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Right to Disconnect in India: Assessing the Need for a Statutory Framework for Digital Work-Life Boundaries

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Abstract

Today many workplaces in India use tools and remote communication all the time creating a culture where people are always on duty. This constant connectivity leads to digital tele pressure and makes many workers feel burned out especially those in knowledge-intensive jobs. India's current laws, the Occupational Safety, Health and Working Conditions Code, 2020 contain a major gap: they focus mainly on physical offices and do not set limits on the hours that white-collar, manager and IT workers can work leaving off-the-clock digital overreach completely unregulated. The main idea of this paper is that the Right to Disconnect is more than a workplace rule; it is a core right that comes from personal freedom, personal choice and human dignity as protected by Article 21 of the Constitution of India. Using the Puttaswamy privacy case and the right to rest mentioned in Re: Ramlila Maidan Incident, this study builds a set of rules that say people should control when and where they work, protecting them from companies that try to enter their time or space without permission. The paper also looks at how basic rights can apply to companies, not just the state after the Supreme Court decision in Kaushal Kishor v. State of UP. It talks about the difference between the court forcing a company to obey a writ and the State's duty to make laws that protect workers trying to balance workers' time freedom with employers' rights under Article 19(1)(g) and the needs of India's global service business. By comparing the Right to Disconnect Bill, 2025 with laws such as France's El Khomri law the paper suggests a balanced set of rules. These rules would require companies to create charters set up welfare committees and face real fines keeping digital limits in place without hurting business output and ensuring that the Right to Disconnect remains a protected right, for all workers.

Keywords: *Right to Disconnect; Right to Privacy; Occupational Safety, Health and Working Conditions Code, 2020; Digital Work Culture; Employee Well-being; Constitutional Dignity; Labour Law Reforms.*

INTRODUCTION

The structure of corporate employees in India has drastically changed in the past decade due to the rise of mobile telecommunication and the global acceptance of remote/hybrid working post-pandemic. In traditional industries, individuals would work within set hours within their workplace. However, within modern corporate environments such as Information Technology (IT), IT enabled Services (ITES), management consultancies and Financial Services, employees work in a state of 'always on'. Thanks to real time communication via corporate platforms, email and messaging, individuals are constantly working within their personal space. This causes personal time to become unpaid and always working. Constant connectivity often results in 'micro-work' being carried out which is unpaid. This can include answering emails at late nights, checking messages and taking short calls outside of working hours. This is often seen as menial tasks or a sign of loyalty. However, the amount of micro-work being carried out is unpaid mental labour and causes extreme 'telepressure'. This causes individuals to not disconnect from work and causes mental exhaustion. Over 51% of individuals in India work over 49 hours per week, according to the International Labour Organisation. Studies have shown that employees suffer from extreme burnout. Studies have also shown that employee productivity decreases after 50 hours of work per week. Productivity drops dramatically after 60 hours of work per week. This shows that digital overreach causes fatigue and individuals will turn up to work but will not be productive due to exhaustion.

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Despite the digital overwork crisis, there is a lack of legislation in India which causes an imbalance of power between employers and employees. Current legislation has been consolidated under the Central Labour Codes. These codes do not reflect modern times and are based on traditional industries. "The Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code)" does not provide any protection for employees. It only provides protection for physical safety and sets maximum working hours for manual workers. White collar, management, administration and knowledge workers are not subject to any working hour restrictions, breaks or overtime. Within the competitive corporate industry in India, employers can use this lack of legislation to force employees to be available at all hours. There is no clear definition of what a true business emergency is. Employers will therefore force employees to be available outside of working hours with threats of professional repercussions, poor reviews and losing their job.

Although their methods vary in terms of reach and enforceability, international countries have increasingly acknowledged the necessity of regulating after-hours contact through the right to disconnect. The right to disconnect was added to "France's labour code" by the "EL Khomri" law of 2016., which mandates the use if digital communication tools during rest periods through workplace agreements or collective bargaining. Under "Organic Law" 3/2018, Spain also acknowledged this right, while Belgium mandates that qualifying employers set up policies for communication and disconnection after hours. With few exceptions, Portugal took a more direct stance by prohibiting company interaction during employee's rest hours. Additionally, Australia has implemented a legal provision that permits workers to decline unjustified communication connected to their jobs after hours. These comparative methods show that various legal mechanisms, such as employer consultation, internal policies, and enforceable employee protections, can be used to effectuate the right to disconnect.

Modern corporations are using technology to monitor employees. Key strokes, mouse movements, screen monitoring and location tracking are being used to monitor remote workers. Using the Panopticon theory by Jeremy Bentham, this causes employees to feel distressed and constantly monitored within their own homes. This lack of privacy is worsened by the lack of legislation in the "Digital Personal Data Protection (DPDP) Act, 2023". "Section 7" of the "DPDP Act" allows employers to process personal data without consent from employees if it is for 'purposes of employment'. This gives employers the freedom to use invasive monitoring software. This means that individuals are not protected by data protection laws.

This lack of personal time can be seen as a violation of fundamental rights under "Article 21" of the Constitution of India. In "Justice K.S. Puttaswamy (Retd.) v. Union of India", the nine-judge bench held that the fundamental right to privacy includes the right to privacy. This includes personal space and the right to decide how you spend your time. The right to decide how you spend your time is an essential part of your dignity. In "Re: Ramlila Maidan Incident", the Supreme Court recognised bodily privacy, the right to sleep and the right to undisturbed rest as fundamental rights under "Article 21". Employers forcing employees to be always on causes a breach of these rights. This shows that the State has a positive obligation under "Article 21" to protect these rights.

To resolve this issue, India must implement legislation that considers our role as the global back office. As we operate in North America, Europe and Asia, legislation such as Portugal's strict ban on employees being contacted outside of working hours would cause disruption to our economy. India needs legislation that balances the fundamental right to dignity and the right to decide how you spend your time "(Article 21)" with the employer's right to trade "(Article 19(1)(g))". This paper will look at Supriya Sule's Private Member Bill "(Right to Disconnect Bill, 2025" (Bill No. 51 of 2025)) and compare it to international examples such as France's "El Khomri law". This paper will argue that legislation should be implemented to force companies to create bespoke communication policies. This paper will utilise a doctrinal, analytical and comparative approach to identify whether the "Right to Disconnect Bill, 2025" provides an effective way of enforcing our

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horizontal rights post "Kaushal Kishor v. State of Uttar Pradesh". It will also provide clear guidelines on what true business emergencies are, fair overtime pay for mental labour and strict rules on panopticon monitoring.

