

The Right to Disconnect as a Mechanism To Activate The Legal Right to Rest in The Field of Telework

الحق في قطع الاتصال كآلية لتفعيل حق الراحة القانونية في مجال العمل عن بعد

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ABSTRACT:

ملخص باللغة العربية:

Determination of working hours and rest periods, as well as mechanisms for their enforcement in accordance with legal texts, is one of the most important rights granted to workers in order to preserve their mental and physical health. However, the development of information and communication technologies in the field of work, which has led to the emergence of telework, requires the creation of a measure to protect workers from dangers of excessive use of digital domain under the name of the right to disconnection in order to guarantee the worker's right to rest outside working hours.

يعد تحديد ساعات العمل وكذا مدد الراحة وآليات تطبيقها بموجب النصوص القانونية من أهم الحقوق الممنوحة للعمال بغرض الحفاظ على صحتهم العقلية والبدنية، غير أن تطور تكنولوجيات الاعلام والاتصال وما صاحبه من ادماج للتقنيات المرتبطة بها ضمن مجال العمل والذي أسس لظهور العمل عن بعد استدعى بالضرورة إيجاد آلية لحماية العمال من مخاطر الاستعمال المفرط للمجال الرقمي تحت مسمى حق قطع الاتصال من أجل ضمان حق العامل في الراحة خارج أوقات العمل.

Keywords: Right to disconnect ; Telework ; Right to rest ; Labor law ; Digital tools.

كلمات مفتاحية: حق قطع الاتصال؛ العمل عن بعد؛ الحق في الراحة؛ قانون العمل؛ الأدوات الرقمية.

Introduction:

The advent of new information and communication technologies, along with the widespread adoption of remote work especially following the COVID-19 pandemic has necessitated a redefinition of certain key elements of the employment relationship. This is particularly true regarding working hours and workplace locations. The transfer of work-related burdens from the workplace to external environments has resulted in a blurring of the lines between working time and personal time allocated for rest. While modern digital technologies have facilitated increased productivity, they have also eroded the boundaries between an individual's personal and professional life. As a result, some countries have enshrined workers' right to disconnect from the digital space in their legal systems, thereby genuinely reflecting their right to rest.

The issue of disconnection is closely linked to the digitization phenomenon and the widespread use of information technology, arising from advances in computers and smartphones alongside wider internet networks coverage. This connectivity allows workers to be accessible at all times and in various locations, whether through text messages, emails, or video calls. Continuous connectivity may negatively affect workers' mental, physical, and even social welfare, thus making their right to disconnect from media and communication channels a necessary means of protection against these risks.

Turning to Algerian legislation, we find that it has enshrined the right to rest within the Labour Code, in accordance with Article 24 of the Universal Declaration of Human Rights, which affirms that "everyone has the right to rest and leisure, including reasonable limitation of working hours

and periodic holidays with pay."¹ Additionally, Article 7 of the International Covenant on Economic, Social and Cultural Rights states that "the states parties to the present Covenant recognize the right of everyone to enjoy favorable working conditions which ensure, in particular, fair wages, safe and healthy work environments, and equal opportunity for promotion in one's job, free from discrimination."² Moreover, Article 69 of the Algerian Constitution establishes that "the right to rest shall be guaranteed. Law shall determine the modalities of its exercise."³ As a result, the exercise of this right has been regulated under Law 11-90 concerning labor relations⁴.

However, it appears that the Algerian legislature has neglected the challenges posed by modern advancements in information and communication technologies and their effects

1 Article 24 of the Universal Declaration of Human Rights Issued by the United Nations by Resolution No. 217 A (D-03) dated December 10, 1948.

2 Article 07 of the International Covenant on Economic, Social and Cultural Rights Adopted and opened for signature, ratification, and accession pursuant to United Nations General Assembly Decision 2200 A (D-21) dated December 16, 1966. Entry into force: January 3, 1976.

3 Article 69, Paragraph 02 of the Algerian Constitution of 1996 , issued by Presidential Decree No. 96/438 dated December 7, 1996, published in the Official Gazette No. 76/1996, p. 05; as amended by Law No. 02-03 dated April 10, 2002 (Official Gazette No. 25 dated April 14, 2002, p. 13); by Law No. 08-19 dated November 15, 2008 (Official Gazette No. 63 dated November 16, 2008, p.08); by Law No. 16-01 dated March 6, 2016 (Official Gazette No. 14 dated March 7, 2016); and by Presidential decree No. 20/442, dated December 30, 2020 (Official Gazette No. 82 dated December 30, 2020).

