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Beyond the Working Day: Regulating After-Hours Digital Work and the Right to Disconnect in India

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ABSTRACT

Digital technology has changed the meaning of the working day. E-mail, instant messaging, smartphones, video meetings and remote-working systems allow employees to work beyond the place and time traditionally associated with employment. This flexibility can improve productivity, but it can also create a workplace in which an employee is never fully off duty. A message sent at night may be harmless information, or it may require immediate action. The legal problem begins when after-hours communication becomes an expectation of work or availability. Indian labour law now operates mainly through the four Labour Codes. The Occupational Safety, Health and Working Conditions Code, 2020 ("OSH Code") regulates working hours, overtime and notice of work periods. Yet it does not contain a detailed rule dealing with e-mail, instant messages, virtual meetings or continuous digital availability after working hours. The issue is therefore not simply whether overtime is payable. It is also whether an employee should be required to remain available when no legitimate work need exists. This paper examines the relationship between after-hours digital work, overtime and a proposed right to disconnect in India. It distinguishes ordinary communication, actual work and on-call availability. It also considers Article 21 values of dignity, privacy and autonomy, while recognising that the Constitution does not presently establish a standalone fundamental right to disconnect. The paper further examines the Right to Disconnect Bill, 2018, and the later Right to Disconnect Bill, 2025, together with selected international approaches from France, Spain and the European Union. The paper argues for a limited and workable statutory right. Employees should ordinarily be free from work-related demands outside their agreed working period, and they should not suffer retaliation for refusing non-essential after-hours work. At the same time, genuine emergencies, properly defined on-call duties, shift work and international operations should receive reasonable exceptions. The proposed framework therefore combines protected non-working periods, employer-level digital communication policies, recognition and recording of substantial after-hours work, protection against retaliation, internal grievance mechanisms and sector-specific flexibility. The objective is not to prohibit communication but to prevent technological convenience from becoming unlimited employer access to personal time.

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Keywords: *Right to Disconnect, Digital Work, Working Hours, Overtime, Labour Law, Employee Rights, Work-Life Balance, Digital Communication, Employment*

I. INTRODUCTION

The working day has traditionally been understood through a clear division between working time and personal time. An employee reports for duty, performs assigned work during prescribed hours and ordinarily becomes free from work when those hours end. Digital technology has weakened that boundary. A work instruction can reach an employee at home, a meeting can be conducted through a mobile phone, and a document can be reviewed from a personal device late at night.

The important legal question is not whether an employer may ever contact an employee after working hours. That would be unrealistic. The better question is when such contact creates a duty to act, a duty to remain available, or a practical pressure to work. A short message informing an employee about tomorrow's meeting is different from a demand to review a document before midnight. Likewise, an employee formally assigned to on-call duty is in a different position from an employee whose contract provides ordinary working hours but whose supervisor expects immediate responses every evening.

This distinction matters because working time is regulated by law. The Occupational Safety, Health and Working Conditions Code, 2020 ("OSH Code") provides a statutory framework for working hours, overtime and notice of work periods.¹ Its overtime provision requires wages at twice the rate of wages for overtime work and makes overtime subject to the consent of the worker concerned.² These rules are important, but digital work can be fragmented into short periods that may never appear on an official timesheet. Ten minutes of e-mail work, a twenty-minute virtual meeting and repeated messages may together create meaningful additional work.

The problem also involves bargaining power. An employee may formally be free to ignore a late-night message but may believe that non-response will affect an appraisal, promotion, incentive or job security. In such a situation, a purely formal right to refuse is weak. A meaningful right to disconnect must therefore address retaliation and informal workplace expectations, not merely the sending of electronic messages.

India has already considered legislative intervention. The Right to Disconnect Bill, 2018, introduced in the Lok Sabha by Supriya Sule as a private member's bill, proposed an

¹ Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, INDIA CODE (2020), §§ 25, 27, 31.

² *Id.* § 27. The first proviso reads: "a worker shall be required to work overtime by the employer subject to the consent of such worker for such work."