THE STATUTORY DEFICIT: "OSH CODE 2020", INVISIBLE COGNITIVE LABOUR, AND UNCOMPENSATED OVERTIME

A. Industrial Archaism in the "Occupational Safety, Health and Working Conditions Code, 2020"-

The Indian labour laws have always evolved in accordance with the nature of industries. Factory laws had set strict time frames for working hours and required workers to work on-site. Furthermore, the workers would also be required to clock in and clock out. Hence, there would be strict restrictions on the number of hours a worker could work in a day/week, time for breaks and the rate of overtime would be applied based on the worker being physically present.

However, due to the digitization of knowledge-based industries, we can see that there is a huge level of archaism within this labour code. "The Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code)" does not account for issues related to digitization. It only accounts for the safety of machinery, ventilation, physical welfare and even sets a maximum limit on the number of hours workers can work. However, it has a very strict definition of who is considered a worker. Hence, white collar workers, managerial staff, administrative staff and IT/ITES workers will not be restricted on the number of hours they can work, forced to take breaks and receive overtime.

This creates a huge issue within the digital industry. With the rise of new technology such as smartphones, enterprise software and cloud-based software, our homes have become an unpaid extension of our workplace. The current labour laws do not acknowledge that due to the workers being digitally connected, they are able to work at any time and place without being forced to work overtime. Therefore, whilst the OSH Code does set a maximum limit on the number of hours workers can work, it does not mention anything about the workers being contacted outside of their working hours, tele-pressure and overtime cognitive work. This means that companies can easily circumvent the restriction on the number of hours a worker can work by claiming that they are flexible with their digital working.

B. Micro Tasks & Invisible Cognitive Work-

Due to the nature of digital work, workers are now being exploited through continuous cognitive work. In today's modern workplaces, workers are rarely asked to work overtime outside of their working hours. However, they are constantly being contacted through digital micro tasks. This includes reading and replying to emails, looking at notifications, having short calls and checking dashboards.

These micro tasks are often described by corporate management as being insignificant. However, in reality this is a form of exploitation. Due to the nature of the micro tasks, workers will constantly be replying to dozens of messages throughout the evening, weekends and whilst on leave. This is a huge amount of unpaid cognitive work. Studies have shown that once someone works more than 50 hours in a week their cognitive ability will plateau and will drop significantly if they work more than 60 hours. Furthermore, those who reply to work related messages after 9pm will experience poor sleep, disrupted metabolism and will have poor cognitive ability.

This constant expectation of workers to reply to messages creates a condition called info-obesity. This is caused by the workers becoming overwhelmed, stressed, losing sleep and experiencing burnout. As the current labour laws in India do not recognise the micro tasks as paid work, companies will not pay any extra cost to interrupt their workers' time. This creates a moral hazard whereby employers will constantly expect workers to work outside of their working hours.

C. Power Imbalance, Tele-pressure and the Loyalty Fallacy-

The reason why there is constant digital exploitation in India is due to the power imbalance between the worker and employer. Due to the highly competitive

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knowledge economy in India and surplus of white-collar workers with no real bargaining power, individuals will not have much power to control their working hours.

This has caused a culture of tele-pressure within corporations. This is when workers feel compelled to reply to work related messages. Constant digital connectivity is often used as a measure to show how loyal, committed and ambitious an employee is. If an employee tries to enforce their personal time by not replying outside of working hours, they will face some subtle but coercive consequences. This could include negative feedback, not being promoted, not being given important tasks and even facing the risk of being fired in a competitive job market.

Therefore, workers will feel coerced into being present due to their fear. International Labour Organisation data shows that over 51% of the Indian workforce work over 49 hours a week, making India rank second in the world for long working hours. Surveys also show that nearly 78% of employees in Indian corporations suffer from burnout. Health surveys have also shown that Indian knowledge workers suffer the highest percentage of severe burnout symptoms globally (59%).

This creates a productivity paradox. Whilst management will believe that being constantly available means they are productive, studies have shown that being constantly under telepressure will cause workers to feel exhausted, increase error rates, increase employee turnover and cause severe damage to the employees' mental health and cardiovascular health. Without a labour law that prevents digital exploitation outside of working hours and ensures that employees will not face any consequences, there is no guarantee that workers will be given the right to rest and control their own time.

BEYOND CONTACT: WORKPLACE SURVEILLANCE, BENTHAM'S PANOPTICON, AND THE DPDP ACT, 2023

A. "When Contacted" to "How Monitored": The Panoptic Remote Workplace-

The issue of digital overreach in the modern Indian workforce goes beyond the issue of when employees are contacted by employers outside of working hours. It involves the nature of how employees are being constantly monitored. In the post-pandemic era, the line between home and office has become blurred due to the normalisation of remote and hybrid working. In response, companies have implemented advanced digital monitoring measures to ensure that there is a constant presence of management in the employees' personal homes. This includes technology to monitor keystrokes, mouse clicks, screen capture at regular intervals, browsing history, video feeds and GPS tracking.

In turn this creates a digital Panopticon. A Panopticon was an idea created by Jeremy Bentham to ensure constant self-regulation due to the fear of being watched. Within a panoptic workplace, employees lose control over the information and will feel constantly anxious, self-censor and feel stressed. Due to the software being used running in the background, employees will not be able to say no and there will be no informed consent therefore remote working becomes a form of digital imprisonment. This can also affect low waged and marginalised workers in the field. Devices such as 'Human Efficiency Trackers', GPS smart watches with cameras and microphones, have been implemented to monitor movement, geo-fence and reduce wages due to small changes in operations. In "Frank Vitus v. Union of India", the Supreme Court ruled that GPS tracking is an infringement of the fundamental Right to Privacy as set out in "Article 21". Furthermore, as per "United States v. Jones", continuous tracking of an individual's location over a long period of time violates their reasonable expectation of privacy.

B. Shortcomings of the Digital Personal Data Protection (DPDP) Act, 2023-

There is a lack of legal protection for employees from digital monitoring within the modern Indian workforce. Before recent legislation came into force, data processing within employment was loosely covered by "Section 43A" and "Section 72A" of "the Information Technology Act, 2000" and "the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011". This required

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organisations to obtain notification and initial consent but did not require organisations to obtain consent at regular intervals and limited using the data for other purposes. Initial consent would often be used to justify digital monitoring technologies such as facial recognition and keystroke tracking.

