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THE RIGHT TO BE OFFLINE: CONSTITUTIONALISING A RIGHT TO DISCONNECT FOR THE INDIAN WORKFORCE

DR. PRITI YADAV

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ABSTRACT

The smartphone has quietly dissolved the boundary between the office and the home. For a growing section of India's workforce, the working day no longer ends at the workplace; it follows them through emails, messaging groups and video calls late into the night and across weekends. This paper examines whether Indian law is equipped to respond to this "always-on" culture and argues that a right to disconnect should be recognised as a legally enforceable entitlement rooted in the Constitution. Drawing on organisational behaviour research, the paper first shows how constant availability erodes recovery, fuels burnout and undermines productivity. It then traces the constitutional basis of the right in the guarantees of dignity, health and privacy under Article 21, read with the Directive Principles on humane conditions of work and leisure. Against this foundation, the paper evaluates the four Labour Codes that came into force in November 2025 and finds that, while they regulate hours of physical work, they are silent on digital availability and largely exclude the managerial and supervisory employees who are most exposed to after-hours demands. The private members' bills introduced in the Lok Sabha and the Kerala Legislative Assembly in 2025 are analysed as important but incomplete responses. A comparative study of France, Spain, Portugal, Belgium, Ireland, Australia, Ontario and the European Union then informs a proposed Indian model that combines statutory recognition, negotiated workplace policies and accessible grievance redress.

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THE RIGHT TO BE OFFLINE: CONSTITUTIONALISING A RIGHT TO DISCONNECT FOR THE INDIAN WORKFORCE

Dr. Priti Yadav
Kirandevi Saraf Institute

Abstract

The smartphone has quietly dissolved the boundary between the office and the home. For a growing section of India's workforce, the working day no longer ends at the workplace; it follows them through emails, messaging groups and video calls late into the night and across weekends. This paper examines whether Indian law is equipped to respond to this "always-on" culture and argues that a right to disconnect should be recognised as a legally enforceable entitlement rooted in the Constitution. Drawing on organisational behaviour research, the paper first shows how constant availability erodes recovery, fuels burnout and undermines productivity. It then traces the constitutional basis of the right in the guarantees of dignity, health and privacy under Article 21, read with the Directive Principles on humane conditions of work and leisure. Against this foundation, the paper evaluates the four Labour Codes that came into force in November 2025 and finds that, while they regulate hours of physical work, they are silent on digital availability and largely exclude the managerial and supervisory employees who are most exposed to after-hours demands. The private members' bills introduced in the Lok Sabha and the Kerala Legislative Assembly in 2025 are analysed as important but incomplete responses. A comparative study of France, Spain, Portugal, Belgium, Ireland, Australia, Ontario and the European Union then informs a proposed Indian model that combines statutory recognition, negotiated workplace policies and accessible grievance redress.

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1. Introduction: The Disappearing End of the Working Day

For most of the twentieth century, the boundaries of a working day were physical. A worker arrived at the factory gate, the office or the shop, and left at the end of a shift. Labour law was built around this simple geography. Limits on daily and weekly hours, provisions for overtime and the guarantee of a weekly holiday all assumed that work happened in a particular place and stopped when the worker went home. That assumption has not survived the arrival of the smartphone, the laptop and the workplace messaging application.

Today, a bank officer in Mumbai, a software engineer in Bengaluru or a junior associate in a Delhi law firm may leave the office at seven in the evening and keep answering emails until midnight. The work has not stopped; it has simply changed location. Researchers studying knowledge professionals have called this an "autonomy paradox": mobile devices give individuals flexibility over where and when they work, yet collectively they create an expectation of continuous availability that leaves people with less control over their time than before.[1] The sociologist Judy Wajcman has similarly observed that digital technology, which promised to save time, has instead deepened a widespread sense of being rushed and harried.[2]

India offers a particularly sharp illustration of the problem. It has one of the youngest and most digitally connected workforces in the world, and a services economy in which client demands routinely cross time zones. Public debate on working hours has intensified in recent years, prompted by calls from prominent business leaders for seventy and even ninety-hour working weeks, and by the death of a young chartered accountant in Pune in 2024, which her family attributed to work pressure. These episodes have exposed a deeper legal gap. Indian labour law tells employers how many hours a worker may be made to work, but it says almost nothing about whether an employee may be contacted, and expected to respond, once those hours are over.

