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RIGHT TO DISCONNECT: A NEW LABOR RIGHT IN THE DIGITAL ERA? – A COMPARATIVE AND CONSTITUTIONAL ANALYSIS

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ABSTRACT:

The rapid digitization of workplaces, further catalysed by the COVID-19 pandemic, has upset conventional concepts of work-life boundaries, giving rise to a "always-on" culture that blurs the barrier between professional and personal environments. This study investigates the right to disconnect as an emergent labor right, founded in the broader framework of mental health, dignity of labor, and digital autonomy. In the absence of statutory protection in India, employees—particularly in white-collar, IT, and remote work sectors—remain subject to excessive and unpaid after-hours labor, leading to burnout and long-term emotional injury. The study critically explores the constitutional grounds of the right to disconnect in India, particularly under Articles 21, 19(1)(g), and 42, and evaluates existing inadequacies within the Indian labor code regime. It provides a comparative analysis of worldwide jurisdictions, with a focus on France, the European Union, Canada, and Germany, where legal and regulatory initiatives have begun to combat digital excess through enforced rest periods and negotiated disconnection rules. Through doctrinal and policy-based research, this paper argues that the right to disconnect is not only a labor welfare measure but an essential component of contemporary labor rights rhetoric. It suggests the adoption of disconnection policies into Indian labor law through a balanced framework that safeguards worker well-being while preserving organisational flexibility. The acknowledgment of this right is vital to defending human dignity in the digital age and upholding constitutional values in shifting employment landscapes.

Key Words – Right to Disconnect, Digital Labour, Work-Life Balance, Labour Law Reform, Mental Health at Work, Employment Rights, Remote Work Regulation, Constitutional Rights, International Labour Standards, Digital Fatigue, France Labour Code, EU Work-Time Directive, Indian Labour Law, Occupational Health, Technology and Law.

Introduction:

The development of the digital economy and the broad adoption of information and communication technology have altered the global labor environment. While these advancements have offered unprecedented flexibility and efficiency in work contexts, they have also contributed to a considerable erosion of the barrier between personal and professional life. The rise of remote work, digital connectivity, and 24/7 communication culture has given birth to what is often considered the

"always-on" phenomenon, when employees are expected—or even compelled—to stay accessible beyond conventional working hours. This issue has intensified in the post-pandemic age, presenting severe concerns about employee well-being, exhaustion, and mental health.

In this environment, the "right to disconnect" has developed as an important labor rights topic globally. This privilege refers to an employee's entitlement to withdraw from work-related contacts during non-working

hours without experiencing adverse consequences. It is intimately linked to fundamental rights such as the right to rest, right to health, and right to privacy. Jurisdictions like France, Canada, and the European Union have implemented legislation or policy measures to acknowledge and institutionalise this right, thereby accepting the need for legal involvement in safeguarding workers from digital exploitation. Despite the growing relevance of this issue, Indian labor rules remain mute on this right, leaving employees vulnerable to excessive and unregulated digital labor demands.

India's constitutional structure offers a fertile foundation for the acknowledgment of the right to disconnect, particularly under Article 21, which ensures the right to life with dignity, and Article 42, which instructs the State to secure reasonable and humane conditions of employment. Indian courts have also identified the right to mental health and work-life balance as fundamental parts of dignified employment. However, in the absence of statutory recognition or codified standards, employees, especially in the white-collar, IT, and service industries, continue to face digital overreach and intrusive employer demands. The issue is further worsened by the lack of explicit working-hour safeguards for professional or managerial personnel under existing labor rules.

This article tries to analyze whether the right to disconnect may and should be recognised as a legally enforceable labor right in India. It undertakes a doctrinal and comparative review of global legal frameworks, constitutional jurisprudence, and the present structure of Indian labor law. It contends that the adoption of the right to disconnect is not only an issue of policy reform but a constitutional imperative in the expanding digital economy. The study concludes with legislative and policy recommendations for integrating this right into India's labor regulatory system, in line with worldwide best practices and the fundamental right to a life of dignity.

Conceptual Understanding: What is the Right to Disconnect?

