

A Comparative Study of the Right to Disconnect in India, the European Union and the United States of America

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ABSTRACT

The digital transformation of work has fundamentally altered the relationship between employees and their employers. Smartphones, laptops, and cloud computing mean that work can now intrude into every moment of life, blurring the boundaries that once separated professional and personal time. This phenomenon, ‘digital overwork’, has reached crisis proportions in India, where over half of employees work more than 49 hours a week and nearly 78% report feeling burnt out. The tragic death of a young professional at Ernst & Young in 2025 sparked national conversation about the costs of constant connectivity and the need for legal protection.

This dissertation examines the right to disconnect as a legal response to the challenges posed by digital overwork. It undertakes a comparative study of how India, the European Union, and the United States are addressing this issue. The study adopts a doctrinal and comparative research methodology, analysing primary legal sources, including the Right to Disconnect Bill, 2025, the French Labour Code, the Spanish Royal Decree-Law on working time recording, the Italian law on smart working, the EU Working Time Directive, and the US Fair Labour Standards Act. It draws on secondary sources, including reports from Eurofound, analyses from the Vidhi Centre for Legal Policy, and scholarly articles from comparative labour law journals.

The research reveals significant differences across the three jurisdictions. India’s approach, embodied in the Right to Disconnect Bill, 2025, is grounded in constitutional values under Article 21 and proposes a comprehensive framework with an enforcement authority. The European approach is diverse, ranging from France’s negotiation-based model to Spain’s record-keeping requirements to Italy’s focus on remote workers, all underpinned by the EU Working Time Directive and social dialogue. The United States has no federal right to disconnect, relying instead on market forces, state laws, and corporate policies within a framework that emphasises flexibility and collective bargaining.

The study identifies common implementation challenges, including defining working hours in the digital age, managing remote work and global teams, monitoring compliance, handling emergencies, and addressing the needs of different categories of workers. It also explores the constitutional and human rights dimensions of the right to disconnect, arguing that Article 21 provides a strong foundation for recognition in India. The role of social dialogue and collective bargaining is examined, drawing lessons from European and American experience.

Six hypotheses are tested and confirmed. The Right to Disconnect Bill is a positive step but requires clearer definitions and stronger enforcement. The EU experience demonstrates that statutory rights are most effective when combined with social dialogue. The US model illustrates the limitations of market-based approaches. India's constitutional framework provides stronger grounds than the US Constitution. Implementation challenges are common across jurisdictions. Flexibility and dialogue are essential but must be balanced with accountability.

The dissertation concludes with comprehensive recommendations for legislative action in India, drawing on international best practices. It proposes clarifying definitions, strengthening enforcement, addressing global teams, protecting workers from retaliation, extending coverage to vulnerable workers, and integrating the right with existing labour laws. It also outlines the role of employers, unions, and institutions in creating a culture where the right to disconnect is respected. The right to disconnect, it argues, is not a luxury but a necessity for human dignity in the digital age.

CHAPTER 1: INTRODUCTION

The concept of digital overwork is relatively new, but the underlying problem is not. Workers have always struggled with long hours and poor conditions. What has changed is the mechanism. Technology now enables work to intrude into every moment of life, not just the hours spent at a desk or on a factory floor. Digital overwork refers to the phenomenon where workers are expected to be available for work-related communication outside of formal working hours. This includes emails, messages, calls, and other forms of digital contact. The expectation may be explicitly written into contracts or communicated by managers. Alternatively, it may be implicit in a workplace culture where responding late at night is considered normal.

The effects of constant connectivity are well-documented. It leads to stress, burnout, and mental health problems, disrupts family life, leisure, and rest, and blurs the boundaries necessary for workers to maintain their well-being. The International Labour Organisation's 2019 report found strong evidence linking long working hours to cardiovascular disease and other health risks. The European Foundation for the Improvement of Living and Working Conditions has documented similar effects across multiple studies. Work-life balance is the broader concept. It refers to the equilibrium between time spent on work and time spent on personal life. Achieving this balance has become more difficult as work has become more flexible. Telework, remote work, and digital platforms offer flexibility but also create pressure to be always available. The 2020 Eurofound study on telework found that teleworkers were more likely to work longer hours and report difficulty disconnecting.

The right to disconnect is one response to these challenges. It provides workers with a legal tool to resist constant connectivity. It does not ban after-hours communication entirely, as emergencies still occur, but shifts the default. Instead of workers having to justify why they did not respond, employers must justify why they need to contact workers outside hours.

Scholars have noted that the right to disconnect represents a shift in how we think about working time. Traditional labour law focused on limiting maximum working hours and minimum rest periods. The right to disconnect focuses on a different dimension: the quality of time outside work. It recognises that even if total hours are within legal limits, constant digital intrusion can make rest impossible. The need and relevance of the right to disconnect in India are significant. The Indian workforce is increasingly reliant on digital platforms and flexible working arrangements. The right to disconnect provides a legal framework to address the challenges of constant connectivity and promote a healthier work-life balance.

India's labour landscape makes the right to disconnect particularly pertinent. The country has a large and growing workforce in sectors where digital overwork is prevalent. Information technology, consulting, financial services, and other professional fields have cultures of long hours and constant availability. The 2023 study by Sharma and Gupta found high rates of after-hours communication in these sectors, with strong associations with stress and burnout. The legal framework for working time in India is outdated. The Factories Act 1948 sets maximum working hours for factory workers but does not address digital work. The Occupational Safety, Health and Working Conditions Code 2020 consolidates various labour laws but does not specifically address after-hours communication. As Mehra (2024) notes, the new Labour Codes made many improvements but did not address the problem of digital overwork. The constitutional basis for a right to disconnect is strong. Article 21 guarantees the right to life and personal liberty. Courts have interpreted this broadly to include the right to health, the right to a decent environment, and the right to live with dignity. Article 39(e) directs the state to secure that workers are not forced by economic necessity to enter vocations unsuited to their age or strength. These provisions could ground a constitutional right to disconnect even without legislation. The Right to Disconnect Bill 2025 represents the first legislative attempt to address these issues. The bill proposes to establish an Employees' Welfare Authority to oversee implementation. It would give workers the right to ignore after-hours communication without fear of retaliation and impose penalties on employers who violate the rights. The bill has been welcomed by worker groups but faces opposition from employer associations. International developments add urgency to the Indian debate. France has had a right to disconnect since 2016, and other European countries have followed. Australia passed its own version in 2024. As Indian companies increasingly operate globally, they will need to navigate different legal regimes. A domestic framework could benefit Indian workers and employers alike.

CHAPTER 2: THE RIGHT TO DISCONNECT IN INDIA

Digital Work Culture and Overwork in India

The scale of digital overwork in India is staggering, and the statistics should concern anyone who cares about worker welfare. Studies consistently show that over half of Indian employees work more than 49 hours a week, placing India among countries with the longest working hours globally. Nearly 78% of professionals report feeling burned out, a figure that has risen steadily over the past decade. These are not just abstract numbers; they represent millions of people whose health, relationships, and quality of life are being sacrificed to the always-on culture. They represent parents who never have time for their children, spouses who are always distracted, and individuals who cannot remember the last time they truly relaxed. What makes this particularly concerning is the way technology has enabled work to colonise every moment of life. In earlier eras, leaving the office meant leaving work behind. The factory gate, the office door, and the commute home marked boundaries that were understood by both employers and workers. There was a physical separation between work and life, and that separation had meaning. Today, those boundaries have vanished entirely. A smartphone means the office is always present, always accessible, and always demanding attention. The worker carries their workplace in their pocket and with it the expectation that they should be available whenever the employer deems it necessary.

The sectors most affected are precisely those where India has built its global reputation. Information technology, consulting, financial services, and other professional fields have cultures of long hours and constant availability. These are the industries that drive India's economic growth, employ its best and brightest, and offer the kind of salaries that young professionals aspire to. However, they also demand a

price. A 2023 study by Sharma and Gupta surveyed professionals across these sectors and found high rates of after-hours communication, with strong associations between such communication and measures of stress, anxiety, and burnout. Workers reported checking emails late at night, responding to messages on weekends, and feeling guilty when they attempted to disconnect. They described a culture where availability was equated with commitment, where those who set boundaries were perceived as less dedicated, and where the always-on worker was the ideal.

The problem is not just the volume of work but its unpredictability. A worker might have a light week but still feel unable to relax because an email could arrive at any moment. The anticipation of work and constant vigilance can be as draining as the work itself. This is what scholars call ‘technostress,’ and it has become a defining feature of modern employment. It is not just the hours worked that matter but the psychological state of always being on call and never being able to fully disengage. Studies have shown that this constant vigilance is associated with higher rates of anxiety, depression, and physical illness. The body responds to the expectation of work as it would to actual work, releasing stress hormones and keeping the nervous system on alert.

The National Crime Records Bureau’s 2024 report added a concerning dimension to this picture. It revealed a rising number of suicides linked to career difficulties and work stress. While correlation is not causation, the figures are significant. When work becomes overwhelming, boundaries are blurred and rest becomes impossible, individuals can break down. The tragedy of the young Ernst & Young professional whose death sparked national conversation was not an isolated incident but a symptom of a systemic problem. Her case became a rallying point due to its visibility, but behind it were countless others whose suffering went unreported, whose deaths did not provoke outrage, and whose families were left to grieve in silence.

India’s legal framework for working time has not kept pace with these changes. The Factories Act 1948 sets maximum working hours for factory workers but was designed for a different era and a different kind of work. It assumes a physical workplace, a fixed schedule, and a clear distinction between work time and personal time. It does not address digital work, knowledge work, or the demands of the always-on culture. The Occupational Safety, Health and Working Conditions Code 2020 consolidates various labour laws but does not specifically address after-hours communication. As Mehra notes in his comprehensive study of the new Labour Codes, the reforms made many improvements but left this gap unaddressed. The codes address working hours in traditional settings but do not grapple with the new reality where work follows workers home through their devices.

The result is a regulatory vacuum. Employers face few legal constraints on after-hours communication, and workers have little legal protection. The culture is shaped entirely by market forces, competitive pressures, and the fear that someone else will respond to an email if you do not. In this vacuum, the always-on culture has flourished. It has become so normal that many workers do not even question it. They accept late-night emails as part of the job, the price of success, and the inevitable consequence of working in a globalised economy.

This is the context in which the right to disconnect debate has emerged. It is a recognition that the market alone will not solve this problem, that competitive pressures will always push towards longer hours and greater availability, and that law has a role to play in setting boundaries. It is an acknowledgement that workers deserve more than the always-on culture offers them, that rest is not a luxury but a necessity, and that the law should protect the space between work and life.

The Right to Disconnect Bill, 2025

In December 2025, the Right to Disconnect Bill was introduced in the Lok Sabha. It is a private member's bill introduced by a member of parliament rather than the government. This means its path to becoming law is uncertain, and its chances of passage in its current form are slim. Private members' bills rarely pass, especially on controversial topics that affect employer interests. However, its introduction can serve other purposes. It can spark debate, shape public opinion, put issues on the legislative agenda, and pressure governments to act. The 2025 bill has already done all of these things, generating extensive media coverage and public discussion.

The bill's provisions are straightforward, at least in broad terms. It would grant employees the legal right to ignore work-related calls, messages, and emails outside of working hours. This is not an absolute right with exceptions for genuine emergencies, but it shifts the default. Employers would be prohibited from penalising workers for exercising this right, and employees would not be disadvantaged in performance evaluations or promotion decisions for choosing to disconnect. Companies would be required to negotiate rules about after-hours communication either with recognised unions or, where unions do not exist, through company policies developed in consultation with workers. A new Employees' Welfare Authority would be established to oversee implementation, handle complaints, and impose penalties for violations. The definition of 'after-hours communication' is central to the bill's effectiveness. It includes any communication that is not urgent and could reasonably be delayed until working hours. What constitutes an urgent communication is left somewhat open, but the bill suggests that genuine emergencies where immediate response is necessary to prevent harm, avoid significant loss, or address critical system failures would be exempt. This flexibility is both a strength and a weakness. It allows for common-sense exceptions that recognise the realities of certain jobs and industries but could also be exploited by employers who define 'emergency' broadly, treat routine client requests as urgent, and create a culture where everything is treated as an emergency. The bill's effectiveness will depend in large part on how this term is interpreted in practice.

The bill's enforcement mechanisms include penalties for companies that violate the right. Workers could file complaints with the Employees' Welfare Authority, which would investigate and impose fines. Repeated violations could lead to more serious consequences, including higher fines and, in extreme cases, criminal penalties for responsible officers. The provisions give the bill teeth, but its effectiveness would depend on the authority's resources and independence. A poorly funded authority or one that is too close to the government would not be able to provide meaningful enforcement. The bill contemplates an independent body with adequate staffing and resources, but the specifics would need to be worked out if the bill progresses.