4 Law 11-90, dated April 21, 1990, governing labor relations ,published in the Official Gazette No. 17 on April 26, 1990; amended and supplemented by Law No. 91-29 dated December 21, 1991 (Official Gazette No. 68, issued December 25, 1991); and further modified by decree No. 96-21 dated June 9, 1996 (Official Gazette No. 43, issued July 16, 1996) and by decree No. 97-02 dated January 11, 1997 (Official Gazette No. 03, issued January 12, 1997).

on labor relations, particularly concerning remote work. The resulting shifts in geographical locations and the blurring of time limits established by the legislature can pose significant risks to workers, as these constant connections to the digital world can lead to various risks. Thus, what are the provisions needed to implement the right to disconnect in Algerian law, and what mechanisms can be put in place for its enforcement?

This research paper employs an analytical and comparative methodology to investigate how select legal systems have institutionalized the right to rest and the right to disconnect. Organized into two thematic sections, the study first examines the legal frameworks that define and codify the right to rest. The second section shifts focus to the prerequisites for formalizing the right to disconnect, analyzing both the procedural conditions for its adoption and the practical mechanisms required for effective implementation. By juxtaposing these dimensions, the paper evaluates the feasibility of integrating these rights into Algerian Labor Law, proposing strategies that harmonize theoretical rigor with enforceable workplace policies. The analysis underscores the need for legislative clarity, institutional accountability, and adaptive enforcement models to align Algeria's labor regulations with evolving global standards.

THE FIRST TOPIC:

Statutory Framework Governing the Right to Rest

The global political and economic transformations occurring in the late 19th century prompted doctrine to focus primarily on the regulation of working hours and their consequential effects, whether beneficial or detrimental. More recently, however, a new paradigm has emerged advocating for

enhanced protections of workers' statutory right to rest. This right, while not novel in principle, has gained renewed emphasis due to the unprecedented flexibility introduced by information and communication technologies, which have effectively dissolved the traditional temporal and geographic limits of work, thereby posing a significant threat to workers' rest entitlement.

First Requirement:

Statutory Regulation of Working Hours and Statutory Rest Periods

The Algerian legislature has consistently afforded particular legal protection to the regulation of working hours and rest periods throughout successive labor codes, recognizing their substantial impact on both workforce welfare and productivity when improperly regulated.

First section:

Statutory Determination of Working Hours

Algerian legislature expressly establishes that maximum daily working hours are twelve (12) hours, calculated from 00h00 to 24h00, beyond which work is expressly prohibited¹. While standard workweek hours are forty (40) hours, distributed across a minimum of five (5) working days, with statutory rest intervals to ensure worker recuperation.²

The weekly working schedule may be adjusted under exceptional circumstances. The employer is permitted to increase the weekly working hours by including overtime,

1 Article 07 of decree No. 97-03, dated January 11, 1997 defines the legal duration of work (Official Gazette No. 03, issued January 12, 1997).

2 Article 02 of decree No. 97-03 as mentioned above.

strictly within the legally defined cases. These include situations of urgent service requirements, such as responding to high production demands¹, preventing or managing imminent accidents, repairing resulting damages, or completing tasks whose interruption could harm the enterprise.⁴ Nonetheless, such an increase must not exceed 20% of the legally prescribed working duration. The employer must consult with employee representatives and notify the Labour Inspectorate. It is also mandatory to comply with overtime limits and to compensate employees with a wage increase of not less than 50% of the standard hourly rate, along with granting additional rest periods.²

Similarly, the weekly working time may be reduced. Under Article 04 of Ordinance No. 97-03 on Labour Relations, the Algerian legislature permits the reduction of working hours for employees engaged in physically or mentally strenuous work³. Although the law does not specify the list of such jobs, the matter is delegated to collective labour agreements. Working hours may also be reduced as part of layoffs for financial reasons, thereby allowing workers to retain their jobs with fewer hours rather than being laid off.

Second section :

Adjustment of Rest Periods

The right to rest is among the fundamental rights recognized for workers. The law obliges employers to provide a full day of rest after each full working week. Article 33 of Law No. 90-11 on Labour Relations states: "The worker is entitled to one full day of weekly rest. Under normal working conditions,

1 Article 31, Paragraph 01 of Law No. 90-11 As mentioned above.

2 Article 05 of Decree No. 96-21 As mentioned above.

3 Article 31, Paragraph 02 and Article 32 of Law No. 90-11 As mentioned above.

the weekly rest day shall be Friday." However, if necessary, the employer may postpone the rest day to another day, provided the employee receives an equivalent rest day and additional financial compensation for the extra effort.