"The DPDP Act, 2023" was expected to overcome these issues. However, an analysis of the Act shows that there are some major issues regarding employee privacy. Section 7 of the Act allows personal data to be processed without consent for 'legitimate purpose's'. This includes 'purposes of employment' and protecting employers from loss or liability. "The DPDP Act" creates a wide blanket exception and allows companies to monitor employees without consent.

"The DPDP Act" does not consider the power imbalance which exists within employment relationships. In companies where there is a large surplus of employees and individuals are in a vulnerable economic position, employees are unlikely to give genuine, informed consent. Employees who do not agree to digital monitoring policies will not be hired, suffer retaliation or lose their jobs. As "the DPDP Act" allows data to be processed without consent for 'purposes of employment', there is no protection for employees to have control over their information. This leaves white and blue-collar workers vulnerable.

C. Informational Self-Determination and Employee Privacy-

The increase of digital monitoring within the workplace infringes upon the right to informational self-determination as highlighted in "Justice K.S. Puttaswamy (Retd.) v. Union of India". The nine-judge bench ruled that privacy is an intrinsic part of life and personal liberty, as set out in Article 21. This includes informational privacy, spatial privacy and decision making. Informational privacy gives individuals the right to control how their data is obtained, stored, processed and shared. This means that the information relating to an individual is their own. The Supreme Court recognised that whilst individuals' digital footprints may seem insignificant, when analysed they create detailed profiles about individuals.

When employees use invasive digital monitoring software to constantly monitor keystrokes, private communications and home life, they are breaching the three-part test for proportionality set out in Puttaswamy. In relation to proportionality, any intrusion into fundamental privacy rights by the state or companies must be necessary, use the least restrictive method and be proportionate. Constant monitoring is not proportionate as there are less invasive methods that can be used such as self-reporting at regular intervals, outcome-based assessments and encrypted communication.

As per the judgement in "People's Union for Civil Liberties (PUCL) v. Union of India", monitoring employees' communications without their consent breaches the constitutional rights of "Article 21 and Article 19(1)(a)". Individuals cannot lose their constitutional right to not be unreasonably monitored just because they have entered a contractual relationship. Informational self-determination means that employees have a reasonable expectation to privacy within their homes and digitally. Without any legal protection to regulate algorithmic management and prevent digital monitoring within the workplace, the State is not fulfilling their positive obligation to protect citizens from human dignity, personal liberty and mental health breaches by companies under "Article 21".

CONSTITUTIONAL FOUNDATIONS: "ARTICLE 21", TEMPORAL AUTONOMY, AND HORIZONTAL ENFORCEMENT

A. Puttaswamy Jurisprudence-

The constitutional foundation for a "Right to Disconnect" in India can be traced back to the landmark judgment by the nine-judge bench of the Supreme Court in "Justice K.S. Puttaswamy (Retd.) v Union of India". The Court unanimously overturned previous restrictive jurisprudence that viewed fundamental rights as compartmentalised. The Court held that the Right to Privacy is an inherent and fundamental right under "Article 21" (Life and Personal Liberty) and the entire Part III of the Constitution (Fundamental Freedoms).

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In determining the Right to Privacy, the Court in Puttaswamy held that there are three elements to privacy. Spatial privacy ensures individuals have a safe haven (typically their homes) where they cannot be intruded upon by others. Decisional autonomy provides individuals with the right to make important decisions about their lives, health, family and relationships without being dominated by others.

This jurisprudence can be applied to the digital world to create a right to temporal autonomy. Temporal autonomy ensures individuals have control over their time. This means individuals have the right to spend their time away from work to rest, grow as a person, spend time with family and have time to recover mentally. In the digital age, individuals are constantly being intruded upon in their safe haven (their home) due to the digital nature of smartphones and enterprise software. By sending emails, slack messages and work during these times, employers are digitally intruding upon their employees. This causes individuals to lose control over their time.

Further, the expectation from employers for employees to be constantly available digitally fails to meet the three criteria set out by the Court in Puttaswamy. Firstly, it must be the least intrusive method and there must be a rational connection to an important public interest. Whilst employers have an interest in increasing productivity during working hours, expecting employees to be constantly available during their personal time is disproportionate and causes a punitive effect on their personal freedom and dignity.

B. Bodily Integrity and Right to Sleep and Rest: Re: Ramlila Maidan Incident-

To establish temporal autonomy as part of "Article 21", privacy jurisprudence must be combined with the Supreme Courts' recognition of bodily integrity and the right to sleep and rest. "In Re: Ramlila Maidan Incident" the Supreme Court assessed the legality of a midnight police raid to disperse peaceful sleeping protestors. The Court held in a concurring judgment that individuals have a fundamental right to sleep and rest under "Article 21" (Life, Dignity and Personal Liberty).

The Court held that sleep and rest are fundamental to a person's existence. They are fundamental to maintaining a healthy brain, body and mind. Any unjust interference with an individual's right to rest by the state or otherwise will interfere with their bodily integrity and cause subtle torture. The Supreme Court held that an individual who is unable to sleep and rest will lose their mental balance and therefore will be unable to exercise their other fundamental rights.

Whilst the Ramlila Maidan case related to direct police action by the executive (under "Section 144" Code of Criminal Procedure), the principle can be applied to the digital world. Constant communication from employers during personal time, late night messages and early morning mandatory responses cause individuals to suffer from constant telepressure . This causes individuals to be constantly on high alert for any new messages. This causes constant disruption to natural sleep patterns.

This causes individuals to suffer from burnout, exhaustion and severe mental issues. Based on the Ramlila Maidan case, the Right to Disconnect is a fundamental right to protect individuals' bodies and minds from constant digital pressure.

C. Horizontal Application Hurdle: "Kaushal Kishor v State of UP"-

Although temporal autonomy can be established as a right under "Article 21", there is an issue with enforcing this right in the corporate world. This is due to the traditional application of the State Action Doctrine. Historically, Fundamental Rights under Part III of the Indian Constitution were seen to be vertical rights that only protected individuals from the state "(Article 12)". As the majority of individuals working in the IT, ITES, Corporate and White-Collar sectors work for non-state employers, employers would argue that "Article 21" cannot be applied to them.