The Right to Disconnect refers to an employee's entitlement to disengage from work-related communications—such as emails, calls, or messages—outside of official working hours, without facing professional retaliation or adverse consequences.¹²³⁰ It is founded on the principle that employees are entitled to periods of rest and personal time free from occupational demands, even in a digitally connected environment.¹²³¹ As a labor right, it seeks to restore the boundaries between professional obligations and personal life, which have been eroded by the expansion of mobile technology, remote work systems, and expectations of perpetual availability.¹²³² The right is not merely about technological non-responsiveness but is fundamentally tied to occupational health, work-life balance, mental well-being, and the preservation of human dignity in the workplace.

This right is increasingly viewed as an essential extension of core constitutional and labor protections, including the right to health, the right to rest and leisure (recognized in international instruments such as Article 24 of the Universal Declaration of Human Rights), and the right to privacy. Jurisdictions that have recognised this right—whether through legislation, collective bargaining agreements, or judicial intervention—acknowledge that unregulated digital availability constitutes a modern form of overwork, often unpaid, that can lead to burnout, stress disorders, and productivity decline. At its core, the right to disconnect represents a legal and ethical shift toward sustainable labor relations in the digital age, balancing economic efficiency with worker well-being and autonomy.¹²³³

¹²³⁰ Ibid

¹²³¹ *Sharmila Bhattacharya*, The Right to Disconnect: A 21st Century Labour Issue, 10(2) *Indian J. Labour & Indus. Rel.* 45, 47 (2023).

¹²³² *France Labour Code*, art. L2242-17 (inserted by *Law No. 2016-1088 of Aug. 8, 2016*); *Working for Workers Act*, S.O. 2021, c. 35 (Can.).

¹²³³ *European Parliament Resolution of 21 January 2021 on the Right to Disconnect*, 2019/2181(INI).

International Perspectives and comparative analysis:

1. France

The right to disconnect has achieved explicit legal protection in various jurisdictions as a response to the issues brought by hyperconnectivity and the psychological repercussions of digital overwork. Among the pioneers in this arena is France, which implemented a legal provision under Article L2242-17 of the French Labour Code through the Loi Travail (Labour Law) in 2016. This regulation specifies that firms with more than 50 employees must develop measures with employees to ensure respect for rest periods and personal life. While it does not impose a blanket prohibition, it requires employers to participate in constructive conversation to manage after-hours contact. The French model is founded in the constitutional ideals of health, dignity, and human liberty, acknowledging that digital labor must not trump core labor protections.

2. European Union:

In the European Union, the freedom to disconnect is not yet generally legislated but is steadily gaining support. The European Parliament, in its Resolution of January 21, 2021, called upon the European Commission to submit a directive that would protect this right across member states. This resolution underlined the need for legal mechanisms that protect work-life balance and mental health, especially in the context of rising telework following the COVID-19 epidemic. Although not yet enforceable, the resolution demonstrates the growing consensus in EU labor policy on the need to address the digital extension of working hours. Member states like as Italy, Spain, and Belgium have implemented variations of this right through legislation or collective bargaining procedures, demonstrating a regional movement in favour of legal protections.

3. Canada:

Outside Europe, Canada has made significant progress through provincial

legislation. The province of Ontario enacted the Working for Workers Act, 2021, making it mandatory for employers with 25 or more employees to develop written policies on disconnecting from work.¹²³⁴ Although the Act does not create a legal right per se, it imposes a policy-making obligation on employers, marking a crucial first step in shaping employer obligations in the digital workplace.

4. Other countries:

In Japan, the government has released work-style reform guidelines pushing employers to limit after-hours communication, while South Korea has established tough rules on working hours, though not particularly articulated as a right to disconnect. These examples illustrate an increasing global concern about the detrimental impacts of digital overreach on employees. The comparative experience demonstrates that while tactics vary—from legally binding rights to employer-mandated policies—the basic purpose remains the same: to control digital encroachment and protect employee well-being. The International Labour Organization (ILO), albeit not yet codifying the right in any binding agreement, has highlighted the significance of controlling working time in digital environments within its work-life balance and occupational safety frameworks. As India discusses the future of its labor laws in the digital era, these international experiences offer vital normative and policy insights. They assert that the ability to disconnect is not contradictory to productivity but fundamental to sustainable, compassionate, and rights-based employment interactions in the 21st century.