Employees' Welfare Authority and a right to disconnect from work-related calls and e-mails beyond working hours and on holidays. The bill was not enacted and lapsed on the dissolution of the Sixteenth Lok Sabha.³ The Right to Disconnect Bill, 2025, introduced by the same member on 5 December 2025, again proposes an Employees' Welfare Authority, negotiation of the terms on which employees may be contacted outside work hours, protection against disciplinary action for non-response, overtime pay at the normal wage rate for agreed out-of-hours work and workplace policies for remote work. At the time of writing, that bill remains a pending private member's bill.⁴

The constitutional background is also relevant. Article 21 protects life and personal liberty, and the Supreme Court has interpreted privacy as connected with dignity and individual autonomy.⁵ That reasoning does not itself create a specific employment right to disconnect. It does, however, support the view that an employee's personal sphere has legal value and cannot be treated as permanently subordinate to workplace demands.

This paper therefore asks whether the present Indian framework adequately regulates digital work performed outside prescribed working hours. It argues that overtime protection and a right to disconnect should operate together. Overtime law deals with work that has already been performed; the right to disconnect addresses the prior question of whether the employee should have been expected to engage with work at all.

The research is doctrinal and analytical. It examines statutory provisions, constitutional principles, legislative developments and selected comparative approaches. The purpose is not to import a foreign model into India, but to identify principles that can be adapted to Indian employment conditions.

³ The Right to Disconnect Bill, 2018, Bill No. 211 of 2018 (Lok Sabha) (introduced by Supriya Sule, MP). A bill pending in the House of the People lapses on its dissolution. INDIA CONST. art. 107(5).

⁴ The Right to Disconnect Bill, 2025, Bill No. 51 of 2025 (Lok Sabha) (introduced Dec. 5, 2025), cls. 3, 7, 8, 11, 14–15,

<https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/51%20of%202025%20AS125202592416PM.pdf?source=legislation>; see also PRS LEGISLATIVE RESEARCH, *Supriya Sule*, <https://prsindia.org/mptrack/18th-lok-sabha/supriya-sule> (last visited Oct. 13, 2026) (listing the bill as pending). Clause 3 constitutes the Employees' Welfare Authority; clause 7 and its Explanation confer the right to disconnect and bar disciplinary action for refusing to reply out of work hours; clause 8 requires negotiation of the terms for out-of-work-hours contact; clause 11 provides for overtime at the normal wage rate for agreed out-of-work hours, and clause 14 for overtime pay, in the prescribed manner, where no out-of-work period has been agreed; and clause 15 requires a policy for employees working remotely.

⁵ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).

II. CONCEPTUAL FRAMEWORK: DIGITAL WORK, WORKING TIME AND THE RIGHT TO DISCONNECT

A. Understanding digital work

Digital work should be understood by reference to the activity performed, not merely the device used. Responding to an official e-mail, preparing a digital document, attending an online meeting, completing a task through a workplace platform or communicating with a client can all constitute work when performed for the employer. The use of a smartphone is therefore not the legal test. The relevant questions are whether the employee is performing a work-related activity and whether the employee is required or reasonably expected to do so.

This distinction prevents two opposite errors. First, every after-hours e-mail should not automatically become overtime. Second, an employer should not be able to avoid working-time rules simply because the work is performed through WhatsApp, e-mail or a laptop at home. The legal character of the activity should remain more important than its technological form.

B. Working time in a digitally connected workplace

The OSH Code recognises working hours as a regulated part of employment. In a digital workplace, however, working time may be dispersed. An employee may work for a full shift, leave the workplace, answer several messages during dinner and later join a virtual meeting. The legal system must be capable of recognising the additional work even though it does not occur in one continuous block.

Three factors are especially useful: duration, frequency and compulsion. A single urgent interaction of five minutes is different from a regular pattern of one hour of work every evening. Similarly, voluntary checking of e-mail is different from an instruction requiring a response within thirty minutes. A workable legal rule should examine the actual burden placed on the employee.

C. After-hours availability and on-call work

Availability is not always the same as work. Some jobs genuinely require an employee to remain reachable because an emergency may occur. Doctors, technical support personnel, security staff and workers responsible for critical infrastructure may have legitimate on-call obligations. The law should not make those arrangements impossible.

