspective reinforces the limitation of neurotechnology as a tool that captures only a partial dimension of human reality.

Another significant limitation concerns the predictive capacity of neurotechnology. Child custody decisions inherently involve forward-looking judgments regarding the future welfare of the child. However, neuroscientific data, while capable of identifying correlations, does not provide reliable predictions of future behaviour (Gaunt et al., 2022). Human conduct is dynamic and subject to change, influenced by evolving circumstances and personal development. Reliance on neurotechnology as a predictive instrument may therefore create a misleading sense of certainty in inherently uncertain contexts (Abdou, 2020; Pavuluri et al., 2005). In addition to epistemic limitations, the use of neurotechnology raises important concerns related to individual rights. Neurotechnological

assessments often involve access to highly sensitive information regarding an individual's mental and emotional states. This implicates fundamental rights such as privacy, bodily integrity, and autonomy (Ienca & Andorno, 2017). In adversarial proceedings such as custody disputes, there is a risk that individuals may feel compelled to undergo such assessments in order to strengthen their legal position, thereby undermining the voluntariness of consent. From an ethical standpoint, this concern aligns with fundamental legal principles recognised across both modern and classical traditions, including the prohibition of harm and the protection of human dignity. The use of invasive or coercive technologies in legal proceedings must therefore be subject to strict safeguards to prevent abuse and ensure fairness (Abuzar et al., 2024; Jensen, 2006). Moreover, an important limitation lies in the interpretative gap between scientific findings and legal standards. The best interests of the child is a normative concept that requires judges to balance multiple, often competing, considerations. While neurotechnology may provide relevant data, it cannot determine how such data should be weighted within the broader evaluative framework. This task remains inherently juridical, requiring the integration of empirical evidence with normative judgment (Anisa et al., 2024; Mark, 2012). Institutional capacity further complicates the integration of neurotechnology into judicial practice. The effective use of such technologies requires not only technical expertise but also appropriate procedural frameworks, resources, and judicial competence in evaluating complex scientific claims. In many legal systems, these capacities remain limited, raising concerns about both feasibility and equity.



Figure 2 Neurotechnology in Child Custody Cases

Despite these challenges, neurotechnology must not be categorically rejected. When applied under carefully defined legal constraints, it can function as a valuable supplementary evidentiary tool, particularly in cases where conventional forms of evidence remain inconclusive or contested. The central issue, therefore, is not whether neurotechnology should be used, but how it should be governed within a coherent juridical framework that recognises both its epistemic potential and its inherent limitations.

In this regard, a regulatory framework should include several core components. First, clear admissibility standards must be established to ensure that neurotechnology meets thresholds of relevance, reliability, and scientific validity before being introduced as evidence. Second, expert accountability mechanisms are required to regulate the role of scientific experts, including standards of qualification, transparency of methodology, and the possibility of cross-examination. Third, informed consent requirements must be strictly enforced to protect individual autonomy and prevent coercive use of neurotechnological assessments. Fourth, explicit limitations on the probative value of

neurotechnology must be articulated, ensuring that it is treated as supplementary rather than determinative evidence within the broader evidentiary hierarchy.

In addition, judges must retain their central role as independent decision-makers, capable of critically evaluating scientific evidence without relinquishing their normative authority in determining the best interests of the child. This ensures that judicial reasoning remains grounded not only in empirical inputs but also in ethical, contextual, and value-based considerations.

Accordingly, the role of neurotechnology in judicial reasoning on child custody cases is inherently ambivalent. While it offers the potential to enhance evidentiary depth and analytical precision, it simultaneously introduces significant epistemic, legal, and ethical complexities. Its integration must therefore be approached with principled caution, ensuring that technological advancement does not displace the human, contextual, and normative dimensions of judicial reasoning. Ultimately, the legitimacy of neurotechnology in judicial reasoning will depend not on its scientific sophistication, but on the ability of legal systems to integrate it without displacing the human and normative core of justice.

4. CONCLUSION

This study set out to examine the juridical status and functional role of neurotechnology in judicial reasoning on child custody cases. In addressing this objective, the research has demonstrated that neurotechnology can, in principle, be incorporated within existing evidentiary frameworks as a form of expert scientific evidence. However, its admissibility is neither automatic nor absolute; rather, it is contingent upon its compliance with established legal standards of relevance, reliability, and scientific validity. More importantly, the study finds that the primary limitation of neurotechnology lies not in its technical sophistication, but in the epistemic gap between neuroscientific data and legally meaningful conclusions, particularly in relation to complex constructs such as parental capacity and child welfare. A key discovery of this research is that the integration of neurotechnology does not eliminate subjectivity in judicial reasoning, but instead transforms its locus. While traditional assessments rely on interpretative judgments by psychologists and social experts, neurotechnology introduces a new layer of interpretative dependency on scientific expertise. This shift generates a form of epistemic reconfiguration in which judicial authority risks being partially displaced by technical knowledge. Consequently, rather than resolving the problem of subjectivity, neurotechnology reshapes it within a more complex interplay between law and science.

The study further establishes that judicial reasoning in child custody adjudication cannot be reduced to empirical evaluation alone. The determination of the child's best interests remains an inherently normative exercise that requires contextual, relational, and value-based judgment. In this regard, both contemporary legal theory and classical legal traditions—including Islamic jurisprudence—converge in recognising that evidence, regardless of its scientific character, must be integrated within a broader framework of judicial discretion and ethical evaluation. This reinforces the conclusion that neurotechnology should function as supplementary (supporting evidence) rather than determinative proof. In addition, this research identifies significant legal and ethical risks associated with the use of neurotechnology, particularly in relation to privacy, autonomy, and the potential for coercion. The sensitive nature of neuroscientific data demands the development of robust procedural safeguards to ensure that its use does not infringe upon fundamental rights or compromise the fairness of legal proceedings. Without such safeguards, the incorporation of neurotechnology may undermine the legitimacy of judicial outcomes rather than enhance them.

Based on these findings, this study argues that the appropriate juridical positioning of neurotechnology lies in its controlled and limited integration within judicial processes. Legal systems must adopt a cautious and principled approach, ensuring that technological innovation is aligned

with evidentiary standards, judicial independence, and the protection of human dignity. The value of neurotechnology, therefore, should be understood not in its capacity to replace judicial reasoning, but in its potential to enrich it when used critically and proportionately. Looking forward, further research is needed to explore the practical implementation of neurotechnology in judicial settings, including empirical studies on its reception by judges and legal practitioners. Comparative legal analyses across different jurisdictions would also be valuable in identifying best practices and regulatory models. In addition, interdisciplinary research involving law, neuroscience, and ethics is essential to develop clearer guidelines for the responsible use of neurotechnology. Future studies may also examine the evolving role of artificial intelligence in conjunction with neurotechnology, particularly in shaping the future landscape of evidence and judicial decision-making. In conclusion, the integration of neurotechnology into child custody adjudication represents both an opportunity and a challenge. Its legitimacy will ultimately depend on the ability of legal systems to incorporate it in a manner that preserves the balance between scientific advancement and the fundamentally human character of justice.

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