Right to Disconnect and Indian Labour Laws: Current Gaps

The unfortunate death of a 26-year-old employee at Ernst & Young (EY) has caused considerable outcry. This tragedy has rekindled the issue over work-life balance, especially in the high-stakes corporate sectors where job pressure is great, and the borders

¹²³⁴ Working for Workers Act, 2021, S.O. 2021, c. 35 (Can.), § 27.1.

between work and personal time often blur. Currently, India does not have explicit legislation that guarantees the Right to Disconnect. The nation's labor rules, which date back decades, remain mainly mute on this current issue, despite mounting worries over work-related stress and burnout. The significance of regulating after-hours work communications has been considered, especially in the context of a fast increasing corporate sector, but meaningful legislative action has yet to materialize.

However, recent legal reforms like the Code on Wages Act (2019) and the Occupational Safety, Health and Working Conditions Code (2020) do touch on certain elements connected to working hours and employee welfare, but they lack specific provisions addressing the right to disconnect beyond working hours. Section 13 of Code on Wages Act 2019 establishes Working Hours and Overtime which authorizes the government to notify the number of hours constituting a regular working day. It further specifies that when an employee works beyond these hours, they are entitled to overtime wages at a rate of double the standard rate of earnings. Section 25 of the Occupational Safety, Health and Working Conditions Code (2020) sets the maximum number of working hours per day and per week. It further stipulates that no worker shall be compelled or allowed to work for more than eight hours in a day or forty-eight hours in a week, in line with international standards. Overtime work is permissible but with requirements such as overtime pay at double the rate of usual wages.

There is an absence of any clear law providing employees the right to disconnect from electronic contacts during non-working hours, nor are there enforceable guidelines directing employers to limit after-hours interaction. This vacuum leaves a major portion of the workforce, notably in fields like IT, finance, and consultancy—exposed to unregulated digital intrusion. Furthermore, Indian labor law does not explicitly distinguish

between “work done during designated hours” and “digital labor performed off the clock,” nor does it recognise compensation procedures for the latter. Although Section 6(1)(b) of the Code on Wages specifies limitations on working hours and mandates overtime payment for work exceeding permitted hours, enforcement remains poor in informal and professional workspaces where digital modes dominate. Managers, supervisors, and individuals earning beyond the statutory threshold are sometimes excluded from these safeguards under the definition of “employee”, adding an extra layer of vulnerability. In fact, employers may demand or anticipate 24/7 availability without explicitly increasing working hours, which not only circumvents salary and overtime restrictions but also erodes the constitutional values of dignity and well-being under Article 21.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and other sectoral rules controlling electronic communication focus on data governance, not labor rights, so failing to address the behavioural and employment components of after-hours work communication. Moreover, the absence of legal precedent or regulatory policy on this topic promotes ambiguity, putting Indian employees dependent on organisational discretion rather than statutory safeguards. Although some private firms have voluntarily adopted internal guidelines or informal regulations surrounding work-life balance, these are neither mainstream nor enforced.

In essence, India's current labor regulation architecture lacks both substantive protections and procedural procedures to defend employees against the demands of permanent digital presence. As the workplace becomes increasingly hybrid and distant, the exclusion of the right to disconnect represents a crucial gap that threatens the constitutional ideals of health, human dignity, and just conditions of labor. Legislative and judicial acknowledgment of this right, drawn on worldwide best practices, is therefore vital for

developing equitable digital labor standards in India.

Implications of the Absence of a Right to Disconnect:

The lack of a legally accepted right to disconnect in India has severe ramifications for employees, especially in sectors driven by digital employment. One of the most apparent repercussions is the deterioration of work-life balance, as employees are increasingly expected to remain available after working hours for calls, emails, or virtual meetings. This continual connectedness often leads to occupational burnout, a condition identified by the World Health Organization as an occupational phenomenon characterised by chronic professional stress. In the lack of a legislative safeguard, the task of managing after-hours contact falls exclusively on the individual, making it difficult to defy employer demands in a competitive work culture.