The difficulty arises when “on-call” becomes an informal label for permanent availability. A genuine arrangement should specify the period of availability, the circumstances in which contact may occur, the expected response and the treatment of work actually performed. The

more restrictive the arrangement is, the stronger the case for recognising its effect on personal time.

D. Meaning of the right to disconnect

The right to disconnect should mean the right of an employee to refrain from work-related communication or work activity during a protected non-working period without suffering an adverse employment consequence merely for doing so. It is a right to disengage, not a rule that prohibits every after-hours communication.

The distinction is important. An employer may send an informational message that does not require a response. A different legal situation arises where the employee is expected to answer immediately, complete a task, attend a meeting or monitor a communication channel continuously. The proposed right should be directed primarily at the latter forms of control.

E. Communication, availability and work: why the distinction matters

The problem can be organised into three categories. First is communication: information is sent but no response or action is expected. Second is availability: the employee is expected to remain reachable and respond if needed. Third is actual work: the employee performs a task, attends a meeting or provides a substantive response.

These categories should not receive identical treatment. Actual work may attract overtime protection. Mandatory availability may require separate regulation depending on its intensity and contractual basis. Ordinary communication may fall outside both categories. This approach is more precise than treating every digital interaction as either lawful or unlawful.

III. EXISTING INDIAN LEGAL FRAMEWORK GOVERNING WORKING HOURS AND AFTER-HOURS WORK

A. The four Labour Codes

The four Labour Codes were brought into force on 21 November 2025. The OSH Code is the principal Code for the present question because it addresses working conditions, working hours

and overtime.⁶ The Codes consolidate earlier labour legislation, but none was designed as a comprehensive digital-disconnection statute.

The absence of a specific right does not mean that after-hours work is legally irrelevant. Existing working-time rules remain applicable where their conditions are satisfied. The difficulty is that digital work creates situations in which the work is real but the traditional record of working time may not show it.

B. Regulation of working hours

Section 25 of the OSH Code limits work to eight hours in a day and provides for intervals and spread-over to be notified by the appropriate Government, while section 31 requires a notice of periods of work to be displayed and correctly maintained in every establishment.⁷ These provisions reflect an important principle: working time should be identifiable. If an establishment formally declares working hours but informally expects employees to remain available indefinitely, the distinction between working and non-working time loses practical meaning.

A right to disconnect can strengthen this principle by requiring employers to identify protected periods and to state when employees may legitimately be contacted outside them.

C. Overtime and consent

Section 27 of the OSH Code provides for wages at twice the rate of wages for overtime work, and its first proviso makes overtime subject to the consent of the worker.⁸ This provision is central to digital work. If an employee is required to complete substantive work after the normal working period, the fact that the employee is working from home should not by itself remove the overtime question. The protection is, however, limited to a “worker” as the Code defines that term, a definition that excludes persons employed mainly in a managerial or administrative

⁶ MINISTRY OF LABOUR & EMPLOYMENT, *Government Announces Implementation of Four Labour Codes to Simplify and Streamline Labour Laws*, PRESS INFO. BUREAU (Nov. 21, 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2192463>. The Codes are the Code on Wages, No. 29 of 2019, INDIA CODE (2019); the Industrial Relations Code, No. 35 of 2020, INDIA CODE (2020); the Code on Social Security, No. 36 of 2020, INDIA CODE (2020); and the Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, INDIA CODE (2020). They were brought into force by Notification S.O. 5322(E) (Code on Wages), S.O. 5320(E) (Industrial Relations Code), S.O. 5319(E) (Code on Social Security) and S.O. 5321(E) (OSH Code), each dated Nov. 21, 2025, Gazette of India, Extraordinary, pt. II, sec. 3(ii); the notifications for the Code on Wages and the Code on Social Security bring into force only the provisions listed in them.

⁷ Occupational Safety, Health and Working Conditions Code, No. 37 of 2020, INDIA CODE (2020), §§ 25, 31. Section 25(1) provides that no worker shall be required or allowed to work for more than eight hours in a day, with intervals and spread-overs as notified by the appropriate Government; section 31(1) requires a notice of periods of work “showing clearly for every day the periods during which workers may be required to work” to be displayed and correctly maintained in every establishment.

