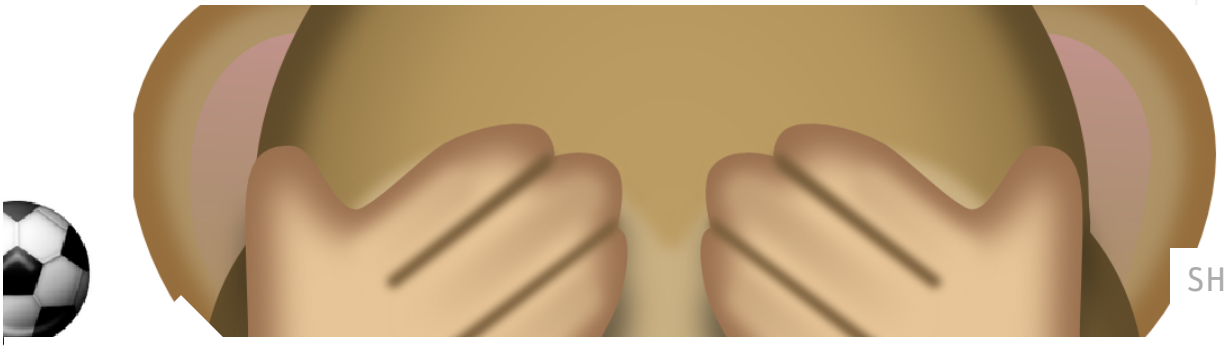

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Adam Johnson and the see-no-evil monkey: what happens when emojis turn up in court?

Emoji are used worldwide and transform the tone of our messages and social media posts, but their multifarious meanings make it difficult for courts to interpret them.

BY BARBARA SPEED

When England footballer Adam Johnson sent an emoji to a 15-year-old girl in December 2014, he could never have predicted the level of scrutiny it would one day receive.

During his trial for two counts of sexual activity with a minor in February 2016, Johnson was asked

what he meant, precisely, by the little picture of a monkey with its hands over its eyes, sent in response to the news that the girl would not turn 16 until the following November. It was "just a funny picture", he replied.

Johnson was also asked about his use of the "emoji known as the purple devil" along with the message "You felt very turned on", and the judge referred back to the monkey in his summing up of the case. So why the focus on Johnson's use of tiny images?

Part of the reason is that linguists tend to treat emoji as a system of communication, rather than a language in their own right. And, like the inflections or hand gestures that accompany spoken language, they can change the tone, context or intent of the messages they appear within. A winky face changes a message, just as surely as an "I didn't mean it" does. Emoji may give more insight into the writer's intended meaning than words alone could; 70 per cent of the meaning in face-to-face communication comes from non-verbal cues.

Back to the monkey. Vyvyan Evans, a professor of linguistics at Bangor University, tells me that most people in the western world recognise the see-no-evil monkey, and its cousins with their hands over their mouth and ears, as the "three wise monkeys" rooted in Japanese culture: "It's a conventional representation. We know that it means 'if I can't see

it, then I won't know about it'. In a UK context, that's how it's normally interpreted." Emojipedia agrees, and also notes that the emoji is also used to mean "I didn't want to see that".

Johnson's defence rested on the fact that he was immature for his age, and perhaps entered the worlds of fame and football at such an early stage that his development was hampered. His use of a devil emoji regarding sexual activity with a minor, plus another implying he's ignored the girl's age on purpose, jar with this picture – it's clear why he was questioned about their use specifically. But this is the trouble with emoji: while it is used all over the world (Evans calls it "the world's premier system of communication") its meanings, and those it lends to the words it accompanies, aren't always clear.

I asked around 25 people what they mean when they use the monkey emoji, and of the options "Oh no!", "I didn't want to see that" or "cute monkey picture", only 5 per cent use it in the way Johnson claims he did – as a cute picture, unrelated to his message. But that doesn't necessarily mean he's lying. Others say they use it to mean "oops", "I'm so cute", or "cringe laughing". It's also used, it seems, as a stand-in for a "facepalm" emoji, which is under consideration by Unicode but hasn't been launched yet. An acquaintance of mine used to use one of the three monkeys in almost every message

he sent, until I was forced to ask if he knew he was implying he was ignoring evil. He didn't.

And perhaps Johnson didn't, either. The eventual verdict, which found him guilty of two counts of sexual activity and one of grooming (two of which he admitted to at the trial's outset), probably didn't rest on the emoji's meaning. But the sinister image of a grown man hiding his eyes so he doesn't take in the age of a child he is grooming is hard to shake – for us, and, we can assume, for his jury.

Emoji are like language in that their interpretation can be relatively open depending on who is using them, but there is an added problem when those in a courtroom probably have far less experience with them than the (usually) young people sending them. Short of calling in an expert witness on the use of emoji by footballers, the jury are left to draw on their own interpretations.

Trial by emoji

In criminal cases like Johnson's, emoji form part of the evidence of contact and grooming, and could also throw light on Johnson's character. But in other cases, the emoji themselves have constituted the alleged crime – or swung a case in the prosecution's favour.