The Vidhi Centre for Legal Policy's analysis of the bill identifies several strengths and gaps. The strengths include its clear articulation of the right, its recognition that negotiation between employers and workers is essential, its creation of an enforcement mechanism, and its attempt to balance flexibility with protection. The gaps include the lack of a clear definition for 'urgent' communications, the challenge of monitoring compliance in remote work settings where employers cannot easily observe whether workers are responding, the absence of provisions specifically addressing global teams where time zones blur working hours, and the lack of clarity about how the Employees' Welfare Authority would function in practice. The analysis also notes that the bill focuses on employees in formal employment and does not address the growing gig workforce whose members face even greater challenges with digital overwork.

Reactions to the bill have been mixed, reflecting the deep divisions in Indian society regarding the nature of work and the role of law. Worker groups have welcomed it as a long-overdue recognition of the toll that digital overwork takes on employees. Trade unions have called for even stronger protections and for extending the right to gig and informal sector workers, whom they argue require protection even more than formal employees. They have also raised concerns about enforcement, noting that existing labour laws are often poorly enforced and that a new right without strong enforcement mechanisms would be meaningless.

Employer associations have expressed concerns about flexibility, the burden on small businesses, and the challenge of operating in a global economy where clients expect responses regardless of time zones. They argue that the bill would put Indian companies at a competitive disadvantage, that foreign clients would not respect Indian working hours, and that workers themselves would suffer if companies lost business. They have called for exceptions for certain industries, longer phase-in periods, and greater flexibility in how companies implement the right. Some have argued that the issue should be left to the market, that companies that treat workers well will attract talent, and that legislation is unnecessary.

The bill's future is uncertain. It will likely be referred to a parliamentary standing committee for detailed study. Hearings will be held, witnesses will testify, and amendments may be proposed. The committee's report could recommend changes, suggest that the bill be passed with modifications, or recommend that it be rejected. Even if the bill does not pass in this session, the conversation it has started will continue. The issue of digital overwork is not going away, and pressure for legislative action will only grow as more workers speak out about their experiences and as evidence of the harms accumulates.

Constitutional Basis under Article 21

Even without legislation, the right to disconnect may have constitutional foundations. Article 21 of the Constitution guarantees the right to life and personal liberty. This provision, although brief, has become one of the most powerful tools in the Indian constitutional arsenal. Over decades, the Supreme Court has interpreted it expansively to include the right to health, the right to a decent environment, the right to live with dignity, the right to privacy, the right to food, the right to shelter, and many other rights not explicitly mentioned in the Constitution. Each of these interpretations could ground a constitutional right to disconnect, providing a legal foundation even if legislative efforts fail.

The right to health is the most direct connection. Chronic stress, burnout, and the health consequences of overwork are well-documented in medical literature. The International Labour Organisation's 2019 report linking long working hours to cardiovascular disease provides empirical support that is difficult to dispute. If the state permits working conditions that systematically damage workers' health, it may be violating the right to life. Indian courts could draw on such evidence to recognise that protection from overwork is part of the right to health and that the state has an obligation to regulate working conditions to prevent foreseeable harm.

The right to live with dignity is another foundation extensively developed in Indian jurisprudence. Dignity requires that workers be treated as ends in themselves, not merely as means to production. It necessitates that they have the space to be full human beings, to pursue relationships, interests, and rest. The always-on culture, which treats workers as constantly available resources, diminishes dignity by denying them the space to be anything other than workers, to have identities outside their jobs, and to live lives not defined by work. Constitutional courts in other countries have recognised similar arguments, and Indian courts, with their strong tradition of protecting dignity, could do the same.

The right to privacy recognised in the landmark Puttaswamy judgement of 2017 also has direct relevance to the right to disconnect. Privacy includes the right to control access to oneself, to have spaces free from intrusion, and to determine when and how one is available to others. When employers can contact workers at any time and in any place, they invade that privacy. The intrusion is not just when communication actually occurs but in the constant potential for intrusion, such as a smartphone that might buzz at any moment, an email that might arrive, or the expectation that one should always be available. This creates a pervasive sense of being watched, always accessible, and never truly alone. This is precisely the kind of privacy invasion that the Constitution protects against.

The Directive Principles provide further support, even though they are not directly enforceable. Article 39(e) directs the state to ensure that workers are not compelled by economic necessity to enter occupations unsuitable for their age or strength. This provision recognises that workers may accept harmful conditions because they have no alternative, as unemployment is a significant risk, or because the market offers them no better options. The right to disconnect would protect workers from such coercion by providing a legal shield against demands that they be always available. It would ensure that workers who choose to disconnect are not penalised and do not lose opportunities to those who are willing to be always on.

Article 43, which directs the state to secure living wages and humane conditions of work, is also relevant. ‘Humane conditions’ must include the right to rest, time away from work, and boundaries between work and life. A legal framework that permits employers to demand constant availability, expects workers to be always responsive, and leaves no space for genuine rest cannot be said to ensure humane conditions. The Directive Principles set a standard that the state should aspire to, and that standard includes protection from the kind of digital overwork that has become so common.

Sharma’s 2025 analysis of constitutional dimensions argues that Indian courts could recognise a right to disconnect even without legislation. Drawing on the expansive interpretation of Article 21 developed by the Supreme Court over decades, courts could hold that the right to life includes the right to rest and the right to protection from work-related stress. This would be consistent with the Court’s approach in other areas where it has used constitutional principles to fill legislative gaps, protect vulnerable groups, and give meaning to fundamental rights. The Puttaswamy framework, with its emphasis on balancing competing interests and ensuring proportionality, provides a model for how courts might approach such cases, weighing the legitimate needs of employers against the fundamental rights of workers.

The constitutional route has distinct advantages. It would establish the right as fundamental, not merely statutory. It would apply across all sectors and all workers, regardless of whether they are covered by specific legislation. It could not be easily reversed by future legislatures, as a constitutional right requires a constitutional amendment to change. It would send a powerful signal about the importance of worker welfare and the limits of employer power. However, it also has limitations. Courts move slowly, and constitutional litigation can take years. Enforcement would still require mechanisms that may not exist, and courts may be reluctant to get into the details of what counts as reasonable after-hours communication. Judicial recognition of rights often prompts legislative action to fill in details, but that action may not come quickly.

Challenges and Future Prospects

Implementing the right to disconnect in India presents significant challenges. Some are common to all jurisdictions that have attempted such legislation, while others are specific to India’s unique context and would require tailored solutions. Understanding these challenges is essential to designing an effective framework and managing expectations about the right’s potential.

Defining working hours is a fundamental challenge with no straightforward answer. For traditional factory workers, working hours are clear; a shift begins and ends at a specific time, and any work outside these hours is overtime. For knowledge workers, professionals, and those whose work is not tied to a physical location, boundaries are more difficult to define. The bill's approach of focusing on after-hours communication rather than working hours sidesteps some of these difficulties but creates others. When does the 'after' begin? Is it after eight hours of work or a specific clock time? What about flexible schedules where workers choose to work at night and rest during the day? How are different time zones managed when a worker in India collaborates with colleagues in the US or Europe? These questions require answers, and the answers may need to be flexible enough to accommodate different industries, roles, and working arrangements.

Handling emergencies is another challenge that requires careful consideration. While it is widely recognised that genuine emergencies necessitate immediate response and that certain situations are unacceptable to wait until the next working day, the definition of a genuine emergency is not universally agreed upon. A system outage affecting thousands of customers, a client's urgent request potentially generating millions in revenue, or a manager's question about a presentation due the next morning are all examples of situations that could be considered emergencies. The Bill's approach leaves this determination to be negotiated and governed by company policies. This flexibility has the advantage of adaptability but also risks creating inconsistencies and opportunities for abuse. Different companies may treat the same situation as an emergency or routine. Workers may be pressured to accept expansive definitions of emergency, particularly if they fear that refusing to do so could impact their careers.

Global teams introduce a layer of complexity that was not present when earlier working time laws were enacted. Many Indian professionals work with colleagues and clients in different time zones, often spanning multiple continents. An email from New York may arrive at 9 pm India time but is still within the US working day. A message from London may arrive at 10:30 pm India time after the close of the UK working day. Does the right to disconnect apply to such communications? Should it? The Bill does not directly address this issue, but it will need to be resolved for the right to be meaningful. One approach is to focus on the worker's normal working hours rather than the sender's location. If a communication arrives outside the worker's normal hours, it is covered regardless of the sender's location. Another approach is to require employers to manage expectations and workflows to minimise after-hours contact, for example, by using scheduling tools that delay message delivery until working hours.

Monitoring compliance is challenging, particularly with the growth of remote and hybrid work. An employee may struggle to prove receipt of an after-hours message, especially if they use personal devices for work. Similarly, an employer may find it difficult to verify the urgency of a message or the worker's absence from their designated work hours. The bill's enforcement mechanisms depend on complaints, requiring workers to be willing to come forward and provide evidence. Given the power imbalances in employment relationships and the fear of retaliation even where it is prohibited, this may not be feasible. Workers may hesitate to complain, particularly if they are employed in at-will positions where termination can occur swiftly. A proactive monitoring or audit system may be necessary but raises its own privacy concerns and could foster a surveillance culture that is detrimental.

Small businesses present particular challenges that require careful consideration. A small firm with limited staff may be unable to cover emergencies without contacting workers after hours. A tech startup with a small team may need to respond to system outages at any time. A small consulting firm may have clients in different time zones that expect responses outside Indian working hours. The bill's provisions

could be disproportionately burdensome for such businesses, potentially harming the workers it is intended to protect by making small firms less viable. Some flexibility, perhaps with size-based exemptions or extended phase-in periods, may be necessary. However, exemptions could also create loopholes that larger employers could exploit by restructuring themselves into smaller entities or outsourcing work to small contractors.

Cultural resistance may be the most significant challenge and the one most difficult to address through legislation alone. India's work culture, particularly in professional services, values long hours and constant availability. Working late is perceived as a mark of dedication, evidence of commitment, and proof of seriousness about one's career. Responding promptly to messages, even at unusual hours, is expected and admired. Those who set boundaries, leave on time, and do not respond to weekend emails are often viewed as less dedicated, less ambitious, and less likely to succeed. Changing these norms will require more than legislation; it will necessitate shifts in how employers and workers perceive work, what is valued and rewarded, and the narratives surrounding success.

Despite these challenges, the prospects for the right to disconnect in India are promising. The bill has sparked debate and brought attention to an issue that has long been overlooked. Worker groups are organising around it, using it as a focal point for broader discussions about working conditions and worker rights. Extensive media coverage has been provided, with major newspapers and news channels reporting on digital overwork and the need for legal protection. The tragic death of an Ernst & Young professional has given the issue a human face that statistics alone could not provide, making it real and urgent in a way that academic studies could not.

International developments add momentum to the Indian debate. As more countries adopt right-to-disconnect laws, pressure mounts on India to align with global standards. Australian companies operating in India may already have policies based on their home jurisdiction's law, providing models for Indian companies to adopt. European multinationals may be familiar with the French and Spanish laws and may have already implemented policies that could be extended to their Indian operations. This cross-border experience can inform Indian practice, providing examples of what works and what does not and reducing the uncertainty associated with pioneering new approaches.

The constitutional foundation is strong, providing a backstop even if legislative efforts fail. If the bill does not pass, workers could challenge excessive after-hours demands through the courts, arguing that such demands violate the fundamental rights under Article 21. A successful constitutional case could achieve what legislation has not, establishing the right through judicial interpretation and likely prompting legislative action to fill in the details. The Puttaswamy framework, with its emphasis on proportionality and balancing, provides a model for how courts might approach such cases, weighing the legitimate needs of employers against the fundamental rights of workers and insisting on safeguards against abuse.

The future of the right to disconnect in India will depend on several factors, including political will, judicial attitudes, employer responses, and worker organisation. However, the conversation has begun, and this is significant. For workers like my cousin whose phone still buzzes at night, this conversation offers hope that things might eventually change. It provides the possibility that future workers will not have to accept the always-on culture as inevitable, that they will have legal tools to resist unreasonable demands, and that they will be able to work without sacrificing their lives. That hope, however distant, is worth pursuing.

THE RIGHT TO DISCONNECT IN THE EUROPEAN UNION

Development of the Right to Disconnect in Europe

The story of the right to disconnect in Europe begins in France, but its roots extend further. Long before smartphones and remote work, European labour movements fought for limits on working hours, the eight-hour day, the weekend, and paid holidays. These were hard-won victories achieved through strikes, political organising, and the gradual accumulation of legal protections. The right to disconnect is in many ways a continuation of that struggle, a recognition that the battles of the past must be fought again in new forms as technology alters the nature of work.

The context in which the European right to disconnect emerged is important. Europe has a tradition of strong labour protections, social dialogue between employers and workers, and the view of employment not merely as a market relationship but as a social relationship with rights and obligations on both sides. The European social model, as it is sometimes called, emphasises worker participation, collective bargaining, and state regulation to balance the inherent inequalities of the employment relationship. This background made Europe fertile ground for the right to disconnect.

By the early 2010s, the problem of digital overwork had become unignorable. Studies revealed that workers were checking emails at all hours, that the boundaries between work and life were dissolving, and that stress and burnout were rising. The 2015 Eurofound report on working time documented these trends across the continent, providing empirical evidence that a change was necessary. Workers in professional services, information technology, and consulting were particularly affected, but the problem extended across sectors.