⁸ *Id.* § 27; see also *id.* § 2(1)(zzl) (defining “worker” to exclude, among others, a person employed mainly in a managerial or administrative capacity and a person employed in a supervisory capacity drawing wages exceeding eighteen thousand rupees per month or such amount as the Central Government notifies).

capacity and supervisors drawing wages above eighteen thousand rupees a month or such amount as the Central Government notifies.

The practical problem is evidence. Short digital tasks may be omitted from timesheets, and employees may hesitate to report them. A future framework should therefore require reasonable recording of substantial after-hours work without creating an obligation to monitor every minor message.

D. Employment contracts and workplace policies

Contracts should identify ordinary working periods, shift arrangements and any genuine on-call responsibility. Workplace policies should then explain how digital communication operates within those arrangements. A broad contractual phrase requiring an employee to perform any assigned duty should not automatically be interpreted as unlimited digital availability.

A clear policy should identify contact hours, emergency procedures, on-call arrangements, expected response times and the method for recording after-hours work. This reduces uncertainty for both sides.

E. The present legal gap

The present framework has three principal gaps. First, it does not provide a comprehensive statutory definition of after-hours digital work. Second, it does not establish a general protection against retaliation for refusing non-emergency digital demands. Third, it gives limited guidance on the boundary between communication, availability, emergency work and actual overtime.

The solution need not be a separate and isolated labour system. A more coherent approach would add a right to disconnect to the existing working-time framework.

IV. CONSTITUTIONAL DIMENSIONS OF THE RIGHT TO DISCONNECT IN INDIA

A. Article 21, privacy and autonomy

Article 21 has been interpreted to protect interests connected with dignity, autonomy and privacy. In *Justice K.S. Puttaswamy (Retd.) v. Union of India*, the Supreme Court recognised privacy as a constitutionally protected right and linked it with individual autonomy and dignity. The case did not decide an employment dispute about digital disconnection, so it should not be cited as having established such a right.

Its reasoning nevertheless matters. If digital work repeatedly enters an employee's home, personal time and family life, the legal question is not only economic. It also concerns the employee's ability to maintain a private sphere. The constitutional value of privacy can

therefore support legislative protection for personal time while leaving legitimate employment obligations intact.

B. Dignity and humane conditions of work

The Constitution also directs the State towards humane conditions of work. Article 42 requires the State to make provision for securing just and humane conditions of work, while Article 39(e) directs the State to ensure that the health and strength of workers are not abused.⁹ These Directive Principles are not themselves a standalone right to disconnect, but they provide guidance for labour policy.

A modern understanding of humane working conditions should include the organisation of working time. The ability to rest is weakened when an employee must continuously monitor work communications. A statutory right to disconnect would therefore be consistent with, rather than contrary to, the broader constitutional commitment to humane employment.

C. Equality and bargaining power

Article 14 does not create a general right to disconnect. It does, however, reinforce the importance of fair and non-arbitrary workplace rules. In employment, formal freedom may not equal practical freedom. An employee who risks disciplinary action or career disadvantage for ignoring a late-night message is not exercising a meaningful choice.

This is why protection against retaliation should be central to the proposed right. The law should examine the practical effect of workplace rules rather than only their written form.

D. Is the right to disconnect already a fundamental right?

The safer legal position is no. Indian constitutional law has not expressly recognised an independent fundamental right to disconnect from employment communication. It is more accurate to say that existing constitutional values support legislative recognition of such a right.

This distinction matters for legal scholarship. It avoids overstating precedent while still explaining why personal time deserves protection. Parliament can convert constitutional values into a clear statutory standard without requiring courts to create a new fundamental right through individual employment disputes.

E. Balancing employee and employer interests

The constitutional analysis must remain balanced. Employers may have legitimate reasons to contact employees during non-working periods. Emergencies, essential services, international

⁹ INDIA CONST. arts. 39(e), 42.

operations and agreed on-call duties are examples. The relevant question should be whether the interference with personal time is justified by a legitimate work need and is limited to what is reasonably necessary.