It is in this context that the idea of a "right to disconnect" has entered Indian legislative debate. In December 2025, a private member's bill titled the Right to Disconnect Bill, 2025 was introduced in the Lok Sabha, proposing that every employee be entitled to refuse work-related communication outside agreed working hours.[3] A few weeks earlier, a similar bill for private-sector employees had been tabled in the Kerala Legislative Assembly.[4] Neither bill

[1] Melissa Mazmanian, Wanda J. Orlikowski and JoAnne Yates, "The Autonomy Paradox: The Implications of Mobile Email Devices for Knowledge Professionals" 24 *Organization Science* 1337 (2013).
[2] Judy Wajcman, *Pressed for Time: The Acceleration of Life in Digital Capitalism* (University of Chicago Press, Chicago, 2015).
[3] The Right to Disconnect Bill, 2025 (Private Member's Bill introduced in the Lok Sabha by Supriya Sule on Dec. 5, 2025); see also "Right to Disconnect Bill 2025", *SCC Online Blog*, Dec. 10, 2025, available at: https://www.scconline.com/blog/post/2025/12/10/right-to-disconnect-bill-2025/ (last visited on Oct. 7, 2026).
[4] The Kerala Right to Disconnect Bill, 2025 (PMBR No. 257), introduced in the Kerala Legislative Assembly by Dr. N. Jayaraj on Oct. 3, 2025.

has become law, but together they show that the question has moved from the margins of academic discussion to the centre of policy.

This paper argues that India should go further than these private initiatives and recognise the right to disconnect as an enforceable entitlement grounded in the Constitution. Part 2 explains the concept and its rationale. Part 3 draws on organisational behaviour research to examine the human cost of constant connectivity. Part 4 locates the right within Article 21 and the Directive Principles of State Policy. Part 5 evaluates the Labour Codes and the pending bills. Part 6 surveys comparative models from Europe, Australia and Canada, and Part 7 proposes an Indian framework. Part 8 concludes.

2. Understanding the Right to Disconnect: Concept, Origins and Rationale

2.1 Defining the Right

In its simplest form, the right to disconnect is the right of an employee not to engage in work-related electronic communication, such as emails, calls, messages or video meetings, outside working hours, without suffering any adverse consequence for that choice. It has two dimensions. The first is protective: the employee cannot be disciplined, denied promotion or otherwise penalised for not responding after hours. The second is organisational: the employer is placed under a duty to design work, set expectations and adopt policies that make disconnection realistic in practice. A right that exists only on paper, while the workplace continues to reward those who reply at midnight, offers little real protection.

It is equally important to be clear about what the right does not do. It does not prohibit all contact outside working hours, nor does it ignore the genuine needs of businesses that operate across time zones or provide emergency services. Most legal models allow exceptions for urgent situations, and many permit employers and employees to agree on specific windows of availability, provided that such availability is acknowledged and compensated. The right is therefore best understood as a default rule of non-availability, which can be departed from only on transparent and fair terms.

2.2 From Working Time to Availability Time

The intellectual roots of the right lie in the long history of working time regulation. The struggle for the eight-hour day was among the earliest demands of the organised labour movement, and the very first convention adopted by the International Labour Organization in 1919 fixed limits on hours of work in industry.[5] Scholars of working time have shown that such limits were never only about physical exhaustion; they were also about securing time for family, rest, education and participation in civic life.[6]

[5] ILO Hours of Work (Industry) Convention, 1919 (No. 1), ratified by India in 1921.
[6] Sangheon Lee, Deirdre McCann and Jon C. Messenger, *Working Time Around the World: Trends in Working Hours, Laws and Policies in a Global Comparative Perspective* (Routledge, London, 2007).

Traditional working time law, however, measures the time actually spent working. It has struggled with the grey zone between work and rest that digital technology has enlarged. An employee who is not formally working, but who must keep checking the phone in case the manager writes, is neither fully at work nor fully at rest. Alain Supiot, in his influential report on the future of labour law in Europe, anticipated this difficulty when he argued that the strict division between working time and free time was becoming inadequate and that the law needed to protect a broader idea of personal time.[7] The right to disconnect is one answer to that challenge. It shifts the focus from hours worked to hours during which the worker may be called upon, and asks whether that availability is itself a burden that the law should regulate.

