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Right to Disconnect: Drawing the Line After Work

Context

- The introduction of the Right to Disconnect Bill as a private member's bill marks **a significant moment in Indian labour law,** particularly in the context of the recent consolidation of labour regulation through the four labour codes.
- These codes govern **working hours, overtime, and employer control**, reflecting a framework designed primarily for physical workplaces.
- The Bill responds to the growing reality of digital work, where technological connectivity has blurred the boundaries between professional and personal life.
- Despite acknowledging this transformation**, the Bill continues to operate within a time-based regulatory framework**, giving rise to unresolved questions regarding the definition of work, the scope of the proposed right, and its constitutional character.

Definitional Gaps in the Concept of Work

- A central limitation of the Right to Disconnect Bill lies in **the absence of a definition of work in the context of the digital economy**.
- Indian labour law has traditionally been grounded in physical presence and fixed working hours.
- While the Bill grants employees the right to refrain from responding to work-related communications beyond prescribed working hours, **it does not clarify whether after-hours digital engagement constitutes work**.
- This omission becomes particularly significant when read alongside the Occupational Safety, Health and Working Conditions Code, 2020, which continues to regulate working hours and overtime.
- **The Code prescribes limits on working time** but does not expressly address digital engagement outside formal hours.
- By regulating communication without integrating it into the legal framework governing working time, **the Bill creates a conceptual gap**.
- As a result, the right to disconnect risks functioning **as a behavioural norm rather than a binding labour standard**, weakening its enforceability.

Comparative Perspectives on Employer Control and Working Time

- Comparative analysis highlights these shortcomings more clearly. In the European Union, judicial interpretations of working time have evolved to focus on **employer control rather than physical activity alone**.
- Decisions such as SIMAP, Jaeger, and Tyco adopted an expansive understanding of working time, including on-call duties, standby periods, and other forms of availability where the employer **exercises control**, even in the absence of active work.
- This jurisprudence reflects the principle that an employee's time belongs to the employer **whenever autonomy is constrained**.
- France adopts a similar approach by clearly demarcating **working time and rest time**, treating periods of availability under employer control as working time.
- **Digital communication is integrated through collective bargaining**, allowing sector-specific flexibility while maintaining statutory protection.
- Germany likewise enforces **strict limits on working hours and mandatory rest periods**.
- These jurisdictions illustrate a shared engagement with a fundamental question: **when does an employee's time become the employer's time?**

Scope and Enforceability of the Right in Indian Labour Law

- Within the Indian context, this question remains unresolved.
- The labour codes combine **mandatory statutory provisions**, such as limits on working hours, with contractual terms negotiated through employer policies and agreements.
- The Right to Disconnect Bill does not clarify **whether the right is a mandatory labour standard** or one that can be modified through contract.
- This ambiguity weakens the normative force of the right and risks **uneven application across sectors and workplaces**.
- Without clear statutory grounding, the right may remain dependent on employer discretion rather than legal obligation.

Constitutional Dimensions of the Right to Disconnect

- The Bill also raises important constitutional concerns.
- **The freedom to disengage** from work bears a clear relationship with Article 21 of the Constitution, which guarantees the right to life and personal liberty.
- The ability to disconnect directly implicates **individual autonomy, dignity, and mental well-being**, all of which have been recognised as components of Article 21.
- However, **the Bill does not articulate this constitutional foundation** or explain how such guarantees are to be realised within the employment relationship.
- Consequently, it remains unclear **whether the right to disconnect is purely statutory** or reflective of a deeper constitutional commitment to personal autonomy at work.

Conclusion

- The Right to Disconnect Bill recognises that **digital technologies have blurred the traditional boundaries between working time and personal life**.
- But it does not adequately explain how this shift should be accommodated within the existing legal framework governing working hours, overtime, and employer control.
- Comparative experience demonstrates that **the right to disconnect becomes effective only** when digital availability is treated as working time, a step yet to be taken in Indian labour law.
- The Bill also leaves unresolved **whether the right carries a constitutional dimension rooted in Article 21**, allowing for divergent interpretations.
- For these reasons, the Bill is best understood as the **beginning of a broader legal and constitutional conversation**, one that Indian labour law jurisprudence will eventually need to address.

Right to Disconnect: Drawing the Line After Work FAQs

Q1. What problem does the Right to Disconnect Bill seek to address?

Ans. The Bill seeks to address the blurring of boundaries between working time and personal time caused by constant digital connectivity.

Q2. Why is the absence of a definition of "work" significant in the Bill?

Ans. The absence of a definition of "work" creates ambiguity about whether after-hours digital communication qualifies as legally recognised working time.

Q3. How do European jurisdictions conceptualise working time in relation to employer control?

Ans. European jurisdictions treat periods of availability under employer control as working time, even if no active work is performed.

Q4. What uncertainty exists regarding the enforceability of the right to disconnect in India?

Ans. It is unclear whether the right to disconnect is a mandatory labour standard or a contractual term that can be modified by employers.

Q5. How is the right to disconnect connected to Article 21 of the Constitution?

Ans. The right to disconnect is connected to Article 21 because it implicates individual autonomy, dignity, and mental well-being as components of personal liberty.

Source: The Hindu

Death Knell for the Rural Job Guarantee

Context

- The replacement of the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) by the **Viksit Bharat Guarantee for Rozgar and Ajeevika Mission (Gramin) (VB-G RAM G) Act, 2025** marks a decisive shift in India's rural employment framework.
- MGNREGA was a rights-based, decentralised and demand-driven law, whereas the new Act reflects a **centralised, discretionary and fiscally restrictive approach**.