Thus, a single contact during a genuine emergency is not comparable to a routine practice of sending non-urgent instructions every night. A right to disconnect should regulate that difference rather than ignore it.

V. INTERNATIONAL DEVELOPMENTS AND LESSONS FOR INDIA

A. European Union

The European Parliament's resolution of 21 January 2021 treated the right to disconnect as part of the broader regulation of digital work, rest periods and work-life balance. It noted the risk that digital tools can create an "always on" culture and asked the Commission to propose Union legislation on the subject.¹⁰ The European approach is useful because it connects disconnection with working time rather than treating it as a narrow technology issue.

For India, the main lesson is institutional: a right to disconnect is more effective when supported by rules on working time, measurement, rest and workplace practices.

B. France

France provides a policy-oriented model. Article L. 2242-17 of the French Labour Code requires negotiation concerning the full exercise of the right to disconnect and the regulation of digital tools so that rest and leave periods and personal and family life are respected. Where agreement is absent, the employer must draw up a charter after obtaining the opinion of the social and economic committee (*comité social et économique*).¹¹

This model is relevant to India because it combines a legal minimum with workplace-level adaptation. It recognises that different workplaces need different communication rules.

C. Spain

Spain expressly recognises a right to digital disconnection. Article 88 of Organic Law 3/2018 connects the right with rest, leave and personal and family privacy.¹² The Spanish model shows that digital disconnection can be integrated into broader employment and privacy protection rather than treated as an isolated right.

¹⁰ Resolution of 21 January 2021 with Recommendations to the Commission on the Right to Disconnect, EUR. PARL. DOC. P9_TA(2021)0021, 2021 O.J. (C 456) 161.

¹¹ Code du travail [C. trav.] [Labor Code] art. L. 2242-17(7°) (Fr.).

¹² Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales [Organic Law 3/2018, of Dec. 5, on Protection of Personal Data and Guarantee of Digital Rights], art. 88, B.O.E. n. 294, Dec. 6, 2018 (Spain), <https://www.boe.es/eli/es/lo/2018/12/05/3/con>.

D. Lessons for India

India should not copy any foreign system word for word. Its labour market includes large formal establishments, smaller businesses, contractual workers, shift workers and organisations operating across time zones. A rigid universal prohibition would create unnecessary difficulties.

The more transferable principles are clearer: employees should have protected non-working periods; employers should define communication rules; genuine emergencies should remain possible; on-call duties should be transparent; and retaliation for lawful disconnection should be prohibited.

VI. LEGAL GAPS AND PRACTICAL CHALLENGES IN REGULATING AFTER-HOURS DIGITAL WORK IN INDIA

A. Absence of a specific statutory right

The most direct gap is the absence of a general statutory right to refuse non-essential after-hours digital communication without employment disadvantage. Existing overtime provisions help when work is actually performed, but they do not fully address the pressure to remain available.

B. Difficulty in identifying digital overtime

Digital overtime is often fragmented. A court or authority may need to examine e-mails, meeting records, assigned tasks, response requirements and the time spent on the work. The existence of an e-mail alone should not prove overtime. The surrounding circumstances should determine whether work was required and performed.

C. Informal workplace expectations

A major problem is the creation of informal rules. If managers routinely send messages at midnight and employees regularly answer them, new employees may conclude that immediate response is part of the job even if the contract says otherwise. A right to disconnect should therefore address unreasonable workplace practices, not only written instructions.

D. Fear of retaliation

Protection from retaliation is essential. An employee should not be dismissed, disciplined, denied promotion or marked down in performance assessment merely for refusing non-emergency work during a protected period. Without such protection, the right may exist on paper but fail in practice.

E. International work and flexible schedules

Time-zone differences create a genuine challenge. A message sent from London or New York may arrive in India during the night. The solution is not unlimited availability. Instead, the employment arrangement should allocate working periods across the relevant time zones and provide compensatory or rest arrangements where the schedule requires work outside ordinary local hours.