In "Kaushal Kishor v State of Uttar Pradesh" the Constitution Bench of the Supreme Court overturned this principle. In this case, a five-judge bench held that Fundamental Rights under "Articles 19 and 21" can be enforced against both the state and

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private individuals. The majority held that if a fundamental right (life, personal liberty or dignity) has been violated by a private individual, a remedy can be sought under "Article 226 or 32".

However, there is some uncertainty surrounding whether this is a direct or indirect horizontal application. The Court did not provide any guidance on how the writ courts should handle contractual disputes with private individuals. If individuals attempt to apply direct horizontal writs against their employers for sending emails during personal time, this will cause the courts to become overwhelmed.

To overcome this issue, Positive State Obligations can be applied. This means that the State has a duty under "Article 21" to protect individuals' fundamental rights from being violated by powerful non-state actors. If there is a power imbalance between private employers and employees causing a violation of an individual's temporal autonomy, spatial privacy and mental health, the State will be breaching its positive duty under Article 21.

The Right to Disconnect after Kaushal Kishor does not mean that individuals will have to bring a writ action against their employer for every late-night email. Instead, it means that Parliament must apply its duty to pass legislation (such as "the Right to Disconnect Bill 2025") to create a statutory obligation to protect individuals' right to privacy and rest under "Article 21" . This ensures that individuals' fundamental rights under "Article 21" are balanced with employers' rights to operate under "Article 19(1)(g)" .

RECONCILING TEMPORAL RIGHTS WITH ECONOMIC REALITIES: THE GLOBAL BACKEND DILEMMA

A. India as the Global Backend-

The most common criticism of implementing a statutory right to disconnect in India is the country's reliance on a global backend for Information Technology (IT), IT enabled services (ITES), Business Process Management (BPM) and international financial consultancy. Consequently, India's corporate culture operates in multiple time zones . Over 7.4% of India's Gross Domestic Product (GDP) comes from the IT-BPM industry which requires real time interaction with clients, managing systems internationally and coordinating with countries in North America, Europe and Asia Pacific .

Legal scholars and analysts have emphasised that if India were to implement strict absolute disconnection laws, such as Portugal has done, it would be detrimental for India's export of services. Absolute disconnection laws make it illegal for an employer to contact an employee outside of their working hours . In a global service industry that operates in multiple time zones, such as India's IT-BPM industry, an Indian software developer may have to communicate with their Silicon Valley team at 10pm IST. If there was a strict statutory law in place banning communication outside of working hours, it would cause issues as it would create an issue for the company, cause litigation and cause India to lose their competitive advantage.

As a result, comparative labour law has shown that developing countries cannot implement rigid disconnection laws . Instead, India should implement a flexible solution such as France has done with the "El Khomri law." This requires companies to negotiate their own communication policies with their employees .

B. Misuse of the 'Emergency' Clause and Employer Control-

Whilst flexibility is essential for international businesses, companies in India are misusing the lack of statutory guidance to create an endless 'emergency'. Without statutory definitions of what constitutes an emergency businesses will often label any administrative requests, non-urgent emails and ad-hoc requests as emergencies .

This creates an imbalance of power in favour of the employer. With a highly competitive white collar job market and no collective bargaining units, employees will not be able to challenge an employer's decision of whether something is an emergency . Employees that do not reply to late night messages will face issues with their career, poor performance reviews, no variable pay and threats of dismissal for not being committed to the organisation .

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To overcome this, the right to disconnect should be defined in statute to clarify what constitutes an emergency. This should include only unpredictable situations that cause damage to critical infrastructure, major data loss, financial loss or risk to safety. The law should also make it clear that regular requests from clients in different time zones do not constitute an unexpected emergency. These should be planned for with shift patterns, rota and overtime pay. By defining what constitutes an emergency and protecting employees from retaliation if they don't reply to non-emergency messages outside of working hours, the law can remove employer control.

C. Balancing Fundamental Rights "(Article 21 and 19(1)(g))" and Proportionality Test-

When considering the right to disconnect in statute, there is a need to balance the fundamental rights of employees under "article 21" (the right to life, personal liberty and human dignity) and employers under "article 19(1)(g)" (the right to carry on trade or business). Corporate organisations often argue that a statutory right to disconnect would cause unreasonable restrictions on their freedom of trade .

However, fundamental rights under "article 19(1)(g)" are not absolute and can be limited by reasonable restrictions under "article 19(6)" for the benefit of the public. The courts will use the four-part proportionality test to assess whether a statutory restriction on trade or business is valid. This was established in Modern Dental College & Research Centre v State of Madhya Pradesh and also confirmed in Puttaswamy-,

Legitimate aim – Protecting employees under article 21 (health, mental wellbeing and physical integrity) is clearly in the public interest.

Proportionality – The statutory definition of what constitutes after hours communication will directly contribute to achieving the aim of protecting employees from burnout.

Necessity – A flexible solution such as the charter-based solution that requires companies to negotiate their own communication policies will be the least restrictive method to achieve employee wellbeing.

Proportionality stricto sensu – The small restriction on the employer's convenience will be vastly outweighed by protecting the employee's personal liberty, sleep and mental wellbeing.

This shows that a balanced right to disconnect will not breach "article 19(1)(g)". It creates a balanced solution between productivity and constitutional dignity. It proves that time autonomy is essential for sustainable economic growth in India's digital economy.

LEGISLATIVE LEVERAGE & BLUEPRINT: EVALUATING "THE RIGHT TO DISCONNECT BILL, 2025"

A. Anatomy of the Bill

Private Member Bill No. 51 of 2025 ("The Right to Disconnect Bill, 2025") was introduced in the Lok Sabha by Member of Parliament Supriya Sule. This Bill seeks to redefine the relationship between employers and employees in a digital workplace. It aims to move away from traditional measures of attendance under industrial law to instead provide regulation of cognitive labour and telepressure.

The Bill applies to all corporate bodies registered under the "Companies Act, 2013" and societies registered under the "Societies Registration Act, 1860". It defines out-of-work hours as 'any time other than that provided for in the contract of employment'. "Clause 7" provides the main protection by granting all employees the right to 'disconnect' from calls, emails and messages outside of working hours, weekends and holidays. Explanation (b) to "Clause 7" ensures that employees cannot be disciplined, excluded or given negative feedback by their employer for not responding during out-of-work hours.

