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RIGHT TO DISCONNECT: A LEGAL ANALYSIS

~Jyothsna Subrahmania

ABSTRACT

The rise of digital and remote working culture has blurred the boundary between professional and personal lives of people, often leaving people with almost no time for themselves, contributing to widespread employee burnout. This article examines the 'Right To Disconnect', a legal concept introduced to limit the communications by employers outside of formal working hours. The origin of this concept can be traced back to France, followed by Spain, Italy and Belgium. This article evaluates the existing framework in India and analyses a regulatory gap in the statutes. The article also draws a comparison between other nations and argues for a statutory recognition in India for the Right to Disconnect to ensure employee wellbeing.

INTRODUCTION

Today's work culture has transcended from mere physical presence to being able to work from anywhere in the world. The nature of work has largely become digital, especially in India where the economy is moving toward a service and technology-forward model. This shift has blurred the boundaries between 'on duty' and 'off duty', making it arduous for workers to maintain a healthy work-life balance. With the increase in technological advancements, it has become possible to work anywhere with the help of any electronic device, the concept of 'working hours' has almost vanished, making it one of the main reasons for employee burnouts across the world.

In a survey conducted by Indeed India in 2025, 72% of employees reported burnout during their career, and in a similar survey conducted by Nasscom-Deloittte, 68% of employees from the IT-sector reported to burnout owing to emotional exhaustion and increased online client calls. These numbers are a cause for concern and why the legal concept of Right to Disconnect was introduced for the first time in France, 2016 and subsequently in other countries like Spain,

Australia, Portugal, Italy, Belgium, Kenya and other countries. Right to Disconnect (R2D), in simple terms, gives the opportunity to employees to ignore work-related tasks outside of working hours., with this right, it would restrict employers from reprimanding their employees for not engaging in work after-hours. The rationale behind this right is to do away with the expectation that employees are constantly available for calls, mails, and videoconferencing at any time of the day.

INDIAN LEGAL FRAMEWORK AND RIGHT TO DISCONNECT BILL

While there is no law that recognises the right to disconnect in India, Article 21's interpretation has expanded its scope to include right to live with dignity and the right to privacy, which ultimately provides the groundwork for this right to be acknowledged. Furthermore, Article 43 of the Indian Constitution reinforces that workers should have a decent standard of life and full enjoyment of leisure, which further strengthens the argument for this right. India has recently introduced four new labour codes, one of them being the Occupational Safety, Health and Working Conditions Code, 2020. Although this code stipulates for fixed working hours and annual leave, it overlooks the digital aspect. Thereby, giving rise to a regulatory gap in the legal framework which fails to resolve the growing problem of unpaid digital labour that stretches beyond formal working hours.

To redress this issue, the Right to Disconnect Bill, 2025, was introduced in the Lok Sabha by Supriya Sule, a private member. The purpose of the bill was to ensure a healthy work-life balance and better quality of life to reduce employee burnout. The bill explicitly defines out-of-work hours which each company negotiates in the work contract, rather than a 'one size fits all' norm, for every organisation. It also provides for overtime compensation - should an employee choose to work beyond the prescribed working hours, which in turn transforms unpaid digital labour to billable work. Additionally, it addresses the importance of mental health by setting up digital detox centres and imposes financial penalties on companies for non-compliance. As a whole, this bill represents one of the first legislative endeavours to address the problem of uncompensated digital work and turn it into a law rather than just workplace etiquette. However, since the bill was introduced by a private member, the probability of the bill becoming a law is slim because bills introduced by private members seldom get precedence.

RIGHT TO DISCONNECT IN OTHER NATIONS

Multiple countries have incorporated the right to disconnect into their legislations or have made a new law entirely addressing the need to reinforce the work-life boundary. The first country to take cognizance of the right was France, in 2016 when they amended the French Labour Code, which followed a 2004, French Supreme Court judgement which opined that employees cannot be disciplined if they are not reachable outside of office hours. These provisions are implemented on companies with more than 50 employees, and failure to comply came with penalties, thereby freeing workers from fear of reprimand. Succeeding the law in France, Spain adopted the concept of digital disconnection in Article 88 of the Data Protection Act, 2018, which states that workers will have the right to disconnect to ensure rest and personal privacy.

In Europe, countries like Italy, Belgium and Portugal have also incorporated disconnecting from digital labour in their laws. Italy codified a law on 'smart working', under which Section II mentions the right to disconnect. Both the worker and employer must negotiate for the number of working hours with the inclusion of rest periods to promote a healthy work-life balance. Additionally, Belgium also reformed their labour law to deliberate on disconnecting digitally, by making it mandatory for companies with 50 or more employees.

SUGGESTIONS AND CONCLUSION

With the recognition of the right, the mindset would shift from people believing rest and digital disconnection to be a favour, to it becoming a right. It provides a solution to the high burnout rates around the world and protects the mental health and privacy of workers. While this right has several advantages, it also comes with its drawbacks. The main argument being that there is a sectoral mismatch, wherein all sectors cannot have a fixed number of working hours, such as emergency services, or the IT sector, where connecting with clients across different time zones, makes it harder to have a rigid timeline. Furthermore, with India being a developing economy, there exist many startups and small enterprises that depend on flexible working hours to operate and may have to contact their workers after-hours to tackle certain problems.

With the increase in remote and digital work, the need for legal protection for employees is exceedingly important to ensure reduced burnout rates and emotional exhaustion due to an 'always-available' work culture. India, could, in the interest of its workers, incorporate the 'right to disconnect', by amending the OSH Code, 2020 to include the aspect of telework. Furthermore, in the provisions, a threshold, similar to that of France and Belgium could be adopted to protect Small and Medium Enterprises and also a flexible working hours definition that can be negotiated by different companies, thereby solving the problem of sectoral

incompatibility. Ultimately, the path forward is a well-calibrated law, either through amendment or codification of a new law, that protects the delicate work-life balance of employees without disturbing the flexibility that the modern world's digital work culture demands.

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