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## **ASSESSING THE ROLE OF EMOJIS IN THE DEVELOPMENT AND LEGITIMACY OF CONTRACTS**

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**Abstract:** *Contracts play a crucial role in ensuring the seamless operation of business activities. The Indian Contract Act of 1872 lays down the fundamental principles governing the development and enforcement of contracts. Nevertheless, the rise of technology has completely changed the ways in which contracts are drafted and carried out. Technology and digital communication play a crucial role in this process. The creation and performance of contracts through electronic means are governed by the Information Technology Act of 2000. The widespread use of digital communication tools like e-mails, WhatsApp, Telegram, and other mobile applications has greatly simplified business transactions. Emojis, especially the smiling faces with different expressions, are commonly used. There has been a significant increase in the legal implications surrounding emojis in recent years. The ongoing debate surrounding the interpretation and application of emojis in judicial proceedings is widely recognized. Emojis have become widely used and understood in modern times. These cases cover a broad range of issues, including criminal offenses, sexual misconduct, and a notable case from Canada that has attracted significant attention. I am currently examining the potential impact of emojis on the future of contract formation. This article explores the basics of contract law and how they apply to the use of emojis in contracts.*

**Keywords—** *Emoji, Legality, Agreement & Contract, E-commerce, Electronic media*

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## INTRODUCTION

When it comes to the legality and enforcement of your contract in a court of law, it is crucial to follow the principles established by the Indian Contract Act of 1872. In today's world, the increasing popularity of e-commerce and electronic media has led to a significant increase in the utilization of e-contracts. Emojis, as a part of digital communications, have the ability to create legally binding contracts. To address this question, we must explore the fundamentals of contract formation, the validity of e-contracts, and the legal implications of using emojis. Through a meticulous analysis of these factors, we can arrive at a well-rounded solution to our inquiry.<sup>1</sup>

## EXAMINING THE VERACITY AND VIABILITY OF CONTRACTS ENTERED THROUGH ELECTRONIC MEANS

In our ever-evolving society, we have moved away from traditional methods of contract execution and embraced the convenience and efficiency of electronic performance, thanks to the remarkable advancements in technology. The use of electronic methods has made it easier for individuals in different parts of the world to carry out contractual agreements. There are different types of electronic contracts, including emails, digital signatures, electronic signatures, browse-wrap agreements, click-wrap agreements, and shrink-wrap agreements. Contracts made through electronic means hold the same legal weight as traditional paper contracts. Both physical contracts and electronic contracts are subject to the same fundamental rules that govern their formation. In India, the legal framework for electronic contracts is established by the Indian Contract Act of 1872 and the Information Technology Act of 2000.

## LOOKING INTO THE VITAL IMPORTANCE OF THE ACCEPTANCE IN THE FORMATION OF CONTRACTS

The definition states that the contract is a legally enforceable agreement. The agreement is seen as a contract when individuals who possess a strong intellect willingly come together for a legal purpose, with valid consideration, and subject to an explicit declaration of invalidity. Agreement implies that both parties have come to a mutual understanding and are in complete harmony (consensus-ad-idem). The parties have come to a mutual agreement. A contract is established when a commitment or a series of commitments are viewed as a whole. Agreement is reached when one party puts forth a proposal or offer,

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<sup>1</sup> Can the use of 'thumbs-ups' emoji be recognized as valid acceptance of contractual terms  
<https://fotislaw.com/lawtify/emoji-valid-acceptance-contractual-terms/> (Accessed: 05 January 2024).

and the other party consents to it. Reaching a common understanding is the outcome of a mutually accepted proposition or suggestion. To establish a contract, it is essential to have a mutual understanding and agreement. Recognition is a pivotal moment that solidifies the understanding. In order for a contract to be considered valid, it is crucial that both parties provide their consent. 'Acceptance is akin to the ignition of a fuse, setting off a chain reaction.' Anson's statement emphasizes the crucial value of embracing diverse perspectives. This results in a lasting and unchangeable metamorphosis. When a matchstick comes into contact with highly explosive gunpowder, a powerful explosion is inevitable. Once contracts are accepted, they cannot be reversed. Once accepted, the offer becomes a legally binding contract, imposing obligations on the parties involved. Both explicit and implicit forms of communication are equally valid methods to convey acceptance. When you convey your agreement, whether through spoken words or written communication, you are engaging in express acceptance. A tacit agreement is one that has not been explicitly disclosed, neither through verbal nor written means. The message is conveyed through one's behavior, conduct, actions, and so on. Every case presents its own distinct characteristics, which can pose challenges when attempting to draw overarching conclusions about the prevalence of implied acceptance.<sup>2</sup>