F. Emergency and on-call responsibilities

The law should define an emergency narrowly. An emergency should involve a situation requiring immediate attention where delay could cause serious harm, loss or disruption. Routine deadlines, managerial convenience and poor planning should not automatically qualify. On-call duties should be separately identified. The arrangement should state who is on call, for how long, what response is expected and how actual work is treated. This prevents an “emergency” exception from becoming a routine method of defeating the right.

G. Enforcement

Enforcement should focus on patterns rather than isolated messages. Relevant factors include frequency of contact, response deadlines, time spent working, contractual duties, urgency and any disadvantage suffered after refusal. Internal grievance procedures should be the first practical route, followed by external remedies where serious or repeated violations occur.

H. Risk of over-regulation

A rule that treats every e-mail as overtime would be impractical. It could encourage excessive record-keeping and make legitimate flexibility harder. The law should instead target compulsory or unreasonable demands and recognise substantial work.

I. Need for a workable Indian framework

The central policy choice is therefore between two extremes: leaving the issue entirely to private arrangements or prohibiting all after-hours contact. Neither is satisfactory. India needs a minimum statutory right supported by flexible workplace rules.

VII. PROPOSED FRAMEWORK FOR A RIGHT TO DISCONNECT IN INDIA**A. Separate but integrated framework**

The right should be integrated with existing rules on working hours, overtime, rest and employment conditions. A new statute or dedicated provisions under the labour framework should establish the minimum right while allowing detailed rules to be made at workplace level.

B. Definition of the right

The law should define the right as an employee's ability to refrain from responding to work-related communication or performing work during a protected non-working period without adverse employment consequences, unless a recognised exception applies.

C. Protected disconnection periods

Each covered workplace should identify ordinary working periods and corresponding protected periods. These need not be identical for every employee. Shift workers and employees in international operations may have different schedules. What matters is that the employee knows when the working obligation ends.

D. Employer digital communication policy

Covered employers should adopt a written policy stating: (1) working hours; (2) protected periods; (3) emergency contact procedures; (4) on-call arrangements; (5) expected response times; (6) recording of substantial after-hours work; and (7) protection against retaliation. Employees should receive the policy and any material changes to it.

E. Emergencies

Emergency exceptions should be narrow and documented. Where an employee actually works during an emergency, the exception should not erase applicable working-time or overtime protections.

F. On-call arrangements

On-call duties should be expressly agreed or assigned under a clear workplace arrangement. The arrangement should state the period, expected response and method of compensation or rest. The more restrictive the availability requirement, the stronger the justification for treating it as part of working time under applicable law.

G. Protection against retaliation

Retaliation should include dismissal, disciplinary action, adverse performance assessment, denial of promotion or other material disadvantage imposed because an employee exercised the statutory right in circumstances covered by the law. A complaint should trigger a fair inquiry into the communication history and employment decision.

H. Recording digital work

Employers should maintain reasonable records of scheduled after-hours meetings, assigned digital tasks and other substantial work outside normal hours. Employees should have a simple

method of reporting additional work. The objective should be accountability, not surveillance of every minor interaction.

I. Internal grievance mechanism

Employers should provide a confidential internal complaint route. Smaller establishments may designate a responsible officer; larger establishments may use human-resources or employee-relations mechanisms. External remedies should remain available for repeated violations, retaliation or failure of internal resolution.

J. Collective participation

Employees and their representatives should participate in developing digital communication policies. Collective bargaining or workplace consultation can help adapt the statutory minimum to the actual needs of hospitals, technology companies, manufacturing units, legal offices and international service organisations.

K. Vulnerable employees

The protection should apply even where an employee appears to have accepted excessive availability voluntarily. Labour standards exist partly because bargaining power is unequal. Consent should not become a method of contracting out of minimum protections.

L. Balancing flexibility and protection

The proposed model can be reduced to seven principles: a statutory right to disconnect; defined working and non-working periods; narrow emergency exceptions; transparent on-call rules; employer digital communication policies; protection against retaliation; and accessible grievance procedures.