"Clauses 3 and 5" provide for the creation of a central body, the Employees' Welfare Authority. This will be a statutory body with representation from the Union Ministry of Electronics and Information Technology (MeitY), Ministry of Communications, Ministry of Labour and Employment, Ministry of Statistics and Programme Implementation, Chief Labour Commissioner and the Director General of the Labour Bureau. "Clause 6" provides that the Authority must undertake a

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national study to assess the use of digital tools outside of working hours within one year of its creation. Clause 5(1) provides that the Authority must develop a national standard to set minimum standards for negotiations between employers and employees.

B. How will it work?

The Bill recognises the diverse nature of the Indian corporate sector and therefore does not impose a blanket ban. Instead, "Clause 8" requires companies and societies employing more than 10 employees to negotiate internally to create a Charter. "Clause 8(1)" provides that companies must set times that they will not communicate with employees during out-of-work hours. This will take into account the needs of each business including time zones and culture.

"Clause 12" provides that an Employees' Welfare Committee must be created within each registered business. This will consist of elected employees who will represent staff during negotiations and act as a central point to resolve disputes. "Clause 13" provides that the Charter must be renegotiated regularly.

If the company cannot reach an agreement, "Clause 14" provides that the default out-of-work times will be those set by the national standard. "Clause 14(a)" provides that employees cannot be contacted by their employer during out-of-work hours. Clause 14(b) states that if they choose to respond to after-hours communication, the employer must pay them for this as overtime. This provides a cost to businesses for contacting employees outside of working hours, encouraging management to limit unnecessary contact.

The Bill also includes provisions to improve mental health in the workplace. Clause 15 provides that registered businesses must agree on policies to allow employees to work remotely. "Clause 16" requires employees to receive regular training on how to use digital tools responsibly. "Clause 17 and 18" both provide that the relevant Government must provide mental health support at work and create Digital Detox Centres.

C. Enforcement & Criticism

"Clause 19" provides that any corporate body or society that does not set out conditions for staff during out-of-work hours, fail to set policies for remote working or breach any part of this Act will be fined. The fine will be 1% of the total salary paid to employees. This will be a considerable fine for large multinational companies.

Although this Bill has strong provisions, there are a number of issues:

1. Ambiguous Definition of Emergency The main issue with this Bill is that it does not provide a clear definition of what constitutes an emergency. In high pressure industries, management may use the vague provision to continue contacting employees outside of working hours. If there is no definition that emergencies can only be caused by unpredictable system failure, security incidents or life-threatening situations, the protection provided by the Bill will be undermined.

2. Private Member Bill This Bill has been created as a Private Member's Bill under Rule 112 of the Rules of Procedure and Conduct of Business in Lok Sabha. This means that there are significant issues with enforcing the Bill. Very few Private Members' Bills have ever been passed into law in the Indian Parliament. However, it is an important template. In order to make it enforceable, the provisions should be added to the Central Labour Codes. This includes the mandatory Charters, overtime and protection from retaliation. These should be included as amendments to the Occupational Safety, Health and Working Conditions Code, 2020 or Industrial Relations Code, 2020.

3. Creates a Two-Tier Workforce the Bill only applies to registered companies and societies employing 10 or more employees. This will mean that over 80% of the workforce in India will not be protected. Gig workers who are managed by an automated algorithm will still be forced to be continuously contacted. In order to provide temporal autonomy to independent contractors and gig workers, the provisions must be amended to require transparency in the algorithm. This will ensure that they cannot be penalised for not working during rest hours.

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RIGHT TO DISCONNET AROUND THE WORLD

Global employment connections have changed as a result if the quick development of digital technology, which makes it possible for employers and employees to communicate continuously outside of regular business hours. Digital connectivity has increased productivity and flexibility at work, but also made it harder to distinguish between work and personal life. As a result, issues about employee well-being, sufficient rest, privacy, and work-life balance have been raised by the expectation of being available beyond working hours. As a result, a number of countries have passed legislation acknowledging the right to disconnect, shielding workers from unjustified demands to communicate about their jobs outside of their designated working hours.

By enacting laws mandating that businesses respect workers' right to disconnect through working arrangements, France became a leader in this field. Subsequently, Spain recognized this right through its digital rights legislation, while Portugal, with a few exceptions, restricted employer interaction employees' rest intervals. Belgium passed legislation mandating that some firms set up policies for communicating after working hours. Subject to certain, restriction, Australia has implemented a statutory provision that permits workers to decline excessive after-hours contact.

These nation's exhibit a variety of strategies for controlling the bounds of digital employment, from collective bargaining and employer-led rules to legally enforceable rights. The effectiveness, constraints, and potential future evolution of the right to disconnect can be better understood by looking at their legislative frameworks and implementation strategies.

COUNTRIES WHICH RECOGNIZED RIGHT TO DISCONNECT

FRANCE- Collective Bargaining and Workplace Charters

The right to disconnect was introduced by Law No. 2016-1088 of 8th August 2016, also known as the Loi Travail, and went into effect on January 1st, 2017. It is now included in Article L.2242-17 of the French Labor Code, which addresses the right disconnect within the larger framework concerning equality at work and quality of working life. France is recognized as a pioneer in the legislative recognition of the right to disconnect.

Sending work-related messages after hours is not strictly forbidden by the French Law. Rather, the practical use of the right to disconnect and the regulation of digital communication tools must be addressed through the appropriate collective bargaining process. In the event that no collective bargaining agreement is achieved, the employer is required to draft a workplace charter after, if necessary, contracting the Social and Economic Committee. The Charter must outline the procedures for exercising the right and offer senior staff, managers, and employees training and awareness campaigns about responsible use of digital tools.

This arrangement acknowledges that the operational needs of various workplace vary. While establishing distinct protocols for urgent operational issues, a corporation may decide that ordinary emails sent after business hours do not require an answer until the following business day. Employees representatives can take part in deciding on these arrangements through collective bargaining.

The French model also links the employer's wider responsibilities on working conditions and employee welfare to digital disagreement. It acknowledges that safeguarding rest intervals needs more than just establishing official office hours. Managerial expectations and workplace culture must also be taken into consideration.

France offers India a useful example for employee consultation and necessary workplace regulations. However, these protocols must to be backed by a clear ban on retaliation and a practical remedy for workers whose right to disconnect is violated.