## **AN EXPLORATION OF HOW DIFFERENT JUDICIAL SYSTEMS INTERPRET THE USE OF EMOJIS**

A lively discourse among jurists has been ignited by the legal implications surrounding the use of a thumbs-up emoji (\uD83D\uDC4D) as a sign of consent in contractual matters. A recent court ruling in Canada has set a new precedent regarding the enforceability of a contract that was confirmed with a thumbs-up emoji. It's important to note that this verdict should not be seen as a blanket ruling, as it was based on the unique circumstances of the case. Other cases have also examined the legal implications of emojis, particularly in relation to allegations of sexual harassment or criminal misconduct.

In 2016, a French court found a 22-year-old man guilty of sending multiple messages to his former partner, one of which included a gun emoji. The court deemed the gun emoji to be a significant threat. In 2017, a New Zealand court made a ruling that highlighted the potential legal consequences of using an emoji. The individual involved in this case has been given a prison sentence of 8 months due to their actions of stalking.

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<sup>2</sup> Contracting by Emoji – LexisNexis. <https://www.lexisnexis.com/community/insights/legal/practical-guidance-journal/b/pa/posts/contracting-by-emoji> (Accessed: 05 January 2024).

Similarly, in June 2018, the Madras High Court dismissed the criminal complaint filed by the petitioner against 46 BSNL employees who had used the "smiling face with tears" emoji in the official WhatsApp group. The petitioner had shared a video featuring three customers expressing their dissatisfaction with the company's service on the official WhatsApp group. They were seeking feedback from the group members on ways to enhance BSNL's service. A Single Judge Bench of the Madras High Court, S. S. Sundar, expressed the view that emojis serve as a means of emotional expression and should not be interpreted as intentional actions by others. This article will explore the intricacies of the Canadian court case.

The two parties had a deep and enduring relationship for almost five years. Throughout the years, South West Terminal Ltd. (SWT) has sourced grain supplies from Achter Land & Cattle (Achter). SWT's salesperson would personally deliver the contract draft to Achter for approval. During the COVID-19 pandemic, SWT adapted to the new circumstances by taking a photo of the contract and sending it to Achter. Achter's typical response to requests for confirmation is usually brief and concise, using phrases such as "looks good," "ok," or "yup." There were no disagreements between the parties during these transactions. Achter responded to the photo of the contract that SWT sent via phone for this transaction with a thumbs-up emoji. Regrettably, SWT had to pursue legal action in order to seek compensation after Achter failed to fulfill their obligation to deliver the flax. Achter has been instructed by the court to provide a payment of 82,000 Canadian dollars as restitution for failing to fulfill their contractual duty of delivering the flax.

The court was tasked with addressing the following matters: Assess if there was an agreement reached by the parties involved. If there was a desire to establish a legally enforceable agreement, then...

The court determined that the thumbs-up emoji in this case could be interpreted as a sign of agreement, considering the prior transactions. The court observed that the thumbs-up emoji is frequently used to express assent, endorsement, or agreement in online communications. Achter argued that he had sent the thumbs-up emoji solely to acknowledge the receipt of the picture, with no intention of accepting the contract. The court, in its analysis, noted that emojis should be interpreted based on their overall meaning to a fair and impartial observer, rather than solely relying on Achter's intentions.

## **UNDERSTANDING THE ROLE OF EMOJI IN CONTRACTS: NAVIGATING THE COMPLEXITIES OF THE DIGITAL ERA**

Emojis have emerged as a prevalent means of visual communication in the digital age. The graphics were created in 1999 by Japanese artist Shigetaka Kurita with the intention of conveying emotions and ideas in a direct and clear manner. Emojis have become incredibly popular globally, being used in various contexts, such as personal and professional communication. Emojis add a dynamic and animated element to digital communications, injecting them with vibrancy, wit, and character. A small image or symbol is used to represent emotions or concepts in digital media. Emojis add a vibrant and delightful element to your text messages with their expressive faces.