A joint study by Eurofound and the ILO captured this shift well. It found that using information and communication technology for work outside the employer's premises can improve autonomy and reduce commuting time, but also tends to lengthen working hours, blur the line between paid work and personal life and increase stress.[8] The right to disconnect does not reject the benefits of flexible work. It seeks to keep those benefits while restoring a protected space in which the worker is genuinely off duty.

3. The Human Cost of Constant Connectivity: An Organisational Behaviour Perspective

The case for legal intervention is considerably strengthened by research in organisational behaviour and occupational health psychology. Over several decades, these disciplines have studied how the design of work affects the well-being and performance of the people who do it.

3.1 Telepressure, Detachment and the Need for Recovery

One of the most useful concepts in this literature is "psychological detachment", which refers to mentally switching off from work during non-work time. Studies have consistently found that employees who are able to detach in the evening report better mood and lower fatigue, while those who remain mentally engaged with work show greater exhaustion over time.[9] Detachment is not a luxury. It is the process through which the mind and body recover the resources spent during the working day.

Digital communication makes detachment far harder. Researchers have identified a phenomenon called "workplace telepressure", meaning the preoccupation with, and urge to

[7] Alain Supiot, *Beyond Employment: Changes in Work and the Future of Labour Law in Europe* (Oxford University Press, Oxford, 2001).
[8] Eurofound and International Labour Office, *Working Anytime, Anywhere: The Effects on the World of Work* (Publications Office of the European Union, Luxembourg and ILO, Geneva, 2017).
[9] Sabine Sonnentag and Ute-Vera Bayer, "Switching Off Mentally: Predictors and Consequences of Psychological Detachment from Work During Off-Job Time" 10 *Journal of Occupational Health Psychology* 393 (2005).

respond quickly to, work-related messages. Employees experiencing high telepressure tend to check messages during personal time even when no reply is required, and they report poorer sleep and greater burnout.[10] What matters for the law is that telepressure is shaped less by individual personality than by workplace norms. When managers send messages late at night and colleagues reply immediately, an unwritten rule of constant responsiveness takes hold, and individuals find it hard to resist without appearing uncommitted.

This insight connects with one of the classic models in organisational behaviour. Robert Karasek's demand-control model holds that strain at work is most acute when high job demands are combined with low decision latitude, that is, little control over how and when the work is done.[11] After-hours connectivity often produces precisely this combination. The demand to respond is high, and the employee's real control over the timing of the response is low, because refusing carries an implicit career cost.

3.2 Burnout, Health and Productivity

The consequences extend well beyond tiredness. Burnout, understood as a syndrome of exhaustion, cynicism and reduced professional efficacy, is now recognised as a significant occupational phenomenon whose roots lie primarily in chronic workplace stressors rather than in the weaknesses of individual workers.[12] At the extreme end, long working hours have been linked to serious physical illness. A joint estimate by the World Health Organization and the ILO concluded that working fifty-five hours or more a week was associated with hundreds of thousands of deaths from heart disease and stroke worldwide in a single year, with the heaviest burden falling on the South-East Asia and Western Pacific regions.[13]

For India, these findings carry particular weight. The National Mental Health Survey conducted by NIMHANS found a wide treatment gap for common mental disorders, with a large majority of affected persons receiving no care at all.[14] Workplace stress therefore often goes unaddressed until it becomes a crisis. The World Health Organization has since recommended that employers adopt organisational measures, including the management of workloads and working hours, to protect mental health at work, rather than relying only on individual coping programmes.[15]

[10] Larissa K. Barber and Alecia M. Santuzzi, "Please Respond ASAP: Workplace Telepressure and Employee Recovery" 20 *Journal of Occupational Health Psychology* 172 (2015).
[11] Robert A. Karasek, "Job Demands, Job Decision Latitude, and Mental Strain: Implications for Job Redesign" 24 *Administrative Science Quarterly* 285 (1979).
[12] Christina Maslach and Michael P. Leiter, "Understanding the Burnout Experience: Recent Research and Its Implications for Psychiatry" 15 *World Psychiatry* 103 (2016).
[13] Frank Pega, Bálint Náfrádi, Natalie C. Momen, et al., "Global, Regional, and National Burdens of Ischemic Heart Disease and Stroke Attributable to Exposure to Long Working Hours for 194 Countries, 2000–2016" 154 *Environment International* 106595 (2021).
[14] National Institute of Mental Health and Neuro Sciences, *National Mental Health Survey of India, 2015–16: Summary* (NIMHANS, Bengaluru, 2016).
[15] World Health Organization, *WHO Guidelines on Mental Health at Work* (WHO, Geneva, 2022).