SPAIN- Digital Disconnection as an Employment and Privacy Right-

Organic Law 3/2018 on "Personal Data Protection and Guaranty of Digital Rights", including "Article 88", established a clear right to digital disconnection in Spain. In order to protect rest intervals, leave, and

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personal and family privacy, the legislation recognizes the right of employees and public sector professionals to disconnect from digital devices outside of legally or customarily set working hours.

The Spanish framework's consideration of digital disconnection as a component of a larger system of digital rights is a key component. This strategy recognizes that the effects of constant workplace connectivity go beyond regulations pertaining to working hours. Even if it only takes a few minutes to read or respond to each message, persistent business communication can disrupt an employee's personal life.

"Article 88" mandates that, after consulting with employee representatives, businesses create an internal policy governing the exercise of the right to disconnect. In addition to addressing the practical arrangements for disconnection, the policy must incorporate awareness and training initiatives regarding the responsible use of technology. The framework also covers workers who use digital tools to operate from home or remotely.

Thus, employer accountability and statutory recognition are combined in Spanish approach. Organizations must create official agreement rather than letting employees discuss boundaries with their bosses on an individual basis. These guidelines may outline the hours of communication, how non-urgent messages should be handled, and when contacting someone after hours is acceptable.

However, workplace pressure cannot be eliminated by a written policy alone. Workers may still worry that their job advancement or performance reviews may suffer if they don't reply. Therefore, managerial training, uniform enforcement, and protections against unfair treatment are necessary for effective implementation.

Spain is a helpful model for India since it links digital disconnection to privacy, relaxation, and worker wellbeing. Similar requirements for companies to create written rules, engage with staff, and offer awareness campaigns could be found in Indian legislation. This would aid in creating a uniform standard for control for traditional, remote, and hybrid work arrangements.

PORTUGAL- A Direct Statutory Duty on Employers-

With "Law No. 83/2021", which modified its labor code and added "Article 199-A", Portugal took a more direct approach. With the exception of situation involving extraordinary circumstances, the law, which went into effect in January 2022, required businesses to avoid contacting workers during their rest hours. Since an employee utilizes their right to relax, it also offers protection against less favorable treatment.

Portugal imposes a significant responsibility directly on the employer, in contrast to France and Spain, where the main implementation mechanism is centered on collective agreements and corporate policies. Therefore, the legal question extends beyond whether an organization has implemented a disconnection policy to include whether it has actually respected employee's protected resting hours.

In very extraordinary situations, the force majeure exception maintains flexibility. It should not, however, be interpreted as a broad defense of regular after-hours communication or insufficient staffing plans. Since employees could otherwise be reluctant to assert their rights for fear of losing professional chances or facing disciplinary repercussion, the protection against unfair treatment is equally important.

A preventive paradigm of labor regulation is shown in the Portuguese approach. The law requires businesses to arrange work in a way that respects personal time by establishing a default requirement not to contact employees during rest intervals. This is especially important in digitally connected workplaces where people can communicate from anywhere at any time.

However, execution necessitates clarity on what constitutes rest periods, how crises are handled, and how disconnection and authorized on-call employment relate to one another. In order to prevent legitimate operational requirements form being used as an excuse for constant availability, employers and employees need clear regulations.

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Portugal provides India with a crucial legislative lesson, rather than just encouraging business to respect employee's personal time, a regulatory framework should impose a clear requirement on the. A similar Indian clause would state that, with a few specific situations, regular conservation shouldn't necessitate a response outside of regular business hours. Additionally, it must shield workers against retaliation for utilizing one's right.

AUSTRALIA-An Enforceable Right to Refuse Unreasonable Contact-

An important illustration of an enforceable right to disconnect is seen in Australia. The right was added to part 2-9 of the "Fair Work Act, 2009" specifically "section 333M-333Q", by the "Fair Work Legislation Amendment (Closing Loopholes) Act 2003/2004". For workers of non-small -business employers, the right came in force on August 26, 2024, and for workers of small-business employers, it began on August 26, 2025.

Employees may decline to monitor, read, or reply to contact or attempted contact, from their employer outside of regular business hours under "Section 333M", unless their rejection is unreasonable. Third-Party contacts pertaining to work, such as those with clients, suppliers, and other business associates, are likewise covered by the tight. As a result, it acknowledges that pressure can come from both external professional contacts and direct supervisors.

After-hours communication is not strictly forbidden by the law. Rather, it creates a test of reasonableness. The employee's function and level of responsibility, the reason for the contact, the method in which it is made, the degree of disruption caused, the compensation or remuneration arrangements for availability or additional work, and the employee's personal circumstances are all relevant factors.

This strategy aims to strike a compromise between employee's right to rest and business operating requirements. For instance, declining a regular administrative communication, may not be as reasonable as declining urgent contact when an employee has consented to a specific on-call arrangement. For this reason, the conditions for the interaction and the employment relationship are crucial.

When parties are unable to come to an agreement at the workplace level, the Fair Work Commission offers a dispute resolution process. These exercise of rights at work is likewise shielded from prohibited adverse action by the "Fair Work Act".

There are two main types ways that Australia's framework affects comparative labor law. First, instead of depending just on internal policies, it converts the idea of disconnection into a legally enforceable employee entitlement. Second, rather than enforcing a rigid ban on all after-hours communication, it introduces flexibility through a reasonableness test.

This concept is especially applicable to Inda. A well-defined test for emergencies, on-call responsibilities, and truly important operational communication might be combined with a statutory right to decline regular after-hours contact. The accessibility of a conflict resolution mechanism would improve the right's practical enforceability even more.

But the Australian model also highlights the significance of meticulous drafting. Employees may continue to face the very constraint that the law aims to reduce if exceptions are defined too broadly. Therefore, an Indian framework would need to differentiate between true urgency and standard commercial convenience and offer guidelines for determining reasonableness.

BELGIUM-Mandatory Workplace Arrangements and Employee Consultation-

Belgium's Act of March, 26, 2018, on promoting social cohesion and economic progress, including provisions pertaining to the right to disconnect. "The Labor Deal" of October 3, 2022, enhanced the framework, and the applicable requirements became effective on April 1, 2023. Subject to the relevant collective bargaining framework, the updated regulations mandate that covered private-sector firms with a minimum if 20 workers set up disconnection of arrangements.