Another key impact is the decline of mental health and personal well-being. Numerous studies, notably those by the International Labour Organization (ILO), have demonstrated that extended working hours, especially without sufficient rest or dissociation, increase risks of anxiety, depression, and stress-related disorders. The digitization of work has made it simpler for employers to intrude into personal time, and without a legislated limit or cultural norm of disengagement, employees often suffer from sleep disturbance, emotional weariness, and reduced family engagement. This is particularly troublesome in remote or hybrid work situations, where the barrier between professional and domestic spaces is already compromised. The absence of such a right also results in legal ambiguity and regulatory avoidance. Employers may unofficially demand extended availability without formally extending working hours, so evading requirements relating to overtime compensation under existing labour rules. This not only circumvents labour protections but also disproportionately affects middle and

senior-level professionals, who are generally excluded from wage-based protections due to their job categories. Moreover, the lack of a disconnect structure may indirectly incentivise a culture of digital presenteeism, where employees feel driven to display productivity by being always online, regardless of real performance.

From a broader policy perspective, the exclusion of the ability to disconnect also raises questions regarding gender fairness. Women, particularly those mixing unpaid care labor with professional commitments, are more sensitive to the constraints of being constantly accessible. The digital extension of labor disproportionately disadvantages working moms and caregivers, who may face unseen labour obligations outside official hours. This practice perpetuates traditional gender norms and hampers the achievement of genuine equality in employment. In the long term, the failure to overcome this gap affects the viability of digital labour models. It also contrasts with constitutional ideals of dignity, health, and humane work circumstances. By continuing to disregard the psychological and structural repercussions of digital excess, Indian labor legislation risks becoming outmoded in the face of emerging technology realities. To create an equitable and resilient employment system, a legal and policy framework that ensures the ability to disconnect is not only desirable, but also vital.

Need for the disconnect:

1. Psycho-Social Stress: The expectation to engage in work for over ten hours a day, together with the need to stay available for office communications at home, contributes greatly to psycho-social stress. Maintaining strong social ties is crucial as neglecting them can weaken social links and lead to isolation. A study reveals that psycho-social stress may potentially enhance the risk of cardiovascular diseases and diabetes.

2. Job Strain: The strains of long working hours, strict deadlines, and an ever-

competitive environment can produce an extremely stressful workplace. The irritation of being answerable for calls and emails after work hours further exacerbates workplace strain. A significant data demonstrates that the mortality difference between males with and without job strain was equivalent to that between smokers and non-smokers. A important data demonstrates that the mortality difference between males with job pressure and those without it is similar the gap between smokers and non-smokers. According to the APA's 2023 Work in America Survey, 77% of workers reported having work-related stress, with 57% identifying negative repercussions such as emotional weariness and impaired motivation.

3. Lack of Productivity: Contrary to popular opinion, extended working hours do not necessarily correlate with improved productivity. A recent survey finds that employees who consistently log off at the end of the workday tend to have productivity ratings roughly 20% higher than those who feel forced to continue working past conventional hours.

4. Screen Time: The use of technology in the workplace has led to prolonged screen time, which can adversely influence health... Recent data performed by Workplace Intelligence suggests that employees spend an average of 96.1 hours each week in front of screens, which equals to nearly four full days. The study emphasizes major health issues and productivity challenges linked with prolonged screen use. Moreover, excessive screen time is related with insomnia, interrupted sleep cycles, eye strain, headaches, back discomfort, and diminished physical activity.

The Right to Disconnect: A Constitutional Perspective in India:

As mentioned above, today's work culture, which extends beyond official hours, can have harmful consequences on both the physical and mental health of a person. While courts have yet to thoroughly investigate the interpretation of the Right to Disconnect, it can

be broadly interpreted under Article 21 of the Indian Constitution which guarantees every citizen the Right to Life and Liberty. The phrase 'life' enshrined under Article 21 of the Constitution does not connote simple animal existence; it has a very broad meaning, which includes the right to livelihood, better standards of life, and the right to leisure.

In **State of Punjab v. M.S. Chawla**, it has been held that the right to life ensured under Article 21 incorporates inside its ambit the right to health and clinical consideration and in the case of **CESC Ltd. v. Subash Chandra Bose**, the Supreme Court observed that health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity. Thus, it can be proved that the Right to health means both mental and physical health of a person. Further, in **Kirloskar Brothers Ltd. v. Employees State Insurance Corporation**, the Supreme Court decided that companies have a duty to guarantee that their employees can have a meaningful life. These cases indicate how Article 21 contains the Right to Disconnect within its reach, underlining the need of employers to actively promote and preserve this right.