There is also a business argument that Indian employers would do well to take seriously. An exhausted workforce is not a productive one. Constant interruptions fragment attention, weaken decision-making and increase errors, and burnout is closely associated with absenteeism and staff turnover. Seen through the lens of human resource management, a right to disconnect is not merely a constraint on employers. It is a tool for sustaining engagement and retaining talent over the long term.

4. The Constitutional Foundations of a Right to Disconnect in India

Although India has no statute recognising a right to disconnect, the Constitution offers a rich foundation from which such a right can be derived. The Supreme Court's expansive reading of Article 21, together with the Directive Principles on conditions of work, supplies both the normative justification and the interpretive tools.

4.1 Article 21: Dignity, Health and Rest

Since the late 1970s, the Supreme Court has read the right to life under Article 21 as the right to live with human dignity, and not merely to exist. In *Francis Coralie Mullin*, the Court held that this includes the bare necessities of life and the freedom to engage in activities through which a person expresses herself and mixes with fellow human beings.[16] Shortly afterwards, in *Bandhua Mukti Morcha*, the Court linked the right to live with dignity directly to the Directive Principles, holding that it must include protection of the health and strength of workers and just and humane conditions of work.[17] The Court went further in *Consumer Education and Research Centre*, declaring the right to health and medical care of workers to be a fundamental right under Article 21.[18]

The most directly relevant decision is *Gujarat Mazdoor Sabha v. State of Gujarat*. During the COVID-19 lockdown, the State of Gujarat issued notifications exempting factories from the limits on daily and weekly working hours and from the duty to pay overtime at double the ordinary rate. The Supreme Court struck down the notifications, holding that the pandemic could not be used to deprive workers of humane conditions of work and that extracting longer hours without fair compensation violated Articles 14 and 21.[19] The Court emphasised that statutory limits on working hours are not technical rules; they protect the dignity and health of workers.

If extending the working day without compensation offends Article 21, it is difficult to see why an informal but persistent expectation of after-hours availability should be treated differently. In substance, both lengthen the period during which the worker's time is at the

[16] *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981) 1 SCC 608.
[17] *Bandhua Mukti Morcha v. Union of India* (1984) 3 SCC 161.
[18] *Consumer Education and Research Centre v. Union of India* (1995) 3 SCC 42.
[19] *Gujarat Mazdoor Sabha v. State of Gujarat* (2020) 10 SCC 459.

employer's disposal. The only difference is that one is visible in a government notification, while the other is hidden in the culture of a workplace and on the screen of a phone.

4.2 Privacy and the Right to Be Let Alone After Hours

The nine-judge bench in *Puttaswamy* recognised privacy as a fundamental right and described it as including decisional autonomy and the right to be let alone within one's personal space.[20] The home, and the time a person spends there with family, lie at the core of this protected sphere. When work communication intrudes into that space without restraint, it touches the very interests the privacy right was articulated to protect.

The privacy dimension has acquired a sharper edge with the growth of remote work and digital monitoring. Employers increasingly use software to track logins, activity and response times, and the Digital Personal Data Protection Act, 2023 permits the processing of personal data for employment-related purposes without fresh consent, which gives employers wide latitude in this area.[21] A right to disconnect would supply a necessary counterweight by marking out periods in which the employee is not to be observed, measured or summoned.

There is a striking parallel in the case law. In *Faheema Shirin*, the Kerala High Court recognised that access to the internet could form part of the rights to education and privacy, and held that a blanket restriction on mobile phone use in a college hostel was unreasonable.[22] The logic of autonomy that supports the freedom to connect equally supports the freedom to disconnect. In both cases, what the Constitution protects is the individual's control over how her own time and attention are used.

4.3 Directive Principles and Humane Conditions of Work

Part IV of the Constitution reinforces this reading. Article 39(e) directs the State to ensure that the health and strength of workers are not abused, Article 42 requires provision for just and humane conditions of work, and Article 43 speaks of securing to all workers conditions of work ensuring a decent standard of life and full enjoyment of leisure.[23] The explicit reference to leisure in Article 43 deserves emphasis. The framers did not see leisure as a privilege granted at the employer's discretion, but as part of a decent life that the State must work to secure.

