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A Study on Legal Issues Pertaining to E-Contract

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ABSTRACT

Due to rising consumer expectations to buy a wide range of goods and services from a global pool, e-commerce is booming in India. In terms of business law, this is crucial to a contract, which is the most delicate and significant document. The development of computer programs and the internet has lowered the barrier of interaction that led to the widespread acceptance of these contracts. Compared to traditional contracts, the e-contract offers several advantages. There are a few essential components required to create legally enforceable electronic contracts, and these agreements are based on people, legal purpose, legal consideration, etc. The following article provides a precise explanation of e-contracts, discusses current issues they confront, and provides an outline of their enforceability in our area.

Keywords: *E-commerce, Websites, Hacking, Computer Programming*

I. INTRODUCTION

The idea behind an e-contract is that two or more persons use electronic methods to enter into a contract that is only a click away. The framework for internet commerce is getting better as time goes on. The purchasing and selling of goods electronically as well as payments made via electronic means are all included in electronic commerce. In our day of technological devices, the task is completed in a matter of seconds. No communications are delayed, and there are no additional travel expenses. Electronic media not only function automatically, but also independently. The issues of jurisdiction, contract authority, governing laws, etc., have been validated by electronic contracts³. Nothing in this world is flawless. The consequences of e-contract will be covered later along with the legality of e-contracts.

II. E-CONTRACT

An e-contract is any type of agreement that is created during e-commerce when two or more

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³ *Online contracts: Legal issues and challenges confronting the Indian scenario: Legal Service India - law articles - legal resources* (no date) *Legal Service India - Law, Lawyers and Legal Resources*. Available at: <https://legalserviceindia.com/legal/article-6711-online-contracts-legal-issues-and-challenges-confronting-the-indian-scenario.html> (Accessed: 21 May 2025).

people communicate with each other via electronic means, like email, or when a person interacts with an electronic agent, like a computer program, or when at least two electronic agents interact with each other and are programmed to recognize the existence of a contract.

III. E-CONTRACTS: STATUTORY FRAMEWORK

The Indian Contract Act of 1872 provides essential regulations for contract creation in India. Although there is no particular mention of how electronic contracts are to be executed, they must meet the conditions outlined in the contract legislation's legal structure in order to be enforceable against the parties. The IT Act of 2000, in addition to the Contract Act, is crucial in regulating how electronic contracts are conducted in India.

- **Indian Contract Act of 1872**

All contracts, including e-contracts, are governed by the Indian Contract Act of 1872. Important conditions under Section 10 include: Offer and Acceptance; Lawful Consideration; Free Consent; Parties' Capacity; and Lawful Object. For e-contracts to be enforceable, they must fulfill each of these requirements.

- **Information Technology Act of 2000 (IT Act)**

Digital signatures and electronic contracts are recognized legally by the Information Technology Act of 2000 (IT Act). Section 4: Electronic records' legal recognition Electronically stored information is treated the same as paper documents.

Section 10-A: Electronic contracts' validity If an electronic contract satisfies the requirements of the Indian Contract Act, it can be created using websites or emails.

"Electronic record" is defined in Section 2(1)(t). Digitally created data, records, or data are recognized. Digital signatures are recognized as legally genuine if they are validated by a qualified Certifying Authority, as stated in Sections 2(1)(p) and 3.

- **Indian Evidence Act, 1872 (Amended)**

Electronic records may be admitted as evidence under Section 65B. supports e-contracts' legal enforceability.

- **Consumer Protection (E-Commerce) Rules, 2020**

It governs B2C e-commerce platform contracts. demands openness, equity, and customer approval.

IV. ESSENTIALS OF E-CONTRACT⁴

- **Offer and Acceptance**

One person must make an offer, and the other must expressly accept it.

- **Free Consent**

The parties to the contract must concur that their consent is free from deception, error, misrepresentation, and undue influence.

- **Capacity**

This is the condition under which the parties to a contract must be of legal age, free of mental restrictions, and not barred by the law.

- **Consideration**

Law must be taken into consideration for an agreement to be enforceable.

- **Lawful object**

The subject matter, or object, must be lawful and not prohibited by the legal rules that govern public policy.

V. TYPES OF E-CONTRACTS⁵

- **Browse Wrap Agreements**

An agreement designed to bind the party utilizing the website is known as a browser wrap agreement. Clients can access the rules and regulations at any point on the page via a hyperlink on the website, and customers are deemed to have accepted the terms if they continue to use the site.

- **Shrink Wrap Agreements**

These are frequently used when software or other things are being sold. Usually found on the plastic or in the paperwork pertaining to the digital products, shrink wrap agreements are only available once the shrink wrap seal has been broken. The user is considered to have accepted the terms and conditions stated in the agreement by opening the box or using the goods.

⁴ *E-contracts: Meaning, types, legal validity, e-signature & stamping* (no date) *The Legal School: Law Courses for Legal Professionals & Students*. Available at: <https://thelegalschool.in/blog/what-are-e-contracts> (Accessed: 21 May 2025).