France was the first to act. In 2016, the French government passed the El Khomri law, named after the labour minister who championed it. The law was controversial and sparked massive protests and heated debate, but one provision attracted broad support. Article L2242-17 of the French Labour Code required companies with more than fifty employees to negotiate rules about after-hours communication. This was the first legislative recognition of the right to disconnect and set a precedent that other countries would follow.

The French approach was notable for what it did and did not do. It did not create an absolute right to ignore after-hours communication nor did it ban employers from contacting workers outside working hours. Instead, it required negotiation. Companies had to meet with unions or worker representatives to work out agreements about when and how workers could be contacted. This reflected a characteristically European approach of using law to mandate social dialogue rather than to dictate specific outcomes.

Other European countries took notice. Italy followed in 2017 with its own legislation, focusing particularly on remote workers and the growing gig economy. Spain enacted a law in 2018 that required companies to keep records of working hours and to ensure that workers could disconnect outside those hours. Belgium, Portugal, and other countries introduced their own versions. By 2020, the right to disconnect had become a recognised concept across much of Europe.

What is striking about the European experience is the variation in approaches. Some countries, such as France, focused on negotiation and collective bargaining. Others, such as Spain, emphasised record-keeping and monitoring. Some laws applied to all workers; others were limited to certain sectors or types of work. This diversity reflects different legal traditions, different industrial relations systems, and different political contexts. However, beneath the variation, a common theme emerges: the recognition that technology had fundamentally changed work and that law needed to respond.

National Laws in France, Italy, and Spain

France: The Pioneer

The French law of 2016 remains the most influential model for the right to disconnect. Article L2242-17 of the French Labour Code requires companies with at least fifty employees to negotiate annual agreements on several topics, including the modalities of full exercise by the employee of their right to disconnect and the implementation by the company of mechanisms to regulate the use of digital tools. The goal is to ensure that working time regulations are respected and that employees can have rest periods free from work-related communication.

The French approach has several distinctive features. First, it mandates negotiation rather than dictating specific rules. Companies and unions must reach agreements that suit their particular circumstances, recognising that different industries, roles, and work arrangements may require different approaches. A consulting firm with global clients may need different rules than a local retailer. The law provides a framework, but the details are left to those who understand the specific context.

Second, the French law applies only to companies with more than fifty employees. Smaller firms are exempt on the grounds that they lack the resources for formal negotiations and that the employer-employee relationship is closer and more flexible. This exemption has been criticised by some who argue that workers in small firms require protection just as much as those in large ones. However, it reflects a pragmatic judgement about administrative burden and the limits of what regulation can achieve.

Third, the French law focuses on process rather than outcomes. It does not define the right to disconnect in substantive terms nor specify when after-hours communication is permissible nor establish penalties for violations. Instead, it requires companies to have a process for addressing these questions. The assumption is that negotiated agreements, tailored to specific contexts, will be more effective than one-size-fits-all rules.

The results of the French law have been mixed, according to studies by Eurofound and others. Some companies have developed meaningful policies that have reduced after-hours communication and improved work-life balance. Workers report feeling more empowered to disconnect and managers report that productivity has not suffered. However, other companies have gone through the motions without real change. They have held negotiations, signed agreements, and continued business as usual. The law has been effective where there is genuine commitment from both sides; it has been less effective where the culture is resistant.

Italy: Focus on Remote Work

Italy's approach to the right to disconnect emerged from a different context. The country had been grappling with the growth of remote work and the gig economy, and the focus was on protecting workers whose work was not tied to a physical workplace. The 2017 law on smart working required employers to have agreements that included provisions on rest periods and the right to disconnect.

The Italian law applies specifically to 'smart working' arrangements—work that is performed partly or wholly outside the employer's premises, using digital tools. Employers must stipulate in writing the duration of rest periods and the measures to ensure that workers can disconnect from work-related communication during those periods. The law does not prescribe specific rules but requires that the issue be addressed.

Like the French law, the Italian approach relies on agreement rather than prescription. However, it is narrower in scope, applying only to certain types of work rather than to all employment. This reflects a judgement that the right to disconnect is most urgent where the boundaries between work and life are most

blurred—where workers are not physically present in the workplace and where the employer cannot easily observe when they are working.

The Italian law has been praised for its focus on the most vulnerable workers whose work arrangements make them most susceptible to digital overwork. However, it has also been criticised for excluding workers in traditional settings who may face similar pressures. An office worker whose boss expects email responses at night may be just as burdened as a remote worker. The Italian approach addresses one dimension of the problem but not all.

Spain: Record-Keeping and Enforcement

Spain adopted a different approach with its 2018 law on working time recording. The law required companies to maintain daily records of working hours for all employees, including start and end times. This data was to be retained for four years and made available to workers' unions and labour inspectors. The objective was to make visible what had been invisible—unpaid overtime, after-hours work, and the erosion of boundaries.

The Spanish law did not explicitly mention the right to disconnect. Instead, it created the infrastructure for enforcing existing working time limits. If workers were putting in extra hours, this would be recorded in the data. If they were working beyond legal limits, this would be documented. If employers were contacting workers after hours and expecting responses, this would be counted as working time and recorded.

The Spanish approach has several advantages. It provides concrete evidence that can be used in enforcement. It shifts the burden from workers to employers, requiring companies to document compliance rather than workers to prove violations. It creates a clear record that can be audited and verified. Finally, it applies to all workers, not just those in certain sectors or arrangements.

However, Spanish law has also encountered challenges. Some employers have resisted the record-keeping requirements, arguing they are burdensome. Unions have complained of weak enforcement and ongoing violations. Furthermore, the law does not directly address the qualitative dimension of after-hours communication, such as the fact that even brief messages can disrupt rest, even if they do not constitute significant working time.

EU Parliament Resolution and the Working Time Directive

The European Union has played a significant role in shaping the right to disconnect, although labour law remains primarily a matter for member states. The EU's influence operates through several channels: directives that set minimum standards, resolutions that express political will, and the jurisprudence of the Court of Justice of the European Union.

The Working Time Directive (2003/88/EC) is the foundational document. It establishes minimum requirements for rest periods, maximum working hours, and annual leave across the EU. Workers are entitled to at least 11 consecutive hours of rest in every 24-hour period, at least 24 hours of uninterrupted rest in every seven-day period, and a maximum working week of 48 hours on average. These provisions create the legal framework within which the right to disconnect operates.

The directive does not explicitly mention digital communication or the right to disconnect. However, its provisions have obvious implications. If workers are expected to respond to emails during rest periods, those periods are not truly rest. If they are working after hours, even intermittently, that counts towards the 48-hour limit. The directive provides a legal basis for arguing that after-hours communication must be limited, even if it does not specify the details.

The European Parliament's resolution of 21 January 2021 was a significant step forward. It called on the European Commission to propose a directive on the right to disconnect, establishing minimum standards across the EU. The resolution noted that digital technology had blurred the boundaries between work and private life, that telework had increased during the pandemic, and that workers needed protection from the always-on culture.

Although not binding, the resolution expressed the Parliament's view and demonstrated broad support across the political spectrum for action on this issue. It put pressure on the Commission to act and provided guidance on what a European right to disconnect might look like: the right to refrain from work-related communication outside working hours without fear of retaliation; the requirement that employers negotiate rules with workers; the obligation to provide training and awareness; and the need for effective enforcement mechanisms.

The Court of Justice of the European Union has also contributed to the development of the right to disconnect, even if indirectly. In cases such as *Matzak* (2018) and *CCOO v. Deutsche Bank* (2019), the Court interpreted the Working Time Directive to require that working time be recorded, that on-call time be counted, and that rest periods be genuine. These decisions have strengthened the legal basis for challenging after-hours work.

Role of Social Dialogue in Implementation

One of the distinctive features of the European approach is the emphasis on social dialogue—the process of negotiation and consultation between employers, workers, and their representatives. This reflects a deeper philosophy about how labour relations should be conducted. Instead of the state dictating all the rules, employers and workers are expected to work out arrangements that suit their specific circumstances within a legal framework.

Social dialogue serves several functions in the context of the right to disconnect. Firstly, it allows for flexibility. A one-size-fits-all rule cannot capture the diversity of work situations. What is effective for a factory worker may not be for a consultant, and what is effective for a large corporation may not be for a small business. Negotiation enables rules to be tailored to specific contexts.

Secondly, social dialogue builds ownership. When rules are imposed from above, workers and employers may resist them. When rules are negotiated, there is greater commitment to their implementation. Workers who have participated in shaping the rules are more likely to perceive them as legitimate, and employers who have agreed to them are more likely to comply.

Thirdly, social dialogue creates a mechanism for ongoing adjustment. The right to disconnect is not a static concept. Technology, work patterns, and expectations change. Having a forum where employers and workers can regularly discuss these issues allows rules to evolve over time. The French requirement for annual negotiations ensures that the issue remains on the agenda.

The experience of social dialogue in Europe has been mixed. In countries with strong unions and a tradition of collective bargaining, the process has been successful. Unions have been able to negotiate meaningful agreements, and employers have generally complied. In countries with weaker unions, the results have been more variable. Some companies have negotiated in good faith, while others have gone through the motions without real change.

The role of social dialogue also varies by sector. In industries with strong union presence, such as manufacturing, public services, and transportation, the right to disconnect has been integrated into broader collective agreements. In sectors with weaker union presence, such as technology, professional services,

and startups, the process has been more challenging. Some companies have developed innovative policies on their own, while others have done little.

The European experience offers important lessons for India. It demonstrates that legislation alone is insufficient. The French law required negotiation, but the outcomes were contingent on the strength of unions and the commitment of employers. It illustrates that flexibility is valuable but can also be an excuse for inaction. Furthermore, it shows that social dialogue is most effective when there is a genuine balance of power between employers and workers.

The EU's emphasis on social dialogue also highlights the importance of worker organisation. Without strong unions or effective worker representation, negotiation becomes a one-sided affair. Employers may dictate terms rather than genuinely negotiating. The right to disconnect, like many labour rights, depends on workers having the collective power to enforce it.

CHAPTER 4: THE RIGHT TO DISCONNECT IN THE UNITED STATES

Labour Law Framework in the United States

To understand why the United States does not have a federal right to disconnect, one must first understand the broader context of American labour law. The framework is fundamentally different from what exists in Europe or what India is contemplating. It is a system built on different assumptions, values, and historical experiences. Comparing it with the European and Indian approaches reveals much about how legal systems reflect deeper social choices.

The American labour law framework rests on several foundational principles that distinguish it from European models. First, there is no constitutional right to work or to favourable working conditions comparable to what exists in many European countries. The US Constitution does not guarantee social rights. The Fifth and Fourteenth Amendments protect against government deprivation of life, liberty, and property without due process but do not create affirmative obligations on employers. This constitutional silence has shaped the entire structure of American labour law.

Second, American labour law has traditionally favoured collective bargaining over direct state regulation. The National Labour Relations Act of 1935, one of the foundational statutes, was designed to encourage collective bargaining by protecting workers' rights to organise and to bargain collectively. The assumption was that workers and employers, operating through unions and employer associations, would determine the details of employment conditions. The state would provide the framework but not the substance.

Third, where the state has intervened, it has often done so through minimum standards rather than comprehensive regulation. The Fair Labour Standards Act sets minimum wage, overtime pay, and child labour standards but does not prescribe maximum working hours in the same way that European directives do. The approach is to set a floor below which conditions cannot fall, not to dictate the terms of the employment relationship.

Fourth, American labour law operates in a context of weak unions and declining collective bargaining coverage. Union membership has fallen from a peak of about one-third of the workforce in the 1950s to around ten percent today. In the private sector, the figure is even lower—about six percent. This means that collective bargaining, the preferred mechanism for setting employment conditions, reaches only a small fraction of workers.

Fifth, American employment is largely “at-will”. In the absence of a contract or collective agreement, employers can terminate employees for any reason or no reason, provided it is not discriminatory. This

creates a fundamental power imbalance that shapes every aspect of the employment relationship. Workers who fear termination are unlikely to assert their rights, even when those rights exist.

This framework has profound implications for the right to disconnect. Without strong unions, workers cannot negotiate for protections. Without constitutional rights, they cannot challenge employer demands in court. Without comprehensive regulation, they have no statutory protection. The American approach leaves the issue largely to the market, individual bargaining, and employer discretion. The result is a patchwork of protections that vary widely across companies, industries, and states.

Absence of a Federal Right to Disconnect Law

There is no federal law in the United States that guarantees workers the right to disconnect. No statute states that employees can ignore after-hours communication without fear of retaliation. No agency has issued regulations on this topic. The issue has never been seriously debated in Congress. This absence is not an oversight; it reflects fundamental choices about how labour relations should be governed.

Several factors explain why the right to disconnect has not gained traction at the federal level. The first is political. Labour legislation in the US is deeply contested. Attempts to expand worker protections face strong opposition from business groups and politicians who view regulation as interference with the free market. The right to disconnect, which would impose new obligations on employers, would face the same opposition.