Employees are also entitled to annual paid vacation, amounting to 30 days per year calculated at 2.5 days for each month of work. If an employee has not completed a full year of service, leave is calculated proportionally. In such cases, a financial indemnity equivalent to 1/12 of the annual wage is granted for the vacation base year.

Additionally, workers are entitled to official public holidays, whether based on the Gregorian or Hijri calendar, and as defined by historical, religious, or cultural significance. These holidays are codified by legal texts to avoid disputes and to standardize observance.¹

It is thus evident that the Algerian legislature has ensured the right to rest for workers to recover their energy and protect their physical and mental well-being. While rest periods are considered part of public policy, the employer retains discretionary power to adjust them in exceptional circumstances, provided certain conditions are met.

Second Requirement:

Right to Disconnect as a Legal Mechanism for Rest

The right to disconnect represents a contemporary manifestation of the legal right to rest. It refers to the temporary disengagement from virtual subordination, allowing the worker to enjoy uninterrupted rest². To exercise this right effectively, it

1 Article 04, Paragraph 01 of Decree No. 97-03 As mentioned above.

2 Mahdi Bakhda, *The Weekly Rest in Algerian Legislation*, Law Journal, Vol. 07, No. 02, 2018, p. 103.

is essential to disengage from the digital ties created by information and communication technologies between the employer and the employee. A further section will explore the definition of the right to disconnect and its legal establishment in comparative foreign legislation.

First section:

The Concept of the Right to Disconnect

The right to disconnect refers to the employee's entitlement not to engage with digital tools including messages, programs, software, internet, intranet, and similar platforms nor to be contacted by the employer or colleagues outside of official working hours for work-related reasons. This applies regardless of whether the communication occurs through work-provided equipment or the employee's personal devices such as computers, tablets, mobile phones, or other digital communication tools¹.

This right aims to ensure compliance with legal rest periods daily, weekly, or during official holidays thereby promoting a balanced relationship between professional and personal life. It applies not only to remote workers but also to those operating within physical workplaces using digital tools that enable work-related communication.²

Theoretically, information and communication technologies (ICTs) are intended to streamline the labor process by granting employees swift access to data and facilitating interaction with employers, colleagues, and external actors.

1 Laurène Gratton, *Digital Revolution and Collective Bargaining*, Social Law Review, 2016, p. 1050.

2 Valérie Pontif, *Digital Transformation and Working Life: The Proposals of the Mettling Report*, Labor Law Review, 2016, p. 185.

However, these same technologies can simultaneously disrupt time management, as workers increasingly feel obligated to respond to work-related communications, emails, messages, calls, during periods legally designated for rest. These interruptions often involve urgent matters requiring immediate attention, thereby infringing on rest time and effectively lengthening the workday.¹

This temporal expansion of work, driven by ICTs and aptly described as a "silent invasion"² typically begins with checking emails outside of working hours. Gradually, it erodes the spatial limits between work and rest, leading employees to perform tasks during personal time, especially when such tasks remain incomplete during the official workday. The inherent mobility and accessibility of ICTs make this possible, allowing professional tasks to be performed anytime and anywhere. This has contributed to the rise of work addiction during rest periods, primarily driven by the pursuit of increased income.³

The use of ICTs outside work hours has effectively evolved into a digital governance tool⁴ favoring employers' productivity goals. However, it simultaneously imposes a psychological and physical toll on employees, who may find

1 Dalia Gesualdi-Fecteau & Geneviève Richard, *The Right to Disconnect for Workers in Sectors under Federal Regulation*, Available at: https://www.researchgate.net/publication/355196845_Le_droit_a_la_deconnexion_des_travailleurs_et_des_travailleuses_dans_les_secteurs_sous_reglementation_federale

(Accessed March 14, 2025, at 21:37).

2 Souad Bellalou, *From Right to Right to Disconnect: Perspectives on the Law in Quebec and France*, Thesis submitted as a partial requirement for a Master's in Labor Law, Université du Québec à Montréal, 2019, p. 66.

3 Laurent Taskin & Patricia Vendramin, *Telework: A Silent Wave*, Louvain: Leuven University Press, 2004, p. 212.

4 Souad Bellalou, op. cit., p. 67.

themselves continuing work activities either by choice or under implicit pressure¹. Hence, institutionalizing the right to disconnect serves as a concrete manifestation of the legal right to rest and as an essential safeguard for workers' "health and well-being". It should be conceived not only as a labor protection mechanism but also as an organizational best practice. Sustainable productivity requires the creation of humane working environments, where employee welfare is prioritized. Moreover, practicing disconnecting reflects a shared commitment to upholding public order labor standards that govern rest time.