These principles are matched by India's international commitments. The Universal Declaration of Human Rights recognises the right to rest and leisure, including reasonable limitation of working hours,[24] and the International Covenant on Economic, Social and

[20] *K.S. Puttaswamy v. Union of India* (2017) 10 SCC 1.
[21] The Digital Personal Data Protection Act, 2023 (Act 22 of 2023), s. 7(i).
[22] *Faheema Shirin R.K. v. State of Kerala*, 2019 SCC OnLine Ker 2976.
[23] The Constitution of India, arts. 39(e), 42 and 43.
[24] Universal Declaration of Human Rights, 1948, art. 24.

Cultural Rights, which India has ratified, obliges States to ensure rest, leisure and reasonable limitation of working hours.[25] In *Vishaka*, the Supreme Court showed that international norms consistent with fundamental rights can be read into domestic law to fill a legislative vacuum.[26] A similar approach could guide courts in recognising the right to disconnect even before Parliament acts.

4.4 Balancing the Employer's Freedom of Trade

No constitutional argument is complete without considering the other side. Employers enjoy the freedom to carry on any trade or business under Article 19(1)(g), and the Supreme Court has accepted that this freedom includes the right to manage the business, subject to reasonable restrictions in the interests of the general public.[27] A right to disconnect would plainly restrict how employers organise work. The question is whether that restriction is reasonable.

Under the proportionality test laid down in *Modern Dental College*, a restriction must pursue a legitimate aim, be rationally connected to that aim, be necessary in the sense that no less restrictive measure would be equally effective, and strike a proper balance between its benefits and its burdens.[28] A well-designed right to disconnect would satisfy each stage. Protecting the health, dignity and privacy of workers is a legitimate aim of the highest order; limiting after-hours contact is directly connected to it; and a model that permits exceptions for emergencies and negotiated availability would impose only a modest burden on business compared with its benefit to millions of workers.

5. The Indian Statutory Landscape: Labour Codes and Their Silences

5.1 Working Hours under the New Labour Codes

On 21 November 2025, the four Labour Codes came into force, consolidating twenty-nine central labour laws into a unified framework. On working time, two instruments are central. The Code on Wages, 2019 empowers the appropriate government to fix the number of hours constituting a normal working day,[29] while the Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code) carries forward the familiar limits of eight hours a day and forty-eight hours a week, with overtime at twice the ordinary rate of wages. Crucially, however, these limits apply only to "workers", a term that excludes persons employed mainly in a managerial or administrative capacity and those in a supervisory capacity drawing wages

[25] International Covenant on Economic, Social and Cultural Rights, 1966, art. 7(d).
[26] *Vishaka v. State of Rajasthan* (1997) 6 SCC 241.
[27] *Excel Wear v. Union of India* (1978) 4 SCC 224.
[28] *Modern Dental College and Research Centre v. State of Madhya Pradesh* (2016) 7 SCC 353.
[29] The Code on Wages, 2019 (Act 29 of 2019), s. 13.

above a prescribed threshold.[30] These provisions inherit the architecture of the Factories Act, 1948, which set the forty-eight-hour week for factory workers soon after independence.[31]

This framework is valuable, but it was designed for a different world. It counts the hours a worker is physically employed, as recorded in registers and attendance systems. It does not address the evening email, the weekend message on a team group or the expectation of being reachable while on leave. Since such communication is rarely recorded as working time, it does not trigger overtime, and the employee has no clear legal basis on which to refuse it.

5.2 The Exclusion of Managerial and Knowledge Workers

The coverage gap noted above is the more serious problem. The employees most exposed to after-hours digital demands, namely software professionals, consultants, bankers, lawyers and middle managers, very often fall within the excluded categories. The same pattern appears in the Industrial Relations Code, 2020, whose standing orders regime, the traditional instrument for defining conditions of service, applies only to industrial establishments employing three hundred or more workers.[32]

For many white-collar employees, working hours are instead governed by State shops and establishments legislation. In Maharashtra, the governing statute limits daily and weekly hours and requires overtime payment, and an ordinance promulgated in October 2025 raised its daily limit from nine to ten hours while retaining the forty-eight-hour week.[33] Such statutes, too, are concerned with hours of presence and are silent on electronic availability. The movement in several States towards longer permissible working days only sharpens the need for a countervailing protection of off-duty time.