The second factor is ideological. The American approach to labour relations emphasises flexibility, individual choice, and market outcomes. Workers who do not want to be contacted after hours are free to seek employers who respect that preference. Employers who demand constant availability are free to do so, provided they can find workers willing to accept those conditions. The market, not the state, should determine the terms of employment.

The third factor is practical. The US labour market is large and diverse. A federal right to disconnect would need to apply to millions of workers in thousands of industries. Crafting rules that would be effective for everyone would be enormously difficult. Exemptions would be required for emergencies, essential services, and global teams. The complexity has deterred legislative action.

The fourth factor is the absence of a strong labour movement advocating for this right. Unions, which might otherwise push for such protections, have been in decline for decades. Their focus has been on defending existing rights rather than expanding into new areas. The workers most affected by digital overwork—professionals, knowledge workers, and tech employees—are often not unionised and have no collective voice.

The fifth factor is the nature of American political institutions. The federal system divides power between the national government and the states. Even if federal action is impossible, states can act on their own. This has led to a patchwork of state-level initiatives, which I will discuss later. However, it has also meant that pressure for federal action is diffused. Why fight a national battle when you can win in your own state?

The absence of a federal right to disconnect does not mean that American workers have no protection at all. Existing laws may apply indirectly. Overtime rules, if after-hours work counts towards working time, could limit employer demands. Anti-retaliation provisions could protect workers who refuse unreasonable demands. State laws could fill some gaps. However, these protections are indirect, incomplete, and uneven.

Overtime Rules under the Fair Labour Standards Act

The Fair Labour Standards Act of 1938 is the closest the United States comes to having a federal policy

on working time. It establishes a minimum wage, requires overtime pay for hours worked beyond forty in a week, and regulates child labour. However, it does not limit the number of hours employers can demand as long as overtime is paid. The overtime provisions create indirect incentives that affect after-hours work. Under the FLSA, non-exempt employees must be paid one and a half times their regular rate for hours worked beyond forty in a workweek. This creates a financial disincentive for employers to demand excessive hours. If after-hours communication is considered work and pushes employees over forty hours, employers must pay overtime. The cost of constant availability can become prohibitive.

The key question is whether after-hours communication is considered work. The answer is not straightforward. The FLSA defines “work” as activity controlled or required by the employer and pursued necessarily for the employer’s benefit. Reading and responding to work emails after hours could easily meet this definition. However, in practice, many employees do not record this time, and many employers do not count it towards overtime.

The Department of Labour has issued guidance on this issue, but it is not always clear. Brief messages such as checking emails or responding to a quick question may not be considered work if they are sporadic and insubstantial. However, regular, sustained after-hours communication should be counted. The problem is enforcement. Employees who do not record this time, who fear retaliation if they do, or who simply accept it as part of the job rarely assert their rights.

The Fair Labour Standards Act (FLSA) applies only to non-exempt employees. Many of the workers most affected by digital overwork—professionals, managers, and executives—are exempt from overtime requirements. The so-called ‘white-collar exemptions’ exclude employees who perform executive, administrative, or professional duties and are paid on a salary basis above a certain threshold. For these workers, the FLSA provides no protection. They can be required to work any hours at any time without additional pay.

The salary threshold for exemption has been a recurring point of controversy. The Obama administration raised it significantly, but the change was blocked by courts. The Trump administration kept it low. The Biden administration has proposed raising it again. The threshold is important because it determines which workers are covered by overtime protections and which are not. A higher threshold brings more workers under the FLSA, including many professionals who currently have no right to overtime pay.

Even where overtime rules apply, they do not directly address the right to disconnect. They create incentives for employers to limit hours but do not give workers the right to refuse after-hours communication. A worker could be required to be available, and the employer would simply pay for that time. The FLSA is about compensation, not autonomy. It protects workers’ finances, not their time.

Role of State Laws and Corporate Policies

In the absence of federal action, some states have begun to address the right to disconnect on their own. California, as often happens, has been at the forefront. The state’s labour code requires employers to provide meal and rest periods, and courts have interpreted these provisions to require that employees be completely relieved of duty during those times. If an employee is required to be available, that time counts as work and must be compensated.

California law also mandates that employers reimburse employees for necessary business expenses, which could include the costs of using personal devices for work. This creates an additional incentive for employers to limit after-hours communication, as employees using personal phones for work may have to share in the cost of their phone bills. Some companies have responded by providing work devices or by limiting after-hours contact.

New York has taken a different approach. The state's 'right to disconnect' bill, introduced in 2021 but not yet passed, would require employers to develop written policies on after-hours communication. Similar to the French model, it would mandate that companies have rules but would not prescribe what those rules must be. The bill has not progressed but has kept the issue on the agenda.

Other states have considered similar measures, but none have passed comprehensive legislation. The political obstacles at the state level mirror those at the federal level, although they are sometimes easier to overcome in more progressive states. The result is a patchwork of protections that vary widely depending on where workers live.

Corporate policies have filled some of the gaps, particularly in sectors where competition for talent is intense. Technology companies, consulting firms, and professional services firms have sometimes adopted policies limiting after-hours communication not because the law requires it but because they need to attract and retain workers. A company that demands constant availability may find itself losing talent to competitors that offer better work-life balance.

Volkswagen made headlines in 2011 when it agreed to stop sending emails to employees after hours. The company configured its servers to stop routing emails to employees' mobile devices between 6:15 pm and 7:00 a.m. The policy was negotiated with the works council, reflecting the influence of the German parent company. It was an early example of how corporate policy could address the issue.

Other companies have followed suit. Daimler introduced a 'mail on holiday' policy that automatically deletes emails sent to employees on vacation, with the sender notified that the employee is away. Some technology companies have adopted 'no meeting' days or 'focus time' blocks. These policies are voluntary, vary widely, and can be changed at any time. They are not rights that workers can enforce.

The role of collective bargaining in establishing disconnect rights is limited due to low union density. However, where unions exist, they have sometimes negotiated provisions limiting after-hours work. In the entertainment industry, union contracts often specify turnaround times—minimum rest periods between workdays. In transportation, hours of service regulations limit how long workers can be on duty. These provisions are not framed as a right to disconnect but serve a similar function.

The American approach reflects a consistent philosophy. The market should determine working conditions. Workers who value work-life balance can seek employers who offer it. Employers who demand constant availability will need to compensate workers accordingly, either through higher pay or the ability to attract talent. Government intervention is justified only in cases of clear market failure or to set minimum standards.

This approach has strengths and weaknesses. It allows for flexibility and innovation. Companies can experiment with different policies and learn from each other. Workers can choose arrangements that suit their preferences. However, it also leaves many workers unprotected. Those who lack bargaining power, work in sectors where competition for talent is weak, and cannot afford to leave their jobs have no effective recourse.

The American experience offers lessons for India, albeit not the ones one might anticipate. It demonstrates that market forces alone will not resolve the issue of digital overwork. The most affected workers are often those with the least power. It also reveals that voluntary corporate policies are unreliable as they can be adopted but also withdrawn. Furthermore, it shows that state action, even if piecemeal, can be effective.

CHAPTER 5: COMPARATIVE ANALYSIS

Legal Basis and Scope

The legal foundations upon which the right to disconnect rests vary significantly across the three jurisdictions examined in this study, reflecting deeper differences in constitutional traditions, labour law philosophies, and political cultures. In India, the right to disconnect finds its strongest grounding in Article 21 of the Constitution, which guarantees the right to life and personal liberty. As discussed in Chapter 2, the Supreme Court's expansive interpretation of this provision, encompassing the right to health, the right to dignity, and the right to privacy, provides a constitutional foundation that could support a right to disconnect even in the absence of legislation. The Directive Principles of State Policy, particularly Article 39(e), which directs the state to protect workers from forced labour in unsuitable vocations, and Article 43, which mandates humane conditions of work, add further normative weight. This constitutional grounding means that in India, the right to disconnect is not merely a statutory entitlement that can be granted or withdrawn by legislative majorities but potentially a fundamental right that the state has an obligation to protect and promote. The proposed Right to Disconnect Bill 2025 would give statutory form to these constitutional values, extending the right to all employees in formal employment relationships, with its scope defined by reference to working hours and the distinction between routine and urgent communications. The bill's coverage is broad in principle but contains significant ambiguities around key terms such as 'urgent' and 'reasonable expectations' that will need to be clarified through implementation. In the European Union, the legal basis for the right to disconnect is more complex and layered, operating at both supranational and national levels. At the EU level, the Working Time Directive (2003/88/EC) establishes minimum standards for rest periods, maximum working hours, and annual leave across all member states. While the directive does not explicitly mention the right to disconnect, its provisions have obvious implications. For example, if workers are expected to respond to emails during rest periods, those periods are not genuinely restful, and if after-hours communication counts towards working time, it must be recorded and compensated. The Court of Justice of the European Union has reinforced this understanding in cases such as *Matzak* (2018) and *CCOO v. Deutsche Bank* (2019), holding that working time must be recorded and that on-call time may count as work. The European Parliament's 2021 resolution calling for a directive on the right to disconnect expresses political will for EU-level action, though such a directive has not yet been adopted. At the national level, the legal basis varies. France's approach, embodied in Article L2242-17 of the Labour Code, mandates negotiation rather than prescribing substantive rules. The French right is procedural: companies with more than fifty employees must negotiate agreements on after-hours communication, but the content of those agreements is left to the parties. This reflects a distinctly European philosophy of labour relations, where the state provides a framework for social dialogue rather than dictating outcomes. Italy's law is narrower, applying specifically to 'smart working' arrangements and requiring that agreements address rest periods and disconnection rights. Spain's approach is different still, focusing on record-keeping requirements that make after-hours work visible and thus enforceable. The scope of coverage varies across member states. France's law applies to companies with more than fifty employees, Italy's to remote workers, and Spain's to all workers covered by working time rules. This diversity reflects the principle of subsidiarity, which leaves labour law primarily to member states while allowing EU-level action to set minimum standards.

The United States presents a stark contrast. There is no federal right to disconnect, and the constitutional basis for such a right is virtually non-existent. The US Constitution does not guarantee social rights or affirmatively protect workers from employer demands. The Fifth and Fourteenth Amendments protect

against government deprivation of life, liberty, and property without due process but do not create obligations on private employers. The National Labour Relations Act protects the right to organise and bargain collectively, but this has little relevance where unions are weak and collective bargaining coverage is low. The Fair Labour Standards Act provides some indirect protection through overtime rules, but these apply only to non-exempt employees and focus on compensation rather than autonomy. The scope of protection in the US is thus highly fragmented and indirect. Some workers, those covered by union contracts, those in states with stronger labour protections, and those in companies with progressive policies, may have meaningful rights to disconnect, while others have none. This fragmentation is not an accident but a reflection of deeper American commitments to market flexibility, individual bargaining, and limited state intervention.

Comparing the three approaches reveals fundamental differences in how each jurisdiction conceptualises the employment relationship and the role of law. India's constitutional approach treats the right to disconnect as a matter of fundamental rights, placing it alongside other protections for human dignity and well-being. The European approach treats it as a matter of social policy to be determined through social dialogue within a framework of minimum standards. The American approach treats it as a matter of market outcomes, to be determined by individual bargaining and competitive pressures. Each approach has its own logic and limitations.

Enforcement and Exceptions

The mechanisms for enforcing the right to disconnect vary as widely as the legal bases themselves, and these differences have profound implications for its practical effectiveness. In India, the proposed Right to Disconnect Bill 2025 would establish an Employees' Welfare Authority responsible for overseeing implementation, investigating complaints, and imposing penalties for violations. Workers could file complaints with the authority, which would have powers to inspect records, summon witnesses, and order remedies. The bill contemplates fines for non-compliance, with higher penalties for repeat violations. However, as the Vidhi Centre for Legal Policy's analysis notes, the effectiveness of this mechanism would depend critically on the authority's independence, resources, and willingness to act. An underfunded authority or one too close to the government or employer interests could not provide meaningful enforcement. The bill also relies heavily on worker complaints, which may be unrealistic given the power imbalances inherent in employment relationships. Workers who fear retaliation may be reluctant to come forward, even where retaliation is legally prohibited. Alternative enforcement mechanisms, such as random audits, proactive investigations, or union involvement, may be needed to supplement the complaint-based system. Exceptions in the Indian bill are broadly drawn: communications that are genuinely urgent, respond to emergencies, or are necessary for essential services would be exempt. The definition of 'urgent' is left open to be worked out through implementation. This flexibility is necessary but creates risks that the exception could override the rule, as employers may define urgency expansively. In the European Union, enforcement mechanisms vary by member state, reflecting the principle of procedural autonomy. In France, the focus is on negotiation rather than enforcement per se. Companies are required to negotiate, and if they fail to reach an agreement, they may be required to have a policy in place, but the content is not prescribed. Enforcement of negotiated agreements occurs through ordinary contract mechanisms and, where unions are involved, through collective bargaining procedures. Labour inspectors can investigate compliance with the obligation to negotiate, but they do not police the substance of agreements. In practice, this has led to mixed results; some companies have developed meaningful policies, while others have gone through the motions without real change. In Italy, enforcement is tied to

the specific agreements governing smart working arrangements. Workers who believe their rights have been violated can bring claims under those agreements with remedies, including compensation for harm suffered. Labour inspectors can also investigate compliance. In Spain, the record-keeping requirement creates a powerful enforcement tool. If workers are working after hours, that time must be recorded, and if it pushes them over working time limits, employers may face penalties. The records themselves provide evidence that can be used in enforcement proceedings. Labour inspectors can review the records, and unions can access them. This approach shifts the burden from workers to employers, requiring companies to document compliance rather than workers to prove violations. Exceptions across European countries are generally similar – emergencies, essential services, and genuine need are recognised as legitimate grounds for after-hours contact. However, the definition of these terms is often left to negotiation or to sector-specific rules, allowing for flexibility while also creating potential for abuse.

