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# Understanding 'Dignity': Legal Imaginations and Constitutional Personhood in the Struggle for the 'Right to Disconnect' at Work

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**Abstract:** This paper's goals are to raise awareness of the 'Right to Disconnect' law and to analyse it. More than ever, there is a need for laws to be in place, particularly in the post-pandemic environment. What began as a 'boon' for the workers—the unexpected emergence of the 'Work from Home' culture—ended up being a 'bane' for them. On the other hand, employers and higher management began to gain from the same in the form of lower infrastructure/logistics costs and flexible work hours. To adjust to a changing workforce, one must adopt a new perspective. In its current form, the 'Right to Disconnect' law will continue to generate discussion. It is advised that organisations hold discussions with staff representatives, draft a guideline governing the use of digital technologies, and then put a set of best practises into action. Additionally advised are restrictive and instructive measures. In addition to attempting to illustrate the difficulties in implementing the 'Right to Disconnect' in the workplace, this paper also emphasises the importance of educating both employees and employers about the issue.

**Keywords:** Right to Disconnect, Work-from-Home, Digital Fatigue, Employee Wellbeing, Post-Pandemic Workplace Policy.

## INTRODUCTION

*"A healthy working environment is one in which there is not only an absence of harmful conditions but an abundance of health-promoting ones."*

-Occupational Health: Stress at the workplace, WHO  
In an era marked by hyper-connectivity, precarious labour, and the normalization of overwork, the psychological well-being of employees has become a crucial yet largely overlooked dimension of labour law, particularly in postcolonial democracies like India. This study critically examines the legal and social frameworks governing psychological well-being in the workplace, with a particular focus on the emerging discourse surrounding the 'right to disconnect' in India and across global jurisdictions.

The research is situated at the intersection of postcolonial legal theory, dignity jurisprudence, and constitutional personhood, aiming to dismantle state-centric models of workplace justice that have failed to address the complex, intersectional realities of workers. The overarching objective is to advance a plural, postcolonial justice framework that reimagines dignity as an embodied, relational, and contextually grounded right, rather than a state-prescribed, uniform entitlement.

The study begins by interrogating the limitations of traditional state-centric dignity jurisprudence, which has historically privileged productivity and economic utility over the holistic well-being of workers. Drawing on postcolonial critiques, this paper will

argue upon the dominant legal paradigms which is rooted in colonial-era labor codes, that perpetuate structural inequalities by ignoring the lived experiences of marginalized groups, including women, gig workers, and those in precarious employment. By contrast, postcolonial theory offers a lens to understand how colonial histories continue to shape contemporary labor regimes, reinforcing exclusionary practices and silencing subaltern voices. The research draws on key postcolonial concepts such as Orientalism, subalternity, and hybridity to illuminate how power asymmetries are reproduced in the workplace and how legal reforms must engage with these dynamics to be truly transformative.

A central objective of this paper is to challenge the assumption that dignity can be effectively realized through top-down, homogenous legal interventions. Instead, it advocates for a plural legal imagination that recognizes the multiplicity of worker identities and the need for context-sensitive protections. This involves rethinking constitutional personhood as an inclusive category that encompasses not only formal legal rights but also the psychological, emotional, and social dimensions of work. The study argues that the 'right to disconnect' as a legal and cultural imperative should be grounded in an expanded understanding of dignity that acknowledges the agency, consent, and autonomy of workers, particularly those who have been historically marginalized.

Methodologically, the research employs a multi-layered approach that combines doctrinal legal analysis with intersectional and comparative methods. The doctrinal analysis scrutinizes existing labor laws and constitutional provisions in India and selected jurisdictions, highlighting gaps and inconsistencies in the protection of psychological well-being. Intersectional analysis is used to map the differential impacts of workplace policies on women, gig workers, and other vulnerable groups, drawing on postcolonial and feminist legal theories to foreground subaltern perspectives.

Comparative analysis is employed to situate India's legal landscape within broader global trends, examining how other nations (particularly those with colonial histories) have addressed the 'right to disconnect' and related workplace protections. This comparative lens allows for a critical assessment of the extent to which postcolonial justice frameworks have been integrated into labor law reforms, and the challenges that remain in achieving meaningful inclusion and equity. The study also draws on international human rights instruments and the work of transnational organizations such as the International Labour Organization (ILO) to highlight the universal aspirations of dignity and social justice that underpin the 'right to disconnect' movement.

As a result of the SARS Covid-19 pandemic, new types of employment have emerged, with work from home

being the norm. Until March 2021, at least 98 percent of workers in Indian IT giants such as TCS, Infosys, and Wipro are anticipated to work from home. TCS has stated that by 2025, 75 percent of its employees would be able to work from home on a permanent basis. These developments signal a new age in work design.

The majority of individuals like the flexibility that working from home provides. It may be freeing to work in a flexible workplace. It provides an employee with a feeling of control over their schedule. Excessive job expectations, on the other hand, may encroach on personal time and drive the normally relaxed worker into high-stress zone. According to studies, the initial pleasure associated with working from home is progressively fading. What began with a boom has devolved into a whimper. Examples can be given of something that psychotherapists have termed as 'zoom fatigue.' Workers have begun to feel the effects of being connected 24 hours a day, seven days a week. Employees are exhibiting symptoms of tiredness, burnout, despair, and health problems after months of homeworking, according to research results. The line between work and home life has eroded, allowing for undue intrusion into people's personal lives. Employees are perplexed by a 'stream of pings' that has invaded their personal space. As a re

Ultimately, this research seeks to contribute that dignity, as a constitutional value, must be reimagined as a relational and contextually embedded right that is responsive to the diverse needs and experiences of workers. By centering the voices of the marginalized and challenging the legacies of colonial legal thought, the study offers a roadmap for legal and policy reforms that can advance psychological well-being, social justice, and constitutional personhood in the contemporary workplace.