Remote work has added a further layer. The 2022 amendment to the Special Economic Zones Rules expressly allowed units to permit work from home for a significant share of their employees.[34] The rule facilitates flexibility but says nothing about the hours during which home-based employees may be contacted. In effect, the law has allowed the office to move into the home without drawing any line around the time that should remain private.

Existing protective statutes offer partial analogies but no direct remedy. The Mental Healthcare Act, 2017 guarantees a right to access mental healthcare,[35] but it operates at the

[30] The Occupational Safety, Health and Working Conditions Code, 2020 (Act 37 of 2020), s. 2(1) (definition of "worker"), ss. 25 and 27.
[31] The Factories Act, 1948 (Act 63 of 1948), s. 51.
[32] The Industrial Relations Code, 2020 (Act 35 of 2020), s. 28.
[33] The Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017, s. 12, as amended by the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Ordinance, 2025.
[34] The Special Economic Zones Rules, 2006, r. 43A (inserted by the Special Economic Zones (Amendment) Rules, 2022).
[35] The Mental Healthcare Act, 2017 (Act 10 of 2017), s. 18.

level of treatment rather than prevention at the workplace. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 shows how a statute can require employers to establish an internal grievance mechanism,[36] and that model is instructive for designing a disconnection framework, as discussed in Part 7.

5.3 The Private Members' Bills

Against this background, the legislative proposals of 2025 are significant. The idea first reached Parliament through a private member's bill introduced by Supriya Sule in the Sixteenth Lok Sabha, which did not proceed to debate.[37] The 2025 version is considerably more detailed. It recognises the right of every employee to refuse work-related calls and messages after working hours and on holidays without disciplinary consequences, requires employers to negotiate the terms of out-of-hours communication with employee representatives, proposes an Employees' Welfare Authority to oversee compliance and provides for monetary penalties on employers in breach. In the same session, Shashi Tharoor introduced a bill to amend the OSH Code to incorporate comparable protections.[38]

The Kerala bill takes a State-level approach focused on private-sector employees. It defines the right as an entitlement to refuse work-related communication outside agreed hours without fear of dismissal, demotion or loss of benefits, and proposes district-level grievance redressal committees chaired by labour officials, with power to direct employers to provide counselling facilities.[39] Since labour is a concurrent subject, the Kerala initiative may well prompt similar proposals in other States.

These bills deserve credit for bringing the issue into legislative focus, but they share an important limitation. As private members' bills, their prospects of enactment are slim, since very few such bills have become law since independence. They also treat the right mainly as a matter of statutory policy rather than as an expression of constitutional rights already owed to workers. A durable Indian framework will need both: a clear statute, and an explicit recognition that the statute gives effect to Article 21.

[36] The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Act 14 of 2013), s. 4.
[37] The Right to Disconnect Bill, 2018 (Private Member's Bill introduced in the Lok Sabha by Supriya Sule).
[38] The Occupational Safety, Health and Working Conditions Code (Amendment) Bill, 2025 (Private Member's Bill introduced in the Lok Sabha by Shashi Tharoor).
[39] "Kerala Introduces Bill Granting Employees Right to Disconnect from Work Communications Beyond Working Hours", *The Logical Indian*, available at: https://thelogicalindian.com/kerala-introduces-bill-granting-employees-right-to-disconnect-from-work-communications-beyond-working-hours/ (last visited on Oct. 7, 2026).

6. Lessons from Comparative Jurisdictions

6.1 France, Spain and Portugal: The European Pioneers

France is widely credited as the first country to legislate the right to disconnect. Even before legislation, the French Court of Cassation held in 2004 that an employee could not be faulted for being unreachable on a personal mobile phone outside working hours.[40] The law of 8 August 2016, commonly known as the El Khomri law, then required companies with fifty or more employees to address the right to disconnect in their annual negotiations with unions and, failing agreement, to adopt a charter setting out how the right would be exercised.[41] The French model is notable for relying on collective negotiation rather than a uniform rule, recognising that a hospital, a law firm and a technology start-up will need different arrangements.

Spain followed in 2018, placing the right to digital disconnection within its data protection legislation and thereby linking it explicitly to privacy and family life.[42] Portugal went further in 2021, imposing on employers a duty to refrain from contacting employees during rest periods except in cases of force majeure.[43] The Portuguese approach is instructive because it shifts the burden from the employee, who must otherwise summon the courage to ignore a message, to the employer, who must refrain from sending it.