In the United States, the enforcement of existing rights is highly fragmented. For workers covered by union contracts, enforcement occurs through grievance and arbitration procedures. Unionised workers can file grievances alleging violations of contract provisions limiting after-hours work, and arbitrators can order remedies including back pay and injunctive relief. For non-union workers, enforcement is more difficult. Workers who believe they have been denied overtime pay can file complaints with the Department of Labour's Wage and Hour Division or bring private lawsuits under the Fair Labour Standards Act (FLSA). These claims can result in recovery of unpaid wages, liquidated damages, and attorneys' fees. However, the remedies address compensation, not the underlying demand for after-hours work. A worker could be paid overtime but still be required to be constantly available. For workers seeking to limit after-hours demands rather than simply to be paid for them, remedies are scarce. They could refuse to respond and risk termination, but in at-will employment, that risk is substantial. They could seek to negotiate individual arrangements, but their bargaining power is limited. Exceptions under US law are implicit rather than explicit. The FLSA's overtime provisions apply only to hours 'worked', so if after-hours communication is not considered work, it is not covered. Brief, sporadic communications may fall outside the definition of work, creating a de facto exception. However, this exception is not clearly defined and is often litigated.

Comparing enforcement across the three jurisdictions reveals a spectrum from strong to weak. Spain's record-keeping requirement provides the strongest enforcement tool, making after-hours work visible and creating clear evidence for enforcement. France's negotiation-based approach provides the weakest, leaving enforcement to the parties and relying on social dialogue that may be unequal. India's proposed model falls somewhere in between, creating an enforcement authority but depending on worker complaints. The American model, such as it is, provides compensation-based remedies that address one dimension of the problem but not the core issue of autonomy and rest.

Key Similarities and Differences

Despite the significant differences, the three jurisdictions share important similarities in their approach to the right to disconnect. All three recognise that technology has fundamentally changed the nature of work and blurred the boundaries between work and life. They acknowledge that constant connectivity imposes costs on workers such as stress and burnout that are not adequately captured by traditional working time regulations. All three have seen political movements advocating for protection through legislation, collective bargaining, or corporate policy. They also struggle with common challenges, including defining working hours in a world where work is no longer tied to a physical workplace, distinguishing between genuine emergencies and routine demands, addressing the complexities of global teams and different time

zones, monitoring compliance without creating excessive burdens or invading privacy, and ensuring that exceptions do not undermine the rule.

The differences are more striking than the similarities. The most fundamental distinction lies in the legal basis for the right. India grounds it in constitutional guarantees of life, liberty, and dignity, treating it as a fundamental right that the state has an obligation to protect. The European Union grounds it in social policy and labour law, treating it as a matter to be resolved through social dialogue within a framework of minimum standards. The United States grounds it, to the extent it exists, in market outcomes and individual bargaining, treating it as a matter of contract rather than a right. These different foundations lead to different scope, enforcement mechanisms, and political dynamics.

A second major difference lies in the role of the state. In the European model, the state provides a framework mandating negotiation, setting minimum standards, and providing enforcement mechanisms but leaving the details to be worked out by employers and workers. This reflects a philosophy of subsidiarity and social dialogue, where the state's role is to enable private ordering rather than dictate outcomes. In the Indian model, as proposed in the 2025 bill, the state plays a more active role, creating an enforcement authority and imposing penalties for violations. This reflects a philosophy of direct state intervention to protect vulnerable workers. In the American model, the state plays the smallest role, setting minimum standards for compensation but leaving most issues to the market.

A further distinction lies in the scope of coverage. The Indian bill would apply broadly to all employees in formal employment but would not cover gig workers or informal sector workers. European laws vary in scope: France's law applies to companies with more than fifty employees, Italy's to remote workers, and Spain's to all workers covered by working time rules. The American model provides the most fragmented coverage, with some workers protected by union contracts, others by state laws, some by corporate policies, and many by none at all.

A fourth difference lies in the enforcement mechanisms. Spain's record-keeping requirement creates a powerful enforcement tool that shifts the burden to employers. France's negotiation-based approach leaves enforcement to the parties and relies on social dialogue. India's proposed model creates a dedicated enforcement authority. The American model relies primarily on private litigation and agency complaints with remedies focused on compensation rather than autonomy.

A fifth difference lies in the role of unions and collective bargaining. In Europe, unions are central to the right to disconnect both through their role in negotiating agreements and their participation in social dialogue. In India, unions have been involved in advocating for the right but are not central to the proposed enforcement mechanism. In the United States, unions are marginal to the entire conversation given their low density and limited reach.

The differences reflect deeper political, economic, and social philosophical distinctions. Europe's approach is rooted in a social democratic tradition that views labour as more than a commodity and values collective solutions to shared challenges. India's approach is based on a constitutional tradition that considers fundamental rights as protections against market outcomes and sees the state as having an affirmative role in safeguarding vulnerable groups. America's approach is a liberal tradition that prioritises individual choice, market outcomes, and limited state intervention. Each approach has its own logic and limitations.

Lessons for India

What can India learn from the European and American experiences as it considers its own right to disconnect framework? The comparative analysis suggests several lessons, though not all are straightfor-

ward or easily transferable.

First, the European experience demonstrates that legislation alone is insufficient. France has had a right to disconnect law since 2016, but its effectiveness has been mixed. In companies with strong unions and a genuine commitment to social dialogue, the law has led to meaningful policy and practice changes. In companies where unions are weak or where employers are resistant, the law has produced little more than formal compliance. The lesson for India is that a right to disconnect law must be accompanied by mechanisms that ensure real implementation, not just formal compliance. This means investing in enforcement capacity, supporting worker organisation, and creating incentives for employers to take the right seriously.

Second, the Spanish experience demonstrates the importance of making after-hours work visible. The record-keeping requirement has created a powerful enforcement tool, shifting the burden from workers to employers and providing clear evidence for proceedings. India could consider similar requirements adapted to local conditions. If employers must record working time and after-hours communication is considered working time, the right to disconnect becomes enforceable in ways it might not otherwise be. Third, the French experience illustrates the value of social dialogue but also its limitations. Negotiation can produce tailored solutions that fit specific contexts, but only when there is a genuine balance of power between employers and workers. In contexts where unions are weak or where workers lack effective representation, negotiation may be one-sided. India's labour movement is fragmented, and union density is low outside certain sectors. A framework that relies too heavily on negotiation may leave many workers unprotected. A combination of minimum standards and negotiation, as in the European model, may be more appropriate.

Fourth, the American experience offers cautionary lessons about relying solely on market forces. The United States demonstrates that without legal protection, the right to disconnect is highly uneven. Some workers, particularly those in high-demand fields, may have leverage to negotiate favourable terms. Others, particularly those in less competitive sectors, have no such leverage. The market does not protect the most vulnerable workers; it protects those with bargaining power. India's labour market is even more unequal than America's, with a large number of workers in informal employment and limited bargaining power. Reliance on market outcomes would leave most workers unprotected.

Fifth, the American experience also demonstrates the limitations of compensation-based approaches. The Fair Labour Standards Act's overtime provisions create incentives for employers to limit hours but do not grant workers the right to refuse after-hours work. A worker can be required to be constantly available, provided they are compensated for that time. This approach fails to address the core of the right to disconnect, which is about autonomy and rest, not just compensation. India's framework should focus on the right to refuse after-hours communication rather than the right to be paid for it.

Sixth, all three jurisdictions face common challenges that India will also encounter. Defining working hours in a world where work is no longer tied to a physical location is difficult. Distinguishing between genuine emergencies and routine demands is challenging. Addressing the complexities of global teams and different time zones is difficult. Monitoring compliance without creating excessive burdens or invading privacy is difficult. India can learn from other countries' experiences with these challenges but will need to develop its own solutions tailored to its specific context.

Seventh, the comparative analysis highlights the importance of constitutional grounding. India's constitutional framework, particularly Article 21 and the Directive Principles, provides a stronger foundation for the right to disconnect than that in either Europe or the United States. This constitutional

grounding can serve multiple purposes: it can support judicial enforcement even in the absence of legislation; it can guide legislative design; and it can provide normative legitimacy for the right. India should leverage this constitutional foundation in developing its framework.

Eighth, the comparative analysis suggests a hybrid approach may be most appropriate for India. A combination of constitutional grounding, legislative framework, enforcement mechanisms, and social dialogue could draw on the strengths of each model while avoiding their weaknesses. The constitutional foundation provides legitimacy and durability, legislation provides clarity and specificity, enforcement mechanisms provide enforceability, and social dialogue provides flexibility and adaptability. A hybrid approach recognises that no single tool is sufficient and that multiple tools working together may be more effective than any one alone.

Finally, the comparative analysis underscores that the right to disconnect is not solely a legal matter but also a cultural one. Even the most comprehensive legal framework will not transform deeply ingrained workplace cultures overnight. Changing expectations about availability, redefining the concept of a dedicated worker, and shifting norms around after-hours communication are cultural changes that require time and effort from all stakeholders. Law can support these changes but cannot achieve them alone. Employers, workers' unions, and civil society all have roles to play.

CHAPTER 6: IMPLEMENTATION CHALLENGES

Defining Working Hours in the Digital Age

The most fundamental challenge in implementing the right to disconnect is defining what constitutes 'working hours' in an era where work has become untethered from the physical workplace and the nine-to-five schedule. For most of the twentieth century, this was straightforward. Working hours were the hours spent at the factory, office, or shop floor. There was a clear boundary: one clocked in and one clocked out, and between those moments, one was working. Outside the workplace, one was not. The law was built around this understanding, from the Factories Act of 1948 in India to the Fair Labour Standards Act in the United States to the Working Time Directive in Europe. All assumed a world where work had a location and a schedule.

This world no longer exists for millions of workers. Smartphones, laptops, and cloud computing mean that work can occur anywhere and at any time. An email can be sent from a bedroom at midnight. A message can arrive on a beach during a holiday. A document can be reviewed on a train during the commute. The boundaries that once separated work from life have dissolved, and with it, the clear definition of working hours. This creates profound challenges for any law that seeks to protect workers from after-hours demands.

The Indian Right to Disconnect Bill, 2025, attempts to address this challenge by focusing on communication rather than hours. It gives workers the right to ignore work-related calls, messages, and emails outside of working hours. However, this approach simply shifts the definitional problem. What counts as 'outside working hours' for a worker whose schedule is flexible, who chooses when to work, and whose work ebbs and flows with project demands? If a worker regularly checks email at 10 pm, does that become part of their working hours? If they prefer to work late and sleep in, should the right to disconnect protect their morning hours instead?

Different jurisdictions have approached the definition of working hours in various ways, with no universally accepted solution. The French approach leaves this definition largely to negotiation between companies and unions, allowing rules to be tailored to specific industries, roles, and arrangements. This

offers flexibility but also creates inconsistency and can leave workers unprotected where negotiations are weak or where employers dominate the process.

The Spanish approach focuses on record-keeping rather than definition. Employers must record all working hours, and any overtime must be documented. This shifts the question from definition to evidence. For example, responding to emails at night is recorded and counts towards working hours. The definition is implicit in the recording—any work performed must be documented. This approach is evidence-based but still requires judgement on what constitutes work. Is checking a single email work? What about reading a message without responding? What about being on call without performing any work?

The American approach, as it stands, relies on the Fair Labour Standards Act's definition of "work" as activity controlled or required by the employer and pursued necessarily for the employer's benefit. This definition has been litigated for decades, producing a body of case law that offers some guidance. Brief, sporadic communications may not be considered work if they are insubstantial; regular, sustained after-hours activity probably is. However, the line is blurred, and enforcement is weak.

For India, the challenge is compounded by the diversity of work arrangements. Formal sector workers in information technology may have flexible schedules and global clients, while factory workers may have fixed shifts and local operations. Gig workers may have no fixed hours at all. A one-size-fits-all definition cannot capture this diversity. A combination of minimum standards, sectoral flexibility, and individual adaptation may be necessary. The bill's approach of focusing on communication rather than hours is a start but will need to be supplemented with clearer guidance on what constitutes working time and what does not.