Similar echoes resurfaced recently when EU legislators approved a resolution asserting that people have a basic right to disconnect. The right to disconnect protects people's right to disengage from work and job-related communications (emails, texts, and so on) beyond regular working hours. It supports the idea that employees should be free to go offline without fear of retaliation from their employers. Several European nations have already established some kind of right to disconnect. When France passed the 'El Khomri' legislation, sponsored by then-Labour Minister Myriam El Khomri, in favour of the freedom to disconnect, it established a precedent. Italy has enacted a similar provision addressing the duty of employees to interact outside of working hours. Companies in Spain and Germany are implementing disconnect rules. Employees in the United Kingdom have also been given the freedom to disconnect by lawmakers. Demand is also increasing in the United States.

Supriya Sule, an NCP MP, presented the Right to Disconnect Bill in the Lok Sabha in 2018. If an employee does not reply to work-related calls beyond working hours, the Bill proposes that no disciplinary action be taken. Because it was a private member's bill, it could not be passed, and no such bill has become an Act in India since 1970.

### **Key features and highlights of The Right to Disconnect Bill, 2018**

- The Bill aims at “reducing stress and ease tension between an employee’s personal and professional life.”
- Employees will be able to refuse to reply to calls or other forms of contact from their employers after business hours under the terms of the bill.
- The bill calls for the creation of an Employee Welfare Authority, which would publish findings on the effects of workers’ extended use of digital technologies outside of work hours, as well as a charter establishing employee-employer negotiations.
- As per the Bill, “Companies with more than 10 employees would periodically negotiate specific terms with their workers, publish their own charter, and create an Employee Welfare Committee consisting of representatives of the company’s workforce.”

The bill’s Statement of Object and Reasons emphasizes on the requirement of a legislation by mentioning various studies which claim the point that constant email pursuing and checking (can be termed as ‘telepressure’ in other words) could lead to effects like ‘info-obesity’, which is characterised by stress, burnout, and lack of sleep, or that being overburdened can reduce workers’ productivity because of exhaustion.

Employees are granted the right to disconnect outside of work hours under Section 7 of the Bill, which also ensures that they won’t face disciplinary action from their employer if they don’t answer work calls after hours. Also, the establishment of an Employees’ Welfare Authority in order to carry out the same is also recommended. This authority would be responsible for ensuring the welfare of employees through a variety of actions, including gathering detailed information about how employees use technology outside of work hours and directing organisations to negotiate terms and conditions with workers.

Employers with more than 10 employees are required by Section 8 to negotiate the additional hours with their staff. Although this would be a fantastic provision to ensure that the workers do not suffer from anxiety disorders, or in turn improve

their social relationships or make their performance better but on the down side, it will/might end up impeding the growth of small level start-ups and might end up to be somewhat un-economical for the micro or small businesses that are apparently going through a difficult patch. Enforcing such type of regulations in a country like India where anyway there’s a dearth of jobs and rising unemployment a developing nation like India, let alone for those firms with just 10 employees, is a little much and might backfire in comparison to a developed nation like France which enforces the Right to Disconnect for workplaces with more than 50 employees.

Since industries like the media and medical require very high levels of worker availability, it is nearly impossible for employees in these fields to entirely disengage after working hours. Although Section 8 tries addressing this problem by stating that the protocols pertaining to Right to Disconnect will be negotiated in accordance with the diverse ways in which the various entities work and their individual requirements, this Section lacks more clarity because it makes no mention of the sectors or fields that require availability ‘round the clock’ i.e. 24 hours a day, seven days a week. Such areas are not the subject of an in-depth discussion. The situation would have been considerably better if the measure had dealt with such professions individually in a particular manner.

When an emergency arises, it may be necessary to contact the employees forcibly at certain times. Although Section 9 discusses the individual entities’ charters with regard to the agreements between the employee and employer regarding as to when exactly the employees may be contacted outside the purview of work hours, it makes no mention of the circumstances in which an employee must be called urgently after office hours. The Bill’s Section 11 addresses the payment of overtime but apparently there’s hardly a mention of instances in which the employees are summoned and required to work in emergency situations and the payments in that regard.

### **The Bill’s Need and Importance**

After being at the office for eight hours or more, responding to office-related calls after work may be quite unpleasant. Work-related stress, according to specialists, may cause a variety of medical and mental illnesses, including depression, that may go untreated. As a consequence, a person may confront several problems in both his career and personal life. If approved, the Right to Disconnect Bill 2018 would assist individuals in achieving work-life balance and leading a better life.

### **The path ahead**

In the Lok Sabha, the bill is yet to be debated. However, the odds are stacked against the bill’s

passage. According to data, only around 5% of private bills get considered in the Lok Sabha. According to data released in 2015 by PRS Legislative, the 13th Lok Sabha debated just 5% of private bills, the 14th Lok Sabha debated 3%, and the 16th Lok Sabha debated only 2.85 percent of private bills.

A private bill has six years to be debated before it expires, according to Parliamentary rules.

### The way forward

Even if it appears extremely posh on the surface, the Right to Disconnect has certain drawbacks, particularly in a rising nation like India where different industries are vying for dominance in the global market and live in continual dread of being surpassed by other nations. It is absurd to compare India's ability to enact policies that respect employees' rights to disconnect with that of France and Germany, which have rigorous labour laws and, unlike India, a 35-hour workweek limit on employment. The Right to Disconnect Bill, 2018 is a solid step toward enhancing employee wellbeing, although it now looks like a far-fetched idea at a time when the digital transformation is boosting the nation's economic competitiveness.

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