6.2 Belgium and Ireland: Consultation and Codes of Practice

Belgium required employers in 2018 to consult employee bodies on the use of digital communication tools and the right to disconnect,[44] and has since extended a more specific right to its federal civil servants. Ireland chose a softer instrument. A Code of Practice issued in 2021 recognises the employee's right not to routinely perform work outside normal hours, the right not to be penalised for refusing to do so, and the duty to respect the right of colleagues to disconnect.[45] Although the Code is not directly enforceable, it can be relied on before the Workplace Relations Commission and the courts, which gives it real influence over workplace practice.

[40] Cour de cassation, Chambre sociale, 17 février 2004, n° 01-45.889 (France).
[41] Loi n° 2016-1088 du 8 août 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels, art. 55 (France).
[42] Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales, art. 88 (Spain).
[43] Lei n.º 83/2021, de 6 de dezembro, inserting art. 199.º-A into the Código do Trabalho (Portugal).
[44] Loi du 26 mars 2018 relative au renforcement de la croissance économique et de la cohésion sociale (Belgium).
[45] Industrial Relations Act 1990 (Code of Practice for Employers and Employees on the Right to Disconnect) Order 2021 (S.I. No. 159 of 2021) (Ireland).

6.3 Australia and Ontario: Beyond Europe

Australia introduced a statutory right to disconnect in 2024. Employees may refuse to monitor, read or respond to contact from their employer, or from third parties such as clients, outside working hours unless the refusal is unreasonable.[46] Reasonableness is assessed by reference to factors such as the reason for the contact, the disruption it causes, whether the employee is compensated for being available and the nature of the employee's role. This flexible standard avoids a rigid ban while requiring the circumstances to justify the intrusion. Its coverage of third-party contact is especially relevant to India's client-facing service industries.

In Canada, the Province of Ontario took a more procedural route, requiring employers with twenty-five or more employees to adopt a written policy on disconnecting from work, without itself creating a substantive right to refuse contact.[47] The Ontario experience shows the limits of a purely policy-based approach: a duty to have a policy achieves little if the policy can say almost anything.

6.4 The European Union and the International Labour Organization

At the supranational level, the European Parliament in January 2021 called on the European Commission to propose a directive establishing minimum requirements for the right to disconnect across the Union.[48] Existing EU law already provides important building blocks. The Working Time Directive guarantees minimum daily and weekly rest,[49] and the Court of Justice has held that employers must set up an objective and reliable system for recording the time worked by each employee.[50] The Court has also held that stand-by periods may count as working time where the constraints imposed significantly affect the worker's ability to manage free time.[51] That last principle is directly relevant here: if the expectation of responding is intense enough, an evening at home may in law be working time.

The ILO has approached the issue through its work on telework, advising that teleworkers should be able to disconnect and that clear boundaries between working and non-working time are essential.[52] In 2022, the International Labour Conference added a safe and healthy

[46] Fair Work Act 2009 (Cth), s. 333M, inserted by the Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024 (Australia).
[47] Working for Workers Act, 2021, S.O. 2021, c. 35 (Ontario).
[48] European Parliament Resolution of 21 January 2021 with Recommendations to the Commission on the Right to Disconnect (2019/2181(INL)), P9_TA(2021)0021.
[49] Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning Certain Aspects of the Organisation of Working Time, arts. 3 and 5.
[50] Case C-55/18, *Federación de Servicios de Comisiones Obreras (CCOO) v. Deutsche Bank SAE*, ECLI:EU:C:2019:402.
[51] Case C-344/19, *D.J. v. Radiotelevizija Slovenija*, ECLI:EU:C:2021:182.
[52] International Labour Organization, *Teleworking during the COVID-19 Pandemic and Beyond: A Practical Guide* (ILO, Geneva, 2020).

working environment to the ILO's fundamental principles and rights at work.[53] As psychosocial risks are increasingly recognised as part of occupational safety and health, this development strengthens the argument that the right to disconnect is a matter of basic labour standards rather than personal preference.