- This transition raises serious concerns regarding the constitutional right to livelihood, federalism, decentralisation, and social equity.

Constitutional and Legal Foundations of MGNREGA

- MGNREGA drew legitimacy from **Article 21 of the Constitution**, which guarantees the right to life.
- In Olga Tellis v. Bombay Municipal Corporation (1985), the Supreme Court held that the **right to livelihood is an intrinsic component of the right to life**.
- MGNREGA operationalised this interpretation by recognising the **right to work as a legal entitlement** rather than a welfare measure.
- The Act created **justiciable rights**, including **employment on demand, unemployment allowance** if work was not provided within 15 days, timely wage payments with compensation for delays, gender parity in wages, and minimum wage guarantees.
- These provisions transformed rural workers into **rights-holders** and imposed clear **legal obligations on the State**, distinguishing MGNREGA from earlier public works programmes.

Achievements and Social Impact of MGNREGA

- MGNREGA produced multiple positive outcomes.
    - First, it was **universal and not targeted**, reducing exclusion errors.
    - Second, it led to **increased rural incomes and a decline in poverty levels**.
    - Third, it significantly addressed **gender and caste inequalities**, with **women constituting around 58% of workers** in recent years.
    - Importantly, **45% of women workers had not participated in paid work prior to MGNREGA**, highlighting its transformative role.
- The programme also **reduced dependence on moneylenders by 21%**, improved **school enrolment**, and created **durable assets** that alleviated ecological distress.
- As an instrument of the **73rd Constitutional Amendment**, MGNREGA strengthened **panchayati raj institutions** through decentralised planning and execution.
- Its effectiveness was globally acknowledged, and its role as a **critical safety net during the COVID-19 pandemic** further reinforced its significance.

Gradual Undermining of MGNREGA

- Despite its success, MGNREGA faced **systematic erosion over the past decade**.
- **Chronic underfunding** resulted in persistent wage delays and rationing of work, undermining its demand-driven character.
- **Technocratic interventions**, such as photo-based attendance systems and complex payment mechanisms, led to **exclusions and new avenues for corruption**.
- Additionally, **staff shortages and underfunding of social audits** weakened accountability structures.
- These developments diluted the Act’s effectiveness and paved the way for legislative replacement rather than corrective reform.

Broader Implications of the VB-G RAM G Act

- **Centralisation and Fiscal Burden under the VB-G RAM G Act**
    - The VB-G RAM G Act fundamentally alters the governance of rural employment.
        - **Section 5(1)** grants the Union government **wide discretionary powers** over the nature and location of public works.
        - **Section 4(5)** introduces **State-wise normative allocations**, replacing demand-driven employment with a **command-driven model**.
    - This shift undermines decentralisation and federal principles, placing States at the mercy of central allocations.
    - Unlike MGNREGA, the new Act **removes the Union government's obligation** to compensate for wage delays, despite its dominant financial role earlier.
    - The revised **Centre–State funding ratio of 60:40**, coupled with the provision that **States must bear expenditure beyond their allocations**, imposes a severe fiscal burden.
    - These clauses risk **political favouritism**, as States with limited fiscal capacity may be compelled to suppress work demand, leading to **higher unemployment and distress migration**.
- **Reinforcing Inequality and Weakening Worker Rights**
    - Several provisions of the new Act threaten to **entrench existing inequalities**.
        - **Section 6(2)** permits suspension of employment for **60 days during the agricultural season**, disproportionately affecting **landless workers and women**, for whom year-round employment is essential.
        - This provision **artificially pits farmers against labourers**, despite evidence of mutual benefits under MGNREGA.
    - Although the Act promises **125 days of employment per household**, this claim lacks credibility when average employment had already declined to around 50 days due to funding constraints.
    - Crucially, the new Act introduces **no substantive mechanisms to address corruption**, while dismantling existing safeguards.

Conclusion

- MGNREGA embodied a rare convergence of **Mahatma Gandhi's vision of decentralised governance** and B.R. Ambedkar's commitment to enforceable rights.
- By formalising years of dilution, the VB-G RAM G Act **reduces a constitutional entitlement** to a discretionary scheme, weakens federalism, and exacerbates inequality.
- Rather than advancing inclusive development, it represents a **retreat from the constitutional promise** of dignity, livelihood, and social justice.

Death Knell for the Rural Job Guarantee FAQs

Q1. How did MGNREGA derive its constitutional legitimacy?

Ans. MGNREGA derived its constitutional legitimacy from Article 21, which includes the right to livelihood as part of the right to life.

Q2. What distinguished MGNREGA from earlier public works programmes?

Ans. MGNREGA created justiciable, demand-driven employment rights instead of discretionary welfare benefits.

Q3. How did MGNREGA contribute to social equity?

Ans. MGNREGA reduced gender and caste inequalities by ensuring equal wages and high participation of women workers.

Q4. What major structural shift does the VB-G RAM G Act introduce?

Ans. The VB-G RAM G Act replaces demand-driven employment with centrally controlled, normative fund allocations.

Q5. Why is the promise of 125 days of employment under the new Act questioned?

Ans. The promise is questioned because declining funding has already reduced average employment to about 50 days per household.

Source: **The Hindu**