### **POSSIBILITY OF EMOJI AS A GLOBAL LANGUAGE FOR COMMON VISUAL LANGUAGE**

Emojis have become universal symbols that are found on a wide range of devices, applications, and are used by people from different cultures and places. Nevertheless, the meanings of these concepts are not set in stone or universally applicable, but rather dependent on individual perspectives. Emojis reflect personal preferences and perspectives, which can vary greatly depending on the user and situation. As an astute observer, one can discern that the thumbs-up emoji has the ability to convey a range of emotions, such as approval, agreement, encouragement, or even sarcasm. The interpretation of this gesture is contingent upon the individuals involved and the context in which it is used. In addition, the visual representations of emojis can vary across different devices, which can potentially lead to miscommunication. Emojis are constantly evolving and expanding, with new ones being created and added to the vast collection of over three thousand emojis in the digital realm. Establishing a clear and comprehensive definition for each emoji and its usage can be quite challenging. In addition, with the rapid advancement of technology, emojis may evolve or become outdated before a universally accepted lexicon of emojis is established. Thus, emojis are ill-suited for contractual transactions, where precision and clarity are paramount.

### **PROBLEMS IN COMPREHENDING EMOJIS IN LEGAL MATTERS**

A thorough understanding of the law is necessary to properly interpret and consider the individual circumstances at hand. Contract law lacks a one-size-fits-all solution, as it relies on overarching principles that govern the creation and execution of contracts. Thus, it is imperative for the courts to carefully consider the law in relation to the unique circumstances of the contested cases. It is important to take into account the authorization status of the individual who utilizes the emoji on a specific device during their professional endeavors. What could happen if someone unauthorized gains access to the device and accidentally sends an emoji? There may be further considerations arising from the details.

Emojis play a significant role in conveying emotions and aiding in the understanding of others' intentions. Examining emojis can help determine if acceptance is being conveyed.<sup>3</sup>

## **EXPLORING THE IMPORTANCE OF ESTABLISHING A CONTRACTUAL RELATIONSHIP AND FOSTERING MUTUAL UNDERSTANDING IN THE DEVELOPMENT OF CONTRACTS**

Every contractual agreement necessitates the inclusion of a clause to establish a legal relationship. It is widely recognized that for a contract to be legally binding, there must be a clear intention to establish an enforceable agreement. Equally important is consensus ad idem, which pertains to the collective comprehension of a specific concept. These two factors, along with the previously discussed elements, are essential for a contract to be considered valid under contract law. Can emojis effectively meet these two goals? The intricacies of analysis that were previously explored can be quite demanding to comprehend. It is evident that emojis possess the power to convey emotions and, when used alongside other pertinent details, can unveil various facets, such as the intentions, level of agreement, and level of acceptance of the parties involved.<sup>4</sup>

### **CONCLUSION**

The widespread interest in emojis as a form of communication has sparked conversations on their responsible usage to prevent any potential legal issues. Some individuals may find that level of concern to be excessive. It is widely recognized that emojis are the most common and widespread form of visual communication online. When dealing with complex legal issues, it is important to be mindful of the use of emojis as they may be interpreted as a form of sincere communication. Emojis alone are not enough to establish a legally binding agreement between two parties. A transaction must have several essential elements to be considered a valid contract. These elements include the offer and acceptance of the offer, mutual agreement, the intention to create a legal relationship, voluntary consent, a lawful purpose and consideration, and adherence to applicable laws. Emojis alone do not provide a comprehensive assessment of these elements. It is essential to thoroughly analyze all pertinent information and factors. Using emojis in contracts or contract-related matters is highly inappropriate and should be strictly

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<sup>3</sup> When an emoji can land you in jail – Deccan Chronicle. <https://www.deccanchronicle.com/technology/in-other-news/120723/when-an-emoji-can-land-you-in-jail.html>

<sup>4</sup> Emojis can now amount to a contractual agreement. <https://www.siskinds.com/emojis-can-now-amount-to-a-contractual-agreement/>

prohibited. The ambiguity surrounding their interpretation makes them unsuitable for such serious and important documents. As demonstrated in the previous example, emojis can be seen as a means of communication that indicates agreement and can serve as a digital signature. However, additional evidence is required to support this assertion and confirm its validity. Lastly, it is evident that emojis are gaining a certain level of official recognition. While email has become a ubiquitous part of modern life, the full acceptance of emojis in contractual relationships still has a ways to go. While emojis may not be used by everyone, it is advisable to use them with discretion. As a society, we can anticipate witnessing the continuous development of laws regarding emoji usage as we progress through the early stages of this trend.

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