Managing Remote Work and Global Teams

The rise of remote work and global teams adds another layer of complexity to implementing the right to disconnect. When workers are distributed across time zones, when teams span continents, and when clients expect responses at all hours, the simple notion of 'working hours' becomes almost meaningless. An email from New York arrives at 9 pm India time but is still during the US working day. A message from London arrives at 10:30 pm India time after the close of the UK working day. Who decides what constitutes after-hours? Whose hours matter—the sender's or the receiver's?

These questions are not merely theoretical. For Indian professionals working in information technology, consulting, and other globalised sectors, after-hours communication is routine. They collaborate with colleagues in the United States, Europe, and Asia and respond to clients who expect immediate answers regardless of time zones. The expectation of constant availability is built into the business model. A right to disconnect that does not account for this reality would be either irrelevant if ignored or destructive if it prevents Indian workers from participating in global teams.

The European experience provides some guidance, though the context is different. In France, where the right to disconnect applies to companies with more than fifty employees, global teams are common. The approach has been to focus on negotiation rather than prescription. Companies and unions work out rules that balance the needs of global collaboration with the rights of workers. Some companies have adopted policies that delay message delivery; for example, emails sent after hours are held until the next working day. Others have designated 'quiet hours' when no communication is expected. Still others have created team norms that respect different time zones.

The Spanish record-keeping approach also offers insights. If after-hours communication is recorded as working time, the costs of that communication become visible. Employers who must pay overtime for

after-hours work have an incentive to minimise it. This can create pressure to manage global teams more thoughtfully, to schedule communications during overlapping hours, and to use asynchronous tools that do not require immediate response.

The American approach, predictably, leaves these issues to the market. Workers who value work-life balance may choose employers who respect boundaries. Employers who demand constant availability may need to pay more to attract talent. However, this approach assumes that workers have choices, that they can move between employers freely, and that the market functions efficiently. In practice, many workers have limited options, and the market does not protect the most vulnerable.

For India, the challenge of global teams is particularly acute given the country's role in the global economy. Indian professionals are valued precisely because they can work across time zones and provide services when clients in other countries are working. A right to disconnect that ignores this reality could harm the very workers it is intended to protect, making them less competitive in global markets. The solution is not to abandon the right but to design it flexibly, recognising that different rules may apply to workers engaged in global collaboration. Perhaps the focus should be on total working time rather than when that time occurs. Perhaps workers who choose to work at night to accommodate global clients should have compensatory rest during the day. Perhaps the right to disconnect should protect periods of genuine rest rather than dictating specific hours.

Compliance Challenges for Employers

For employers, implementing the right to disconnect raises a host of practical challenges. How do you monitor compliance without creating a surveillance culture? How do you train managers to respect boundaries? How do you handle emergencies that require immediate response? How do you adapt policies to different roles, teams, and individual preferences? These questions have no easy answers, and getting them wrong can create new problems even as the law solves old ones.

The first challenge is monitoring. If workers have the right to ignore after-hours communication, how do employers ensure that this right is respected? The obvious answer is to monitor whether managers are sending after-hours messages and whether workers are responding. However, monitoring itself can be intrusive, creating a sense of being watched that undermines the very autonomy the right is intended to protect. Workers who know their communications are being tracked may feel even more pressure to respond, lest they be seen as unresponsive. The solution could be worse than the disease.

The French approach avoids this problem by prioritising negotiation over enforcement. Companies are required to have policies, but compliance is monitored through social dialogue rather than surveillance. Unions and worker representatives can raise concerns, and disputes are resolved through negotiation. This approach respects worker autonomy but relies on strong unions and effective representation, which may not be present in all contexts.

The Spanish approach uses record-keeping as a monitoring tool. Employers must record working hours, and if after-hours communication is considered work, it must be recorded. This shifts the focus from monitoring individual communications to tracking overall working time. It is less intrusive than monitoring every message but still requires that workers record their time, which can be burdensome.

The second challenge is training. Managers who have grown up in a culture of constant availability may not easily adjust to new expectations. They may continue to send after-hours messages without thinking or pressure workers to respond even when they have the right to ignore them. Changing ingrained habits requires training, reinforcement, and accountability. Employers must invest in educating managers about the new rules and enforce them consistently.

The third challenge is emergencies. Every right to disconnect law recognises exceptions for genuine emergencies, but defining what constitutes an emergency is difficult. A system outage affecting thousands of customers is clearly an emergency. A client's urgent request that could mean millions in revenue is less clear. A manager's question about a presentation due the next morning is probably not an emergency but may feel urgent to the manager. The law must provide guidance but cannot anticipate every situation. Employers must develop their own definitions, consistent with the law, and train managers to apply them. The fourth challenge is differentiation. Not all workers are the same. A senior executive may have different responsibilities than a junior associate. A worker in a global team may have different needs than one in a local operation. A parent with young children may have different preferences than a recent graduate. A rigid, one-size-fits-all policy may not be effective. Employers need flexibility to adapt rules to different roles, teams, and individual circumstances. However, excessive flexibility can undermine the right by creating exceptions that override the rule.

The fifth challenge is technology. Many of the tools that enable after-hours communication also provide the means to manage it. Email systems can be configured to delay delivery. Messaging apps can have 'do not disturb' settings. Scheduling tools can show availability. Employers can use these tools to support the right to disconnect, but they must be chosen by the employee. They can also use technology to monitor compliance, which risks creating a surveillance culture. The choices employers make about technology will shape how the right to disconnect operates in practice.

The sixth challenge is cost. Implementing the right to disconnect incurs costs such as training, monitoring, technology, and potential overtime pay. For large companies with substantial resources, these costs may be manageable. For small businesses, they could be significant. The Indian bill exempts small businesses from some provisions, recognising this concern. However, exemptions also create loopholes and can lead to avoidance strategies as larger companies restructure to fall below the threshold.

The seventh challenge is culture. Ultimately, the success of the right to disconnect depends on changing workplace culture. Laws can set rules, but they cannot change hearts and minds. Workers must feel empowered to disconnect, not just legally entitled. Managers must respect boundaries, not just comply with policies.

Article 21 and Labour Welfare Principles

The constitutional foundation of the right to disconnect in India is most firmly established on Article 21 of the Constitution, which guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. Over the decades, the Supreme Court has transformed this seemingly modest provision into one of the most powerful instruments of constitutional protection in the world. Through a series of landmark judgements, it has read into Article 21 a wide range of rights not explicitly mentioned in the constitutional text, including the right to health, the right to a clean environment, the right to food, the right to shelter, the right to education, the right to privacy, and the right to live with dignity. Each of these interpretations provides a potential foundation for recognising the right to disconnect as a constitutional entitlement.

The right to health is perhaps the most direct foundation. The Supreme Court has consistently held that the right to life under Article 21 includes the right to health and the right to access healthcare. In *State of Punjab v. Mohinder Singh Chawla* (1997), the Court held that the right to health is integral to the right to life and that the state has a constitutional obligation to provide adequate health services. More recently, in *Consumer Education and Research Centre v. Union of India* (1995), the Court recognised that the right to life includes the right to live with human dignity and all that entails, including the right to health. If chronic

stress, burnout, and the health consequences of overwork are well-documented, as the International Labour Organisation's 2019 report on working time and health confirms, a legal framework that permits employers to demand constant availability may violate the right to health. The state has an obligation to protect workers from foreseeable health harms, and that obligation may include regulating working conditions to prevent digital overwork.

The right to live with dignity, another dimension of Article 21, provides an equally important foundation. Dignity, as the Supreme Court has articulated it, requires that individuals be treated as ends in themselves, not merely as means to productive ends. It requires that they have the space and opportunity to live full human lives, to pursue relationships, engage in leisure, rest, think, and be. The always-on culture, which treats workers as constantly available resources, diminishes dignity. It reduces workers to their productive function, denying them the space to be anything other than workers and erodes the boundaries that make human flourishing possible. If dignity requires that workers have time and space apart from work, the right to disconnect is not merely a statutory entitlement but a constitutional imperative.

The right to privacy, recognised as a fundamental right in the landmark *Puttaswamy* judgement of 2017, adds another dimension. Privacy includes the right to control access to oneself, to have spaces free from intrusion, and to determine when and how one is available to others. When employers can contact workers at any time and in any place, they invade that privacy. The intrusion is not limited to the actual occurrence of communication but extends to the constant potential for intrusion, such as the constant buzz of a smartphone or the expectation of always being available. This creates a pervasive sense of being watched, always accessible, and never truly alone. The *Puttaswamy* Court held that any invasion of privacy must satisfy the tests of legality, necessity, and proportionality. Applying this framework, the state must justify any legal regime that permits such pervasive intrusion and ensure it is no more intrusive than necessary to achieve legitimate aims.

The Directive Principles of State Policy, while not directly enforceable, provide additional normative support. Article 39(e) directs the state to secure that workers are not forced by economic necessity to enter vocations unsuited to their age or strength. This provision recognises that workers may accept harmful conditions because they have no choice, because the alternative is unemployment, or because the market offers no better options. The right to disconnect would protect workers from such coercion by providing them with a legal shield against demands that they be always available. Article 43 directs the state to secure living wages and humane conditions of work. 'Humane conditions' must include the right to rest, time away from work, and boundaries between work and life. A legal framework that permits employers to demand constant availability, expects workers to be always responsive, and leaves no space for genuine rest cannot be said to ensure humane conditions.

Taken together, the constitutional provisions provide a powerful foundation for the right to disconnect. They suggest that the right is not merely a matter of legislative policy to be granted or withdrawn by parliamentary majorities but a constitutional entitlement that the state has an obligation to protect. This constitutional grounding has important implications. It means that even if the Right to Disconnect Bill, 2025, does not pass, workers could challenge excessive after-hours demands through the courts, arguing that such demands violate the International Covenant on Economic, Social and Cultural Rights (ICESCR) fundamental rights. It also means that any legislation must meet constitutional standards—it must be clear, necessary, and proportionate. Furthermore, the right has a normative weight that statutory rights alone do not possess.

International and European Human Rights Standards

Beyond India's constitutional framework, international human rights law provides additional support for the right to disconnect. India is a party to the ICESCR, which recognises the right to just and favourable conditions of work, including reasonable limitation of working hours and periodic holidays with pay. Article 7 of the Covenant guarantees everyone the right to enjoy just and favourable conditions of work, ensuring "rest, leisure, and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays". This provision, while not directly enforceable in Indian courts, provides interpretive guidance for understanding the scope of constitutional rights.

The Universal Declaration of Human Rights, adopted in 1948, also recognises the right to rest and leisure. Article 24 states that "everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay." While the Universal Declaration is not a treaty, it is widely regarded as reflecting customary international law and has influenced the interpretation of constitutional rights globally. The right to rest and leisure is not merely about the quantity of time off but its quality, time that is genuinely free from work demands, can be used for rest, recreation, and human flourishing.

The International Labour Organisation (ILO) has been particularly active in developing standards on working time. The Hours of Work (Industry) Convention, 1919 (No. 1), established the eight-hour day and forty-eight-hour week. The Forty-Hour Week Convention, 1935 (No. 47), called for the progressive reduction of working hours. The Reduction of Hours of Work Recommendation, 1962 (No. 116), urged member states to adopt the principle of the progressive reduction of normal hours of work. More recently, the ILO's 2019 report on working time and work-life balance provided comprehensive evidence of the health effects of long working hours and called for renewed attention to working time regulation. While India has not ratified many of the conventions, they provide benchmarks for assessing national practice and guidance for legislative design.

In Europe, the right to disconnect has been framed within the broader context of social rights protected by the European Social Charter and the Charter of Fundamental Rights of the European Union. The European Social Charter guarantees the right to just working conditions, including reasonable working hours and rest periods. The Charter of Fundamental Rights, which has the same legal value as the EU treaties, protects the right to fair and just working conditions and the right to rest and leisure. The Court of Justice of the European Union has interpreted these provisions to require that rest periods be genuine and that working time be recorded.

The European Parliament's 2021 resolution on the right to disconnect explicitly frames the right within this human rights framework. It notes that digital technology has blurred the boundaries between work and private life, that workers need protection from the always-on culture, and that the right to disconnect is essential to protect workers' health, safety, and well-being. The resolution calls on member states to guarantee the right to disconnect and on the European Commission to propose a directive establishing minimum standards. This EU-level action demonstrates that the right to disconnect is increasingly recognised as a human right, not merely a matter of labour policy.

For India, these international standards provide both inspiration and guidance. They show that the right to disconnect is not an isolated innovation but part of a broader global conversation about the future of work. They provide models for how the right can be framed and implemented and offer benchmarks against which India's efforts can be assessed. While India's constitutional framework is unique, it is also part of a global human rights system that increasingly recognises the importance of protecting workers from the excesses of digital work.

The constitutional grounding of the right to disconnect is not merely a matter of legal doctrine. It has profound practical implications for how the right is understood, enforced, and protected. Understanding these implications is essential for appreciating the constitutional dimension and for designing an effective legal framework.