In January 2015, a teenager was arrested In New

York for allegedly threatening policemen's lives via public Facebook posts. This threat apparently took the form of gun emoji aimed at police emoji, according to posts found by Gawker on his account. Similarly, in February 2016, a 12-year-old girl in the US was arrested and charged with computer harassment after she posted the gun, bomb and knife emoji on Instagram.

In 2013, Lord McAlpine sued Sally Bercow for defamation for a tweet which asked "Why is Lord McAlpine trending?" while Operation Yewtree was in the headlines. Crucially, though, she added the words "*innocent face*" to the tweet. Laura Scaife, a lawyer who has written a book about social media and the law, says that the extra words, a kind of verbal emoji, were key to the court's decision to rule in McAlpine's favour: "If you look at the content of the tweet itself it was quite vanilla, it just asked whether the peer was innocent, but the 'innocent face' indicated that she didn't mean it in a sincere way."

Yet Scaife also says there's a danger in taking emoji use – and, indeed, social media posts – too seriously: "People use a lot of emoji all the time. Cheryl Cole always uses the emoji of the flamenco dancer, it has no bearing on what she's saying."

A few years ago questions were raised over whether social media posts should be used in court at all, or

whether this constituted an invasion of privacy. As Scaife points out, when we are having a private conversation while messaging or on social media "we don't always put the time in to perfect it", and we're not expecting our messages to be taken out of content.

Good communication makes our intent clear to those receiving it, and probably outsiders too. But social media isn't usually the home of "good" communication: jokes fall flat, misunderstandings turn into arguments, and we try out half-formed points of view we later discard. Less experienced users (parents, grandparents) often misuse emoji or slang online.

Both Evans and Scaife agree that it's the "intent" of the emoji's user that matters when considering its meaning in court. But if we knew the intent of those accused our crimes, our legal system would be an awful lot simpler. Until then, we're stuck puzzling over monkeys and winks.

Barbara Speed is a technology and digital culture writer at the *New Statesman* and a staff writer at CityMetric.

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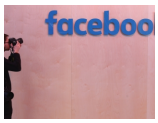

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SCIENCE & TECH 10 MARCH 2016

Should we subject candidates for President to psychiatric testing?

According to Frederick Burkle, "today's tyrants" exhibit a range of narcissistic and antisocial traits.

BY MICHAEL BROOKS

We can snigger, frown or fret over the rise of Donald Trump, but what if we could, in fact, prevent it? According to Harvard University's Frederick Burkle, there is a way.

Burkle contends that we should be using psychiatric diagnosis as a tool to assess the suitability of candidates for office, "as both a global security and strategic priority". In a paper published in the journal *Disaster Medicine and Public Health Preparedness*, he suggests there is a "unique and poorly understood subset of the population who are driven to seek the ultimate opportunity to control,

dictate, and live out their fantasies of power on the world scene". While there are detailed profiles of the psychopathology of the likes of Hitler and Stalin, "there is little or nothing available on today's tyrants".

Burkle's two main concerns are antisocial personality disorder (ASPD) and narcissistic personality disorder (NPD). A leader with ASPD thrives on continuing conflict and will never seek peace. North Korea's Kim Jong-un is on Burkle's list of leaders who demonstrate significant antisocial behaviours. Vladimir Putin, he points out, also displays "worrisome" traits.

It's not just politicians. Burkle, a professor of public health who has worked as a psychiatrist, an adviser to the WHO and interim minister of health in Iraq, also notes some of our "most prolific, charming, greedy and yet admired business and technology tycoons" display extreme narcissism. Trump can't have been far from his mind.

In the past few decades, psychologists have developed assessment criteria that can reliably identify those with ASPD and NPD. We know that extreme cases can put lives in danger – we expect our governments to put measures in place to ensure that those affected are not a menace to society – making it almost ironic that those governments could be led by the most extreme cases of all. That

these people are not named as having ASPD is “both concerning and curious”, Burkle says.

A second piece of research has shown how great their influence can be on “normal” human beings. Narcissistic leaders surround themselves with underlings who act on their orders. And who are these quislings? All of us, potentially. A neuroscience study carried out by researchers at University College London and the Brussels Free University has shown why some of us follow distasteful orders without feelings of responsibility.

We have known for decades how easy it is to coerce or cajole people into immoral or unethical acts. The new study takes things further, showing that neural processing in these situations more closely resembles that of an observer than an active individual, creating a vastly diminished sense of responsibility. Claims that it “wasn’t my fault” are not self-serving lies, but reflect a genuine subjective experience.

Responsibility and accountability are the roots of political democracy, but they are easily sidestepped. Put the neuroscience findings together with narcissistic and antisocial leaders, and we have the ingredients for geopolitical turmoil. Yet we continue to ignore the symptoms of psychiatric instability in would-be politicians.

We mandate that houses undergo an energy efficiency assessment. Businesses often put potential employees through psychological profiling. So why not put the science to work for the global good and require that aspiring leaders come to the ballot with a certification of sanity?

Michael Brooks holds a PhD in quantum physics. He writes a weekly science column for the *New Statesman*, and his most recent book is *At the Edge of Uncertainty: 11 Discoveries Taking Science by Surprise*.

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