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The practical organization od labor is emphasized in the Belgian approach. The arrangements for employees to exercise their right to disconnect, guidelines for using digital communication tools to safeguard private time and rest periods, and training and awareness programs for managers and staff must all be included in the applicable collective agreement or workplace regulations.

This concept acknowledges that working behaviors affect how effective a right to disconnect is. Despite having a set work schedule, an employee may nevertheless fell under pressure to reply to communications sent outside the schedule. Clear internal policies can set expectations for managers' roles, reaction times, and how critical situations should be handled.

Belgium serves as another example of how employee consultation is important when creating workplace safeguards. Collective agreements enable the regulations to take into account the characteristics of the sector and operational needs of specific businesses. However, because an employment threshold is used, not all employers have the same implementation duties.

Another drawback is that formal arrangements do not guaranty compliance. The practical implementation of the right continues to depend on the quality of workplace policies, managerial behavior, and the availability of efficient remedies.

Belgium offers India a helpful model for mandating that covered firms implement specific workplace regulations and training initiatives. However, a future Indian law should outline the penalties for non-compliance and take into account how workers in small businesses might receive the bare minimum of protection.

THE INDIAN POSITION: ASSESSING THE NEED FOR STATUTORY INTERVENTION

The Right to disconnect is becoming a more important labor-issue due to India's expanding digital economy, growth of remote and hybrid working arrangements, and integration into international service markets. Workers in the legal, financial, information, technology, consulting, and other professional fields may get calls or messages about their jobs well after their schedules working hours. When business operate across international time zones or use response times as a gage of employee success, the urge to stay reachable can be especially strong.

There is currently no adopted, broadly applicable statutory right that is comparable to the particular frameworks mentioned above. However, ideal like "The Right to Disconnect Bill, 2025", which was submitted as a private member's bill, have drawn legislative attention to the matter. It is important to separate the proposal from enacted legislation because it does not establish an enforceable statutory right on its own.

Within its applicable extent, current labor laws in India control working conditions, working hours, overtime, and rest times. Although these safeguards are pertinent to digital work-life boundaries, they do not necessarily create abroad, universally applicable right to ignore work-related digital messages outside of regular business hours without facing negative repercussions. Therefore, it continues to be a significant regulatory concern to distinguish between an employee's regular working hours and the expectation of continuing to be accessible online.

This gap could be filled by a regulatory framework using a number of related strategies-

First, Parliament ought to think about acknowledging a clear right to decline non-emergency work-related contacts outside of regular business hours, weekly holidays, and authorized time off. Calls, emails, messaging, and other digital communication channels should all be included by the right, including, when applicable, client communications pertaining to business.

Secondly, it should be mandatory for businesses to create written disconnection rules after consulting with workers or their representatives. These guidelines should outline working hours, anticipated response times, emergency protocols, and any appropriate on-call arrangements. At beginning of their employment and whenever significant changes are made, employees should be made aware of these regulations.

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Third, retaliation against workers who exercise their rights should be forbidden by law. When an employee refuses to respond to regular messages during protected rest intervals, they shouldn't be subjected to disciplinary action, unfavorable performance reviews, promotion denials, or other unfavorable punishment.

Fourth, a workable grievance-redressal process ought to be provided by the law. Workers should have access to both an internal complaint procedure and, if needed, a suitable labor authority or tribunal. It would be easier to make sure that the legislative obligation is more than just a formal declaration if there were proportionate penalties for persistent or severe non-compliance.

Lastly, the structure should provide for well-defined exceptions for legitimate emergencies, necessary services, and agreed-upon on call responsibilities. When mandated by relevant legislation, these deviations should be reasonable, documented, and accompanied by suitable compensation. Ordinary workload challenges or inadequate staffing arrangements shouldn't be classified as emergencies by employers.

The diversity of India's labor market is another factor to take into account. Employees in smaller businesses or less formal employment arrangements would not receive sufficient protection under a framework built solely around giant corporate employers. Therefore, India should take into account a minimum standard that is generally applicable, supplemented by implementation criteria that are relevant to establishment's size and type.

CONCLUSION & POLICY RECOMMENDATIONS

A. Constitutional Arguments-

This research paper has argued that the Indian Constitution and statutory law should be amended to provide a legally enforceable 'Right to Disconnect' for employees in India. Time and space are fundamental rights guaranteed by the fundamental right to Life, Personal Liberty and Human Dignity under "Article 21" of the Constitution of India.

Due to the increase in remote/hybrid working post-pandemic and the constant connectivity via mobile devices, enterprise software and messaging platforms, there has been an increase in a culture of perpetual availability in India's knowledge industries. This culture of perpetual availability has led to many employees working from their homes due to the pressures of digital tele-pressure. As a result, many employees now have no time for themselves outside of work as it is unpaid and constant.

This culture of perpetual availability breaches 3 fundamental rights guaranteed by "Article 21" of the Constitution:

1. Right to Privacy: In the landmark case of "Justice K.S. Puttaswamy (Retd.) v. Union of India", the 9 Judge Constitution bench ruled that privacy is a right to a 'zone of privacy'. This means that individuals have the right to a space (traditionally their home) which is kept private and cannot be entered without their consent. When an employer requires an employee to reply to emails or messages outside of their working hours, it is an unauthorised invasion of their physical zone of privacy.

2. Right to Autonomy: Puttaswamy ruled that personal liberty includes the right to make decisions. This means that an individual has the right to control their own decisions, family and time without any pressure from their employer. As employees are expected to be constantly available, this takes away their right to autonomy and puts them in a position of coercive presenteeism as they are afraid to face professional consequences.

3. Right to Sleep: "In Re: Ramlila Maidan Incident", the Supreme Court ruled that the right to sleep is a fundamental right under "Article 21" and is a part of their right to bodily integrity, mental health and human dignity. Constant demands after their shift causes stress to their brain, disrupts their recovery and causes extreme burnout. This breaches their right under "Article 21" not to engage in any activities which may affect their physical and mental wellbeing.

Importantly, the ruling in "Kaushal Kishor v. State of Uttar Pradesh" ruled that employees have the

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right to claim their fundamental rights under "Articles 19 and 21" against non-state actors. Whilst it is complex to claim rights against a private employer through a writ petition, the State have a duty to implement laws which protect employees under "Article 21".