⁵ Law, F. (no date) *Legal issues and challenges of e-commerce contract*, *Free Law: Get Free Headnotes & Judgments*. Available at: <https://www.freelaw.in/legalarticles/Legal-Issues-and-Challenges-of-E-commerce-Contract-> (Accessed: 21 May 2025).

- **Click Wrap Agreements**

Click wrap agreements are common in online purchases and are used when consumers must actively indicate that they accept the terms and conditions. The terms and conditions are shown to the users in a dialogue box or checkbox, and in order to complete the transaction, they must either click a button or check the box. Since click wrap agreements require users to express their consent by affirmative action, they are often seen as enforceable.

VI. METHOD FOR CREATING ELECTRONIC CONTRACT

- **E-mail**

Email can be used to fully interchange proposals and acceptances, or it can be combined with fax, paper documents, and other forms of communication.

- **Forms**

Through the websites, the seller can provide products and services. By filling out and sending the order form found on the website, the customer puts an order. The thing can arrive electronically right away or in physical form later.

- **Online Agreement**

In order to receive the benefits of services, customers could be asked to submit an online permission, such as clicking "I accept" while uploading software. At the time of creating an email account, I agree.

VII. LEGAL CHALLENGES IN E-CONTRACT⁶

- **Capacity**

The problem with e-contracts is that neither party knows the other. The party offering the products or services is unaware of the other party's legal capacity to enter into a contract.

For example, if a 16-year-old child places an order on any online retailer.

- **Law Applicability**

It is one of the e-contract concerns that need a special focus. When two separate states or countries make up the contractual parties, this problem occurs. In this instance, the laws and regulations of the two countries conflict, making it difficult to decide which should be enforced.

⁶ LawBhoomi (2023) *Legal issues involved in electronic contracts under Indian law*, LawBhoomi. Available at: https://lawbhoomi.com/legal-issues-involved-in-electronic-contracts-under-indian-law/#Issues_relating_to_e-contracts (Accessed: 21 May 2025).

- **Electronic Authentication**

The Information Technology Act of 2000 was created to provide the legal foundation for contract authentication. The contract will cease to be enforceable if any party, or both, disregard the rules. Under this legislation, electronic signatures, electronic records, and electronic documents are validated.

- **Free consent**

The Indian Contract Act, 1872, specifically recognizes free consent in section 13, however the Information Technology Act, 2000, makes no mention of free consent when it comes to forming an e-contract. The idea of consent is actually impossible in e-contracts. Only tangible, conventional contracts allow it. The Indian Supreme Court in the matter of Consumer Education and Research v. LIC of India⁷ determined that the user's responsibility was limited to accepting or rejecting, and that the user should exercise caution while providing consent to prevent consequences later on.

- **Theft of identity**

Identity theft is exactly what the term implies: when someone else, whether intentionally or inadvertently, drives the identity of the original user. Identity theft is misbehavior committed with the intention of making money. Hacking the gadget is often how it is accomplished. If this occurs, the offender shall be punished with either three years in jail, a fine of five lakhs, or both, according to Sections 66 and 43⁸.

- **Choice of the forum**

This issue is comparable to the choice of law issue that was previously mentioned. Parties that live in separate countries designate their local forums as the controlling forums in any dispute. Contractual parties may have different preferences. For example, one may choose arbitration while the other may prefer a commercial litigation to resolve the conflict. When the parties decide to get into an e-contract, this is one of the never-ending disputes.

VIII. E-CONTRACT LEGAL VALIDITY IN INDIA⁹

The original IT Act had no specific clause addressing the legality of e-contracts. Section 10A, which addresses the legality of contracts carried into electronically, or "Electronic Contracts," is subsequently included to the IT(Amendment) Act 2008. According to Section 10A, a

⁷ 1995 AIR 1811

⁸ IT Act 2000, Bare Act, Universal publication

⁹ <https://www.ijrar.org/papers/IJRAR21C2209.pdf>

contract "shall not be deemed to be unenforceable solely on the ground that such electronic form or means were used for that purpose" if "the communication of proposals, the acceptance of proposals, the revocation of proposals and acceptances, as the case may be, are expressed in electronic form or by means of an electronic record."

IX. LIMITATIONS

Electronically, some contracts are not recognized Negotiable documents, such as power of attorney, trust deeds, wills, promissory notes, and checks, Agreements for the sale or transfer of real estate

X. CONCLUSION

One of the worldwide needs and concerns is e-contracts. Since the introduction of the notion of an e-contract, several areas have developed. such as PayTM, UPI, Google Pay, etc. Today, digital media makes everything possible, including online registration forms, ticket booking, product purchases, and more. E-contracts have advantages and disadvantages. Considering these benefits and drawbacks, a lot of young consumers choose e-contracts since they save time. Many of them prefer e-contracts since we don't want to waste time on anything in a hectic day. Customers may complete e-contracts while on the road. However, we must be mindful that we are not susceptible to any type of scammer. After that, we'll have a lot of problems. Therefore, we must exercise caution before executing an e-contract.