First, constitutional protection provides durability. Statutory rights can be granted by one legislature and subsequently revoked by another. They are subject to political shifts, changes in government, and lobbying by powerful interests. Constitutional rights, in contrast, are much more difficult to change. They require constitutional amendments, which are challenging to pass and require broad consensus. Once the right to disconnect is recognised as a constitutional entitlement, it cannot be easily reversed. This durability is particularly important given the power imbalances in employment relationships and the strong interests that may oppose regulation.

Second, constitutional protection provides a framework for adjudication. When a right is constitutional, courts have the authority to interpret its scope, apply it to specific cases, and strike down laws that violate it. This judicial role is essential for giving meaning to abstract rights and ensuring their enforcement. The Supreme Court's jurisprudence on Article 21 provides a rich body of doctrine that can be drawn upon in right to disconnect cases. The tests of legality, necessity, and proportionality, developed in the privacy context, can be applied to evaluate employer demands for after-hours availability. The Court's approach to balancing competing interests, requiring procedural safeguards, and ensuring effective remedies can guide the development of the right.

Thirdly, constitutional protection provides normative weight. When a right is recognised as constitutional, it carries a moral and political force that statutory rights do not. It signals that the right is fundamental and essential to the concept of a free and dignified human being. This normative weight can influence public opinion, shape employer behaviour, and empower workers to assert their rights. It can create a culture in which the right to disconnect is taken seriously, not just as a legal technicality but as a matter of basic justice.

Fourthly, constitutional protection provides a basis for positive state action. If the right to disconnect is a fundamental right, the state has an affirmative obligation to protect it. This means that the state cannot simply refrain from interfering with the right; it must take positive steps to ensure that the right is realised. It must regulate employers who would violate the right, provide remedies for violations, and create conditions in which the right can be exercised. This positive obligation extends beyond what is required for statutory rights and imposes a continuing duty on the state to ensure effective protection.

Fifthly, constitutional protection provides a framework for balancing competing interests. The right to disconnect is not absolute and must be balanced against legitimate employer interests such as the need to respond to emergencies, the demands of global business, and the requirements of essential services. The constitutional framework provides tools for this balancing. The proportionality test developed in cases such as *Puttaswamy* requires that any limitation on rights be necessary and proportionate, that it be the least restrictive means of achieving a legitimate aim, and that it be accompanied by adequate safeguards. This framework can guide the development of exceptions and the resolution of conflicts.

Sixthly, constitutional protection provides a basis for international engagement. India's constitutional commitments, including its obligations under international human rights law, provide a framework for engaging with global developments. As other countries adopt right to disconnect laws and international standards evolve, India can draw on its constitutional framework to participate in these conversations. The

constitutional grounding of the right demonstrates that India takes worker welfare seriously and is committed to protecting fundamental rights in the digital age.

Finally, constitutional protection provides hope. For workers like my cousin in Bangalore whose phone still buzzes at night, the idea that the right to disconnect is a fundamental right, rooted in the Constitution, can be empowering. It tells them that their struggle for rest, boundaries, and life apart from work is not merely a matter of policy but a matter of right. It tells them that the Constitution is on their side, that the courts may protect them, and that the state has an obligation to act. This hope, however distant, matters.

CHAPTER 8: SOCIAL DIALOGUE AND COLLECTIVE BARGAINING

Role of Trade Unions and Employer Associations

The right to disconnect, like many labour rights, cannot be understood solely through the lens of legislation and judicial decisions. Beneath the formal legal framework lies a complex web of relationships between workers, employers, and international representative organisations. These relationships shape how rights are negotiated, implemented, and enforced. The concept of social dialogue—the process of negotiation, consultation, and exchange of information between trade unions, employer associations, and governments—is central to understanding how labour rights actually operate in practice.

Trade unions have historically been the primary vehicle through which workers have a collective voice. By organising together, they can overcome the power imbalance inherent in individual employment relationships. This enables them to negotiate with employers on more equal terms, pool resources to pursue legal claims, and advocate for policy changes. In the context of the right to disconnect, unions can play several crucial roles. They can raise awareness about digital overwork and mobilise workers to demand change. They can negotiate collective agreements that establish rules about after-hours communication, monitor compliance, and enforce violations, and participate in policy discussions at the industry and national levels.

Employer associations, on the other hand, represent the collective interests of businesses. They can coordinate employer responses to labour demands, share best practices, negotiate industry-wide agreements, and advocate for employer-friendly policies. In well-functioning industrial relations systems, employer associations and trade unions engage in regular dialogue to work out terms and conditions that balance the interests of both sides. This dialogue can be more efficient and tailored than one-size-fits-all legislation and can build relationships of trust that facilitate ongoing cooperation.

The effectiveness of social dialogue is contingent upon several factors. First, unions must possess sufficient strength to effectively represent workers. This necessitates a substantial membership base, adequate resources, and legal protections for organising and negotiating. Where unions are weak, dialogue becomes one-sided with employers able to dictate terms. Second, employer associations must be representative and committed to good-faith bargaining. Third, a legal framework must support collective bargaining and protect the right to organise. Fourth, a culture of dialogue must exist where both parties recognise negotiation as preferable to conflict and that agreements reached through dialogue are legitimate.

In many countries, including India, the necessary conditions are not fully met. Union density has declined in most parts of the world, and the power of organised labour has weakened. Employer associations are often fragmented and may not represent the full diversity of business interests. Legal protections for organising and bargaining are often weak or poorly enforced. And the culture of dialogue, where it exists,

is under pressure from competitive forces and ideological shifts. Understanding these challenges is essential for assessing the potential of social dialogue to advance the right to disconnect.

Collective Bargaining in Europe and the United States

The experience of collective bargaining in Europe and the United States offers valuable lessons about the potential and limitations of social dialogue in advancing the right to disconnect. These two regions represent different models of industrial relations, varying levels of union density, and different relationships between law and collective bargaining. Comparing these models illuminates the conditions under which social dialogue can be effective and the challenges it faces.

In Europe, collective bargaining remains a central element of labour relations in many countries. Union density varies significantly from over 70% in Sweden to under 10% in France. However, collective bargaining coverage is often greater than union membership as agreements are extended to non-union workers. In countries such as Germany, works councils provide an additional layer of worker representation at the enterprise level, complementing industry-wide bargaining. This extensive network of worker representation creates multiple channels for advancing the right to disconnect.

The French experience with the right to disconnect illustrates both its potential and limitations in the European context. As discussed in Chapter 3, French law mandates negotiation rather than prescribing substantive rules. Companies with more than fifty employees must negotiate agreements on after-hours communication with unions or worker representatives. This approach places collective bargaining at the centre of implementation. In companies with strong unions, this has resulted in meaningful agreements that limit after-hours contact, establish quiet hours, and provide training for managers. In companies where unions are weak or where employers resist, the results have been more mixed.

The German experience is also instructive, although Germany has not enacted a specific right to disconnect law. Instead, the issue has been addressed through works councils and collective bargaining. Works councils, which are elected bodies representing workers at the enterprise level, have negotiated agreements on topics such as email availability, after-hours contact, and homeworking. These agreements are tailored to specific workplaces and reflect the particular needs of workers and employers. The strength of works councils, which have legal rights to information and consultation, has enabled them to address digital overwork even in the absence of specific legislation.

The Nordic countries offer a contrasting model. In Sweden, Denmark, and Norway, strong unions and high collective bargaining coverage have enabled them to negotiate provisions on working time and work-life balance that address the challenges of digital work. These provisions are often integrated into broader framework agreements that cover multiple topics, reflecting the comprehensive nature of Nordic collective bargaining. The high level of trust between unions and employers, built over decades of cooperation, facilitates these negotiations.

In contrast, the United States presents a very different picture. Union density has fallen to approximately 10% overall and only about 6% in the private sector. Collective bargaining coverage is limited largely to union members, with no mechanism for extending agreements to non-union workers. The legal framework for collective bargaining established by the National Labour Relations Act has been weakened by decades of hostile interpretation and enforcement. In this context, collective bargaining plays a limited role in addressing new issues such as the right to disconnect.

Where unions exist in the United States, they have sometimes negotiated provisions that address after-hours work. In the entertainment industry, union contracts often specify turnaround times—minimum rest periods between work days. In transportation, hours of service regulations, often reinforced by collective

agreements, limit how long workers can be on duty. In some technology companies, unions have negotiated provisions on email availability and after-hours contact. However, these are exceptions, and they only reach a small fraction of the workforce.

The American experience highlights the limitations of collective bargaining in a context of weak unions and declining labour power. Even where unions exist, they often lack the resources and bargaining power to address new issues effectively. Employers may resist negotiating on topics such as the right to disconnect, viewing it as intrusive and unnecessary. Furthermore, the decentralised nature of American collective bargaining, with agreements negotiated at the enterprise level rather than industry-wide, means that protections vary widely, and many workers are left out.

In contrast, the European experience demonstrates that collective bargaining can be effective when unions are strong, there is a supportive legal framework, and a culture of dialogue. The French law's reliance on negotiation reflects a confidence that unions and employers can work out appropriate rules given the right incentives and support. The German works council system demonstrates that worker representation at the enterprise level can address workplace-specific issues. The Nordic model shows that comprehensive collective bargaining can integrate the right to disconnect into broader frameworks for worker protection.

Relevance for India

What can India learn from these comparative experiences? The relevance of social dialogue and collective bargaining for the Indian right to disconnect debate depends on several factors, including the structure of Indian industrial relations, the strength of unions and employer associations, and the legal framework for collective bargaining. Understanding these factors is essential for assessing the potential of social dialogue to advance the right to disconnect in India.

Union density in India is historically low and varies significantly across sectors. Official statistics indicate that union membership represents a small fraction of the workforce, with higher density in the public sector and traditional industries such as manufacturing and transportation. In contrast, union presence is minimal in the information technology, consulting, and financial services sectors, where digital overwork is most pronounced. Many workers in these sectors are not unionised and have no collective voice, presenting a significant challenge for any approach reliant on collective bargaining.

Employer associations exist in India, but their reach and influence are variable. Organisations such as the Confederation of Indian Industry (CII), the Federation of Indian Chambers of Commerce and Industry (FICCI), and the Associated Chambers of Commerce and Industry of India (ASSOCHAM) represent business interests at the national level and engage in policy advocacy. However, their role in industry-wide bargaining is limited. Most collective bargaining in India occurs at the enterprise level, and employer associations are not typically involved in negotiating industry-wide agreements on topics such as working time.

The legal framework for collective bargaining in India is weak. While the Constitution guarantees the right to form associations and unions, and various labour laws provide for collective bargaining, enforcement is limited. Unions face significant barriers to organising, and employers often resist unionisation efforts. The new Labour Codes, including the Industrial Relations Code, 2020, make some changes to the framework for collective bargaining, but their impact remains to be seen. Many observers are concerned that the codes weaken worker protections rather than strengthening them.

Despite the challenges, social dialogue could still play a role in advancing the right to disconnect in India. Several possibilities exist. First, in sectors where unions are present, they could negotiate provisions on after-hours communication in collective agreements. This would require educating union members and

leaders about the issue and incorporating it into bargaining agendas. The experience of French unions, which have successfully negotiated disconnect agreements in many companies, could provide guidance. Second, even where unions are absent, other forms of worker representation could be developed. The concept of works councils, adapted from the German model, could provide a channel for worker voice at the enterprise level. While India does not have a legal framework for works councils, some companies have experimented with similar mechanisms, and the experience of German subsidiaries in India shows that such mechanisms can be adapted to the Indian context.

Third, employer associations could play a role in developing voluntary guidelines or codes of conduct. Industry associations could bring together companies to share best practices and develop common standards. This could be particularly effective in sectors such as information technology, where competition for talent is intense and where companies may see a business case for improving work-life balance. The experience of some European countries, where industry-wide agreements have been negotiated, shows that employer associations can be effective in this role.

Fourth, tripartite dialogue involving government, unions, and employer associations could address the right to disconnect at the policy level. The Indian Labour Conference, which brings together these stakeholders, could be a forum for discussing the issue and developing consensus on the way forward. Tripartite agreements, while not legally binding, can shape expectations and provide a foundation for legislation or collective bargaining.

Fifth, even in the absence of formal collective bargaining, worker voice can be exercised through other channels. Employee surveys, town hall meetings, and informal discussions can surface concerns about digital overwork and build pressure for change. In companies that are responsive to employee concerns, the use of informal channels can be effective. The challenge is to ensure that they are genuine and that workers are not penalised for speaking out.

The comparative experience suggests that social dialogue and collective bargaining are most effective when they are supported by a strong legal framework, when unions are genuinely representative and have real bargaining power, and when the culture is one of dialogue and mutual respect. The conditions are not fully present in India, but they could be developed over time. The right to disconnect debate could itself be a catalyst for strengthening social dialogue as it brings workers and employers together to negotiate solutions to a shared problem.

The Indian Right to Disconnect Bill 2025 recognises the importance of social dialogue by requiring companies to negotiate rules about after-hours communication. This provision, modelled in part on the French approach, acknowledges that legislation alone cannot determine the details of implementation. The bill's success will depend, in part, on whether it can stimulate genuine dialogue and whether workers have the collective power to make their voices heard.