M. The proposed Indian model

The legal test should focus on the nature of the demand. Courts and labour authorities should ask: Was the employee expected to act? Was the demand reasonable? Was it genuinely urgent? Was there an agreed on-call duty? How much work was performed? Did refusal cause an employment disadvantage? These questions would allow the law to respond to new technologies without repeatedly changing the statute.

VIII. CRITICAL ANALYSIS AND WAY FORWARD

A. Moving beyond traditional working hours

Digital technology has not eliminated working time; it has made working time less visible. A modern labour framework must therefore recognise work wherever it is actually performed.

Physical departure from the workplace should not by itself establish that the working day has ended if the employee continues to perform compulsory tasks.

B. Why overtime protection alone is not enough

Overtime law and disconnection law solve different problems. Overtime law asks how additional work should be recognised and compensated. Disconnection law asks whether the employee should have been required to engage in the additional work. Treating the two as identical leaves an important gap.

C. Avoiding an overly broad right

The right should not become a blanket rule against all after-hours communication. Some work is inherently time-sensitive. The legal standard should therefore be reasonableness combined with clearly identified exceptions.

D. From individual responsibility to employer responsibility

Employees should not be expected to solve the problem individually by switching off their devices while workplace culture rewards immediate responses. Employers control work allocation and can therefore design communication systems that reduce unnecessary contact.

E. Sector-specific flexibility

A common statutory minimum can coexist with sector-specific arrangements. A hospital may need a different emergency system from a conventional office. A technology company serving several time zones may need rotating schedules. Flexibility should adapt the rule, not remove it.

F. Importance of clear definitions

Future legislation should define digital communication, protected period, after-hours work, availability, emergency and on-call duty. Clear definitions reduce litigation and help employers design compliant policies.

G. Role of courts

Courts will likely be required to determine whether a particular demand was reasonable, whether an alleged emergency was genuine and whether adverse action was connected with an employee's refusal to work. However, the legislature should establish the basic framework so that courts are interpreting clear standards rather than creating the entire policy through individual disputes.

H. A balanced path for India

The preferable model is a presumption in favour of disconnection, subject to defined exceptions. It recognises that employees need protected personal time while employers need limited flexibility. The presumption should be rebutted only by a genuine operational need supported by the employment arrangement or an emergency.

I. Future of the right to disconnect in India

The issue will become more important as remote work, artificial intelligence, cloud systems and automated workplace communication expand. A durable law should therefore regulate principles rather than particular applications. The central principle should remain that technology can change how work is performed, but it should not silently convert all personal time into working time.

IX. CONCLUSION

Digital connectivity has changed the practical meaning of the working day. The employee may leave the office at a fixed time but continue to work through a phone, laptop or online platform. Indian labour law already regulates working hours and overtime, and the OSH Code provides a strong starting point. Yet those provisions do not by themselves answer the problem of continuous digital availability.

The right to disconnect should therefore be recognised as a statutory labour protection. It should not be described as an absolute right to ignore every communication. Instead, it should create a presumption that employees are free from work-related demands during protected non-working periods, subject to genuine emergencies, agreed on-call duties and other narrowly defined requirements.

The constitutional values of dignity, privacy, autonomy and humane conditions of work support this approach, but they should not be overstated as an existing standalone fundamental right. The stronger legal route is legislative recognition supported by clear workplace rules.

India's legislative history now includes the 2018 and 2025 private member's bills on the subject. The later bill demonstrates that the issue remains relevant even after the Labour Codes came into force.¹³ The next step should be a carefully designed statutory framework that works with the existing labour system rather than duplicating it.

A practical Indian model should define protected periods, require digital communication policies, recognise substantial after-hours work, protect employees from retaliation, regulate

¹³ The Right to Disconnect Bill, 2025, Bill No. 51 of 2025 (Lok Sabha).

on-call arrangements, permit narrow emergency exceptions and provide accessible grievance mechanisms. Such a framework would not oppose productivity. It would make productivity more sustainable by recognising that rest and personal time are part of a healthy employment relationship.

The central principle is simple: an employee should not become permanently available merely because technology makes permanent contact possible. The law should ensure that the end of the working day continues to have legal meaning in the digital workplace.