B. Assessment of Legal Gaps and the 2025 Bill-

India's current labour laws suffer from a major legal gap when it comes to digital hyper-connectivity. "The Occupational Safety, Health and Working Conditions Code, 2020" has no place for digital hyper-connectivity as it focuses on the dangers within factories and how long employees can work. This excludes white collar, managerial and knowledge employees from being restricted to a maximum working hour. Whilst "the DPDP Act, 2023" aims to protect employees' data, "Section 7" allows employers to process their data without consent for the purposes of employment. This means employees can be constantly monitored through keylogging and screen monitoring without any legal restrictions.

"Private Member Bill No. 51 of 2025" ("The Right to Disconnect Bill, 2025") was put forward by MP Supriya Sule in the Lok Sabha. This Bill will help to overcome the legal gap by providing a right to disconnect from work after hours ("Clause 7"), an inter-ministerial Employees' Welfare Authority ("Clause 3"), Employees' Welfare Committees at the enterprise level ("Clause 12") and a fine of 1% of total employee wages for failure to comply ("Clause 19") .

However, there are 3 issues with the 2025 bill which need to be overcome:

- The definition of 'Emergency' is not clearly defined in statute. This will mean that in high pressure workplaces, employers will take advantage of the lack of rules and claim that tasks are an emergency. This will cause the right to be undermined.
- The Bill excludes gig workers. As the Bill only applies to registered workers with 10+ employees, over 80% of workers in India will not be protected. This includes platform gig workers as they are still controlled by algorithmic management, surge pricing and penalty system if they log off.
- Historically, Private Member Bills are rarely passed. To create a legally enforceable Bill, the key elements of the Bill need to be added to the Central Labour Codes.

C. Policy Recommendations & Statutory Framework-

To implement the Right to Disconnect in a constitutionally compliant manner, which respects an individual's human dignity within "article 21" whilst also respecting employer's freedom of operation within "article 19(1)(g)", this paper proposes the following 5-point statutory framework.

PROPOSED 5 POINT STATUTORY FRAMEWORK

Amend Central Labour Codes

Introduce statutory 'Digital Communication Charters' into the "OSH Code 2020" and "Industrial Relations Code 2020".

Codify 'Reasonableness' & Emergency Parameters

Adopt the 'Reasonableness Test' from Australia's "Fair Work Act 2024" and restrict emergencies to critical infrastructure failures, and situations when an individual's life is in imminent danger.

Overtime for Micro Tasks & Hard Stop Servers

All digital communication after hours (email / messaging) must be classed as overtime. Implement hard stop servers to delay non urgent communication.

Algorithmic Transparency for Gig & Platform Workers

Introduce Right to Disconnect for gig workers. Prevent automated penalties, downgrades, and task withholding.

Amend "DPDP Act 2023"

"Section 7" should be amended to ensure that any surveillance conducted in the workplace is only done in strict accordance to the proportionality principle, with the employees' explicit consent.

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1. Statutory Framework-

Instead of leaving the Right to Disconnect as private members legislation, this should be included within the core elements of "the Occupational Safety, Health and Working Conditions Code, 2020" and "Industrial Relations Code, 2020". "Section 25" of "the OSH Code" should be amended to include psychological tele-pressure and uncompensated digital overwork as occupational hazards, therefore employers must ensure their employees have a safe working environment.

2. Statutory 'Reasonableness' & Emergency Parameter-

The statute should provide a clear definition of what constitutes an operational emergency for employers. This should be defined as situations where there is an unpredictable occurrence that causes critical infrastructure failure, acute cyber security threats, or imminent financial loss or danger to life and property. Any client request outside of working hours cannot be considered an emergency. Employees should have staggered working hours to accommodate regular requests from overseas. Additionally, India should introduce a statutory 'Reasonableness Test' similar to Australia's "Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024". This will allow tribunals to determine if it was reasonable for employees not to respond based on their seniority, pay, family commitments and actual urgency of the task.

3. Statutory Compensation & Disincentives for Micro Tasks-

Any digital communication outside of working hours must be compensated at the overtime rate as per "clause 11 of the 2025 Bill". Corporate governance should enforce hard stops to digital communication such as automatic server holds on nonurgent internal email sent after 8pm.

4. Algorithmic Transparency for Platform / Gig Workers-

The statutory framework should extend to independent contractors and gig workers who work via digital platforms. "The Code on Social Security, 2020" should be amended to prevent gig workers being penalised by algorithm on digital platforms. This includes reducing tasks, downgrading and suspending their account.

5. Amend "DPDP Act, 2023"-

To ensure individuals have information self-determination under "article 21", "section 7" of the "Digital Personal Data Protection Act, 2023" should be amended. The general exception should be restricted to ensure proportionality. This includes preventing continual keyboard tracking, mouse tracking, automatic screenshots and location tracking without consent within the home. Monitoring in the workplace should be conducted in accordance to the Puttaswamy test, which includes legal, legitimate and strict proportionality.

D. Conclusion

This paper has demonstrated that introducing a Right to Disconnect does not hinder economic growth, but is a key factor to ensure sustainable productivity within a modern knowledge economy. If left unregulated, digital overreach can cause exhaustion and presenteeism, increasing error rates, increasing employee turnover and causing significant issues to public health.

Although the success of the right to disconnect depend on the strength of employee safeguards and enforcement mechanisms, the experiences of international jurisdictions show that it can be achieved through various legal measures. While Belgium mandates that eligible firms set up procedures handling disconnection, France and Spain place more focus on workplace policies and agreements managing digital communication. While Australia allows workers to decline excessive after-hours work-related communications, Portugal takes a more direct stance, limiting employer contact during rest period with few exceptions. According to these models, it might not be enough to just mandate that businesses create regulations unless workers have effective remedies and are shielded from reprisal. The comparative lesson for India is to create a legislative framework that includes protection against invasive digital surveillance, a clearly defined right to refuse unreasonable after-hours contact, limited emergency, exceptions, and fair

compensation for extra work. With this strategy, India's constitutional obligation and the practical requirement of its internationally interconnected economy would be accommodate.

By giving individuals back control over their time and space, India has restored the balance between capital and labour as per the constitution. By implementing "article 21", through a carefully balanced statutory framework using charters, India can ensure their employees have their human dignity and mental health respected whilst remaining competitive internationally. The off switch is not the enemy to enterprise, but a key part of human freedom in the digital age.

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