CHAPTER 9: FINDINGS

Major Findings of the Study

This study examined the right to disconnect across three jurisdictions—India, the European Union, and the United States—to understand how different legal systems are addressing the challenges of digital overwork and constant connectivity. The research yielded several important findings that illuminate the nature of the problem, the range of possible responses, and the particular challenges facing India as it considers its own legal framework. These findings are organised around the key dimensions of the comparative analysis.

The first major finding concerns the nature and scale of digital overwork in India. The research confirms that digital overwork is a significant and growing problem affecting millions of Indian workers, particularly in the information technology, consulting, and financial services sectors. Studies consistently show that over half of Indian employees work more than 49 hours per week, placing India among countries with the longest working hours globally. Nearly 78% of professionals report feeling burnt out. The 2024 National Crime Records Bureau data showing rising suicides linked to career problems and work stress adds a grim dimension to this picture. The death of the young Ernst & Young professional, which sparked nationwide conversation, was not an isolated incident but a symptom of a systemic problem. The existing legal framework, including the Factories Act 1948 and the Occupational Safety, Health and Working Conditions Code 2020, does not adequately address digital overwork, leaving workers with little protection against after-hours demands.

The second major finding concerns the constitutional foundation for the right to disconnect in India. The research confirms that Article 21 of the Constitution, as interpreted by the Supreme Court, provides a strong basis for recognising the right to disconnect as a fundamental right. The Court's expansive interpretation of Article 21 to include the right to health, the right to live with dignity, and the right to privacy provides multiple grounds for constitutional protection. The right to health is implicated by the well-documented health consequences of chronic stress and overwork. The right to dignity is implicated by the always-on culture that denies workers the space to live full human lives. The right to privacy is implicated by the constant intrusion of work into personal spaces. The Directive Principles, particularly Articles 39(e) and 43, add further normative support by directing the state to protect workers from forced labour and to ensure humane conditions of work. This constitutional grounding means that the right to disconnect is not merely a statutory entitlement that can be granted or withdrawn by legislative majorities but potentially a fundamental right that the state has an obligation to protect.

The third major finding concerns the Right to Disconnect Bill, 2025. The research confirms that the bill represents a significant step forward in recognising the problem of digital overwork and proposing a legislative response. Its key provisions—the right to ignore after-hours communication, the requirement for companies to negotiate rules, the establishment of an Employees' Welfare Authority, and the penalties for non-compliance—are broadly consistent with international models. However, the bill also has significant gaps and ambiguities that will need to be addressed. The definition of 'urgent' communications is left open, creating risks that the exception could override the rule. The enforcement mechanisms rely heavily on worker complaints, which may be unrealistic given power imbalances in employment relationships. The bill does not adequately address the challenges of remote work, global teams, and different time zones. Furthermore, it exempts small businesses, creating potential loopholes. The Vidhi Centre for Legal Policy's analysis, while broadly supportive, identifies the gaps and calls for clarification and strengthening.

The fourth major finding concerns the European approach to the right to disconnect. The research confirms that Europe offers a diverse range of models, from France's negotiation-based approach to Spain's record-keeping requirements to Italy's focus on remote workers. The French law, which requires companies with more than fifty employees to negotiate rules about after-hours communication, reflects a distinctly European philosophy of labour relations, using law to mandate social dialogue rather than dictate specific outcomes. The Spanish law, which requires employers to record all working hours, creates a powerful enforcement tool by making after-hours work visible. The EU Parliament's 2021 resolution calling for a directive on the right to disconnect demonstrates growing political momentum at the supranational level.

The European experience shows that legislation can be effective when combined with strong enforcement mechanisms, genuine social dialogue, and supportive legal frameworks. However, it also shows that legislation alone is insufficient, as the French law has produced mixed results, with meaningful change in companies where unions are strong and paper compliance where they are weak.

The fifth major finding concerns the American approach. Research confirms that the United States has no federal right to disconnect, and that the legal framework provides only indirect and limited protection. The Fair Labour Standards Act's overtime rules create incentives for employers to limit hours but apply only to non-exempt employees and focus on compensation rather than autonomy. The constitutional framework provides no basis for a right to disconnect, as the US Constitution does not guarantee social rights. Collective bargaining could potentially address the issue, but union density is low, and coverage is limited. Some states and companies have adopted policies, but the result is a patchwork of protections that leaves many workers unprotected. The American experience demonstrates the limits of relying solely on market forces to address digital overwork. Workers with bargaining power may be able to negotiate favourable terms, but those without are left unprotected. The market does not protect the most vulnerable.

The sixth major finding concerns the implementation challenges that any right to disconnect law must address. Research confirms that defining working hours in the digital age is a fundamental challenge. When work is no longer tied to a physical workplace or a fixed schedule, the simple notion of "working hours" becomes elusive. Managing remote work and global teams adds another layer of complexity. When teams span continents and clients expect responses at all hours, whose hours count? Compliance challenges for employers are significant: how to monitor compliance without creating a surveillance culture, how to train managers, how to handle emergencies, and how to differentiate policies for different roles. The European experience offers some guidance, but each jurisdiction must develop its own solutions.

The seventh major finding concerns the role of social dialogue and collective bargaining. Research confirms that social dialogue can play a valuable role in implementing the right to disconnect, but its effectiveness depends on the strength of unions, the representativeness of employer associations, and the legal framework for collective bargaining. The French experience demonstrates that negotiation can produce tailored solutions but only when unions are strong enough to bargain effectively. The German experience shows that works councils can address issues at the enterprise level. The Nordic experience demonstrates that comprehensive collective bargaining can integrate the right to disconnect into broader frameworks. In India, union density is low, particularly in the sectors most affected by digital overwork, and the legal framework for collective bargaining is weak. This limits the potential of social dialogue to advance the right to disconnect at least in the short term.

The eighth major finding concerns the constitutional and human rights dimensions of the right to disconnect. Research confirms that international human rights law, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Labour Organisation (ILO) conventions, provides additional support for the right to disconnect. Article 7 of the ICESCR guarantees just and favourable conditions of work, including reasonable limitation of working hours. ILO conventions establish standards for working time that are relevant to digital overwork. The European Charter of Fundamental Rights and the European Parliament's resolution demonstrate growing recognition of the right to disconnect as a human right. For India, international standards provide both inspiration and guidance, showing that the right to disconnect is part of a broader global conversation about the future of work.

The ninth major finding concerns the importance of constitutional protection. The research confirms that constitutional grounding provides durability, a framework for adjudication, normative weight, a basis for positive state action, a framework for balancing competing interests, and a basis for international engagement. Rights that are constitutionally protected are harder to reverse, more likely to be enforced by courts, and carry greater moral and political force. The state has an affirmative obligation to protect constitutional rights beyond the negative obligation not to interfere. The proportionality framework provides tools for balancing the right to disconnect against legitimate employer interests, and constitutional grounding enables India to participate in global conversations about worker rights in the digital age.

The tenth major finding concerns the lessons that India can learn from comparative experience. The research confirms that a hybrid approach combining constitutional grounding, legislative framework, enforcement mechanisms, and social dialogue is most likely to be effective. The constitutional foundation provides legitimacy and durability, legislation provides clarity and specificity, enforcement mechanisms provide teeth, and social dialogue provides flexibility and adaptability. The European experience demonstrates the value of record-keeping and making after-hours work visible, the French experience highlights the importance of genuine social dialogue and strong unions, and the American experience shows the limits of relying solely on market forces. India can draw on these lessons in designing its own framework.

Analysis of Research Objectives and Hypotheses

The research objectives outlined in Chapter 1 have been addressed through the comparative analysis in subsequent chapters. The first objective, to examine the right to disconnect in India, was addressed in Chapter 2, which analysed the digital work culture in India, the Right to Disconnect Bill, 2025, and the constitutional basis under Article 21. The second objective, to study the right to disconnect in the European Union, was addressed in Chapter 3, which examined national laws in France, Italy, and Spain, as well as EU-level initiatives. The third objective, to understand the position in the United States, was addressed in Chapter 4, which analysed the labour law framework, the absence of a federal right, and the role of state laws and corporate policies. The fourth objective, to compare the three jurisdictions, was addressed in Chapter 5, which compared legal basis, scope, enforcement, and exceptions. The fifth objective, to assess constitutional dimensions, was addressed in Chapter 7, which examined Article 21 and international human rights standards. The sixth objective, to identify implementation challenges, was addressed in Chapter 6, which analysed the challenges of defining working hours, managing remote work, and ensuring compliance. The seventh objective, to suggest lessons for India, was addressed in Chapter 5 and will be further developed in Chapter 10.172.

The six hypotheses set out in Chapter 1 have also been tested through the research.

H₁: The Right to Disconnect Bill is a positive step, but its success depends on clearly defining ‘after-hours communication’ and creating strong enforcement mechanisms. This hypothesis is confirmed. The bill represents a significant step forward in recognising the problem of digital overwork and proposing a legislative response. However, as the analysis in Chapter 2 demonstrates, the bill contains significant ambiguities, particularly in the definition of ‘urgent’ communications and in the reliance on worker complaints for enforcement. The European experience, particularly the Spanish record-keeping approach, shows the importance of making after-hours work visible and creating enforcement mechanisms that do not depend solely on worker complaints. The success of the Indian bill will depend on addressing these gaps.

H₂: The EU experience shows that statutory rights work best when combined with social dialogue between employers and workers. This hypothesis is confirmed. The French approach, which mandates negotiation rather than prescribing substantive rules, reflects a recognition that one-size-fits-all legislation cannot capture the diversity of workplace situations. The German experience with works councils shows that worker representation at the enterprise level can address issues specific to particular workplaces. The Nordic experience shows that comprehensive collective bargaining can integrate the right to disconnect into broader frameworks for worker protection. However, the EU experience also shows that social dialogue works best when unions are strong and when there is a supportive legal framework. Where these conditions are absent, as in some French companies, social dialogue can become a formality rather than a genuine negotiation.

H₃: The United States lacks a federal right because its labour model favours market flexibility and collective bargaining over comprehensive national legislation. This hypothesis is confirmed. The American approach to labour relations, rooted in the National Labour Relations Act, emphasises collective bargaining rather than direct state regulation. The Fair Labour Standards Act sets minimum standards but does not prescribe maximum working hours in the same way that European directives do. The constitutional framework does not guarantee social rights, leaving labour policy primarily to legislatures. The result is a patchwork of protections that varies widely across states, industries, and companies. The American experience demonstrates both the flexibility of a market-based approach and its limitations: those with bargaining power may be able to negotiate favourable terms, but those without power are left unprotected.

H₄: India's constitutional framework, particularly Article 21, provides stronger grounds for this right than the United States Constitution. This hypothesis is confirmed. Article 21, as interpreted by the Supreme Court, has been expanded to include a wide range of social and economic rights, such as the right to health, the right to dignity, and the right to privacy. The United States Constitution, by contrast, has not been interpreted to include affirmative social rights. The Fifth and Fourteenth Amendments protect against government deprivation of life, liberty, and property but do not create obligations on private employers or require the state to provide particular social benefits. This constitutional difference has profound implications for how the right to disconnect is conceptualised in the two countries. In India, the right can be grounded in fundamental constitutional values; in the United States, it must be grounded in legislation or collective bargaining.

H₅: Implementation challenges such as defining exceptions and monitoring remote work are common across all jurisdictions. This hypothesis is confirmed. The analysis in Chapter 6 demonstrates that all three jurisdictions struggle with similar challenges: defining working hours when work is no longer tied to a physical location, distinguishing between genuine emergencies and routine demands, addressing the complexities of global teams and different time zones, and monitoring compliance without creating excessive burdens or invading privacy. The Spanish record-keeping approach offers one response to these challenges, making after-hours work visible and creating evidence for enforcement. The French negotiation-based approach offers another, leaving the details to be worked out through social dialogue. Neither approach is perfect, and each has its own limitations. The commonality of these challenges suggests they are inherent to the nature of digital work, not artefacts of particular legal systems.

H₆: Rigid rules may face resistance; flexibility and dialogue are essential for effective implementation. This hypothesis is confirmed. The French experience shows that rigid one-size-fits-all rules would be difficult to apply across the diversity of workplace situations. The negotiation-based

approach allows rules to be tailored to specific industries, companies, and teams. The German works council system allows for adaptation at the enterprise level. Even the Spanish record-keeping approach, which is more prescriptive, allows flexibility in how records are maintained and how after-hours work is managed. The Indian bill's requirement for negotiation reflects a similar recognition that flexibility and dialogue are essential. However, the research also shows that flexibility without accountability can become a licence for inaction. The challenge is to design frameworks that are flexible enough to accommodate diversity but robust enough to ensure genuine protection.

In summary, the research confirms all six hypotheses. The Right to Disconnect Bill is a positive step, but its success depends on addressing definitional and enforcement gaps. The EU experience demonstrates the value of social dialogue but also its dependence on strong unions. The US model illustrates the limitations of market-based approaches. India's constitutional framework provides stronger grounds for the right than the US Constitution. Implementation challenges are common across jurisdictions, and flexibility and dialogue are essential but must be balanced with accountability.