To properly appreciate the state's responsibility in fulfilling the Right to Disconnect, Article 21 should be viewed with Articles 38, 39, 42, 43, and 47. These articles jointly establish the State's responsibility to promote the welfare and mental well-being of its citizens by providing humane working conditions, protecting vulnerable groups, and supporting mental health initiatives. These clauses underline the need of a balanced approach to work and life, emphasizing the right to disconnect as important to overall health and societal well-being. Hence, the Constitution authorizes the state to regulate and create regulations on the Right to Disconnect.

Top Companies' Policies on the Right to Disconnect:

In the absence of a statutory "right to disconnect" in India, a few top-tier companies—

both domestic and multinational—have voluntarily adopted internal policies to promote digital well-being and work-life balance. While these policies are not enforceable legal rights, they represent emerging best practices and a shift in corporate attitudes towards employee mental health in the digital era.

1. Tata Consultancy Services (TCS)

TCS has promoted flexible work policies and hybrid models under its “25x25” vision, which aims to have only 25% of employees working from office at any given time by 2025. While there is no official “right to disconnect” policy, the company encourages managers to avoid unnecessary communication outside office hours and respect personal boundaries. Its internal communications emphasise work-life balance, especially post-pandemic.

2. Infosys

Infosys has introduced employee wellness programmes, including digital detox initiatives and flexible scheduling. Through its “LiveWell” programme, the company promotes a culture where employees are not expected to be online beyond working hours unless in exceptional circumstances. However, these are advisory and not codified in employment contracts.

3. Wipro

Wipro has initiated a “wellness first” agenda that includes mental health support and regular wellness breaks. Although it has not formally announced a right to disconnect, the company discourages late-night emails and meetings through internal HR advisories. Managers are sensitised to avoid disturbing employees during personal time unless the business need is critical.

4. HCL Technologies

HCL promotes “employee first” principles with regular awareness sessions on maintaining digital boundaries. Although the company supports hybrid and flexible work, there is no formally articulated disconnection policy. Internal surveys and HR initiatives aim to identify

digital fatigue, especially among tech teams with global time zone engagements.

5. SAP Labs India

As a subsidiary of the German multinational SAP SE—which is subject to EU labour standards—SAP Labs India has adopted work-life balance policies that align closely with the right to disconnect. Employees are encouraged not to check emails after work hours, and internal tools like “time-off blockers” are used to discourage after-hour digital interaction.

6. Volkswagen India

Volkswagen globally enforces a strict policy against email access after working hours for certain employee categories. While this is more prevalent in its European operations, Volkswagen India has adopted some similar practices in principle, especially for non-operational roles. However, formalisation of these practices in Indian operations remains limited.

7. Mahindra Group:

Mahindra has adopted a holistic wellness approach under its “Rise for Good” initiative. This includes guidance to team leaders on digital courtesy and discouragement of calls or emails after official hours. It also promotes “no-meeting hours” during certain parts of the day to reduce screen fatigue.

Conclusion and Way forward:

The Right to Disconnect is a revolutionary concept aimed at relieving the constraints of labor after official hours. Countries like Australia and France have already developed legal protections for the Right to Disconnect. In contrast, India introduced the Right to Disconnect Bill in 2018, which has yet to be considered in Parliament. To properly implement the Right to Disconnect in India, a robust framework is required accounting for the varying nature of work across various sectors, the economic realities, and the competitive forces that influence both

employee expectations and managerial actions.

Recommendations include forming a monitoring committee to manage compliance, conducting frequent audits, and obtaining employee feedback to identify non-compliance. Additionally, boosting awareness among employers about the value of the Right to Disconnect will encourage them to support employees in maintaining a healthy work-life balance. Addressing the concerns of psychosocial stress and occupational strain highlights the urgency of this undertaking. While various challenges exist, emphasizing employee health must be the ultimate goal for the state and its enterprises. By applying these steps, India may make major strides towards a work climate that prioritizes both productivity and employee well-being, ultimately promoting a healthier, more balanced society.

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