Taken together, these models form a spectrum, from France's negotiation-based approach and Ontario's policy requirement to Portugal's employer duty and Australia's enforceable right of refusal. Comparative scholarship suggests that the most effective designs combine a substantive individual right with collective mechanisms that adapt it to particular workplaces.[54] Empirical work on company practices in Europe supports this view, finding that formal policies matter most when accompanied by real changes in managerial behaviour and workplace culture.[55]

7. Towards an Indian Model of the Right to Disconnect

7.1 A Statutory Right with Constitutional Grounding

The most effective course would be for Parliament to amend the OSH Code to insert a chapter on the right to disconnect that applies to all employees, not only to "workers" as narrowly defined. The provision should state expressly that it gives effect to Articles 21, 42 and 43, so that courts interpret it generously. Drawing on the Australian model, it should guarantee the right to refuse to monitor or respond to work-related contact outside working hours, whether from the employer or from clients, unless the refusal is unreasonable having regard to defined factors. Following Portugal, it should also place a corresponding duty on employers to refrain from non-urgent contact. Any requirement of regular after-hours availability should be agreed in writing and compensated, either through an allowance or through equivalent time off.

7.2 Negotiated Workplace Policies

A single rule cannot fit every sector. Hospitals, newsrooms, airlines and global delivery centres have legitimate reasons for out-of-hours contact. India should therefore adopt the French insight that the details are best settled at the workplace. Establishments above a modest size threshold should be required to frame a disconnection policy in consultation with employees or their unions, specifying normal hours, emergency protocols, rotating on-call arrangements and rules for working across time zones. Human resource professionals have an important role here. Simple practices, such as scheduled sending of emails, quiet hours on

[53] ILO Declaration on Fundamental Principles and Rights at Work, 1998, as amended in 2022.
[54] Paul M. Secunda, "The Employee Right to Disconnect" 9 *Notre Dame Journal of International and Comparative Law* 1 (2019).
[55] Eurofound, *Right to Disconnect: Exploring Company Practices* (Publications Office of the European Union, Luxembourg, 2021).

messaging platforms and leaders who visibly model disconnection, often change behaviour more than formal rules alone.

7.3 Accessible Enforcement

Finally, a right needs a remedy. The internal committee model of the POSH Act, combined with the district-level committees proposed in the Kerala bill, suggests a two-tier mechanism: an internal grievance channel within each establishment, with an appeal to the labour authorities. Protection against retaliation must be explicit, and the burden should lie on the employer to show that any adverse action against an employee who disconnected was unrelated to that choice. Penalties should be proportionate and should rise for repeated violations.

7.4 A Gender-Sensitive Approach

Any Indian model must also recognise that the burden of constant connectivity is not shared equally. In most Indian households, women continue to carry the larger share of unpaid care and domestic work, so that the evening hours which digital work invades are often already full. Ethnographic research on white-collar employees has shown how mobile technology allows work to seep into intimate and family spaces, with the costs falling heavily on those who are expected to manage both.[56] Indian law has already accepted that flexibility can support women's employment: the 2017 amendment to maternity benefit law enabled women to work from home after maternity leave where the nature of work permits.[57] Flexibility without boundaries, however, risks turning that support into a double shift. A right to disconnect, applied with attention to caregivers, would help ensure that remote and flexible work expands women's participation in the workforce rather than quietly exhausting it.

8. Conclusion

The working day has not disappeared; it has simply lost its edges. Indian labour law, even in its newly consolidated form, continues to measure work by hours of presence, while a growing share of the workforce experiences work as a state of constant availability. The costs of this mismatch are borne by workers in the form of stress, exhaustion and lost time with family, and by employers in the form of burnout, attrition and declining productivity.

This paper has argued that the right to disconnect is not an imported luxury but a natural extension of rights the Indian Constitution already guarantees. The dignity and health protected by Article 21, the privacy recognised in *Puttaswamy* and the commitment in Article 43 to the full enjoyment of leisure all point in the same direction, and *Gujarat Mazdoor Sabha* shows that the Supreme Court is prepared to defend working time protections even

[56] Melissa Gregg, *Work's Intimacy* (Polity Press, Cambridge, 2011).
[57] The Maternity Benefit (Amendment) Act, 2017 (Act 6 of 2017), inserting s. 5(5) in the Maternity Benefit Act, 1961.

under pressure. What remains is for the legislature to translate these principles into a clear, enforceable and workable framework.

The private members' bills of 2025 have started that conversation, and the experience of Europe, Australia and Canada shows that the right can be designed to protect workers without paralysing business. India now has the opportunity to craft a model of its own, combining a constitutionally grounded statutory right, negotiated workplace policies and accessible remedies. In an economy that increasingly depends on the minds of its workers rather than only their hands, protecting the time in which those minds can rest is not merely a matter of welfare. It is a condition of sustainable growth and of a working life worthy of human dignity.