Second section:

The Legal Establishment of the Right to Disconnect in Comparative Labor Laws

In light of the increasing need to differentiate between work hours and time allocated for relaxation for workers, and due to worries about the rising trend of excessive connectivity via information and communication technologies, numerous countries have enacted laws or legal provisions within their labor legislation aimed at granting their employees the right to disconnect from the digital world². France was the pioneering country to swiftly regulate this right, with legal requirements beginning January 1, 2017³, mandating that social partners

1Guylaine Vallée & Dalia Gesualdi-Fecteau, *Setting the Temporal Boundaries of Work: An Empirical Study of the Nature and Scope of Labour Law Protections*, International Journal of Comparative Labour Law and Industrial Relations, 2016, p. 14.

2 Patricia Vendramin & Gérard Valenduc, *The Tensions of Time*, Continuing Education file, 2005, p. 22.

3 Dalia Gesualdi-Fecteau & Geneviève Richard, *Professional Hyperconnectivity and the Right to Disconnect and Rest: What Legal Framework?* Available at:

negotiate the terms and conditions necessary for the full realization of the right to disconnect.¹

Additionally, employers are obligated to implement mechanisms to manage the use of digital tools to ensure that employees' rest periods, personal lives, and family time are respected². If no agreement is reached, the employer must draw up a charter, after seeking the opinion of the works council or, in the absence of a works council, of the staff representatives. This charter must set forth the terms and conditions in which employees can exercise their right to disconnect, and provide for the implementation of training and awareness programs on the reasonable use of digital tools for the employees and management staff.³

However, the French legislature has not provided any specific definition for this right, which has led to criticism from some legal scholars who claim that "presenting vague provisions for this right is an incomplete and outdated approach."⁴ Furthermore, while it is theoretically required to negotiate this right to disconnect, failure to reach an agreement between workers and employers on how to implement this right would grant employers the authority to regulate its practice. It is important to note that collective bargaining agreements do not carry the same legal weight as the charter created by the

https://www.researchgate.net/publication/349059628_L'hyperconnectivite_professionnelle_et_le_droit_a_la_deconnexion_et_au_repos_quel_encadrement_juridique (Accessed March 17, 2025, at 21:20).

1 Law No. 2016-1088 of August 8, 2016 Relating to work, the modernization of social dialogue, and the securing of professional careers, published in the Official Journal of French Republic (JORF No. 0184) on August 9, 2016.

2 See Article L.2242-8 of the French Labor Code.

3 See Article L.2242-17 of the French Labor Code.

4 See Article L.2242-8 of the French Labor Code.

employer.¹ Therefore, exercising this right should come with a robust implementation mechanism rather than a mere statement from the employer regarding the principles that govern it².

The practical implementation of this right in France has confirmed an uneven and limited application of the legal provisions governing its exercise. Some employers have formulated a charter tailored to the needs of workers and the demands of work; however, half of these institutions have confined themselves to a uniform online model without any prior negotiations with worker representatives. Moreover, the majority of negotiations conducted with workers did not explicitly address the protection of their health³.

Recently, Spain adopted a law that requires employers to implement methods for exercising the right to disconnect from the digital world, a measure applicable to all workplaces regardless of the number of employees⁴. In contrast, Italy has limited the imposition of this right to certain categories of workers⁵. However, similar to the French law, the Italian legislation did not offer a definition of this right nor did it

1 Donalee Moulton, *Problem with a Right to Disconnect Law*, Lawyer's Daily, April 11, 2017, available at: <https://www.law360.ca/articles/2859> (Accessed March 14, 2025, at 00:01).

2 Laurène Gratton, op. cit., pp. 1050–1059.

3 Jean- Emmanuel Ray, *Great Acceleration and the Right to Disconnect*, Social law, 2016, p. 912.

4 Lorédane Besnier, Michèle Forté, Tiphaine Garat, Maria-Evdokia Liakopoulou, Nicolas Moizard & Fabienne Tournadre, *Negotiating Disconnection: Analysis of Disconnection Agreements in the Grand Est Region*, Strasbourg: Institute of Labor, University of Strasbourg (Unistra), 2019, p. 67.

5 See Article 88 of Organic Law 3/2018 on the Protection of Personal Data and the Guarantee of Digital Rights, dated December 5, 2018; available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-2018-16673> (Accessed March 24, 2025, at 12:33).

establish penalties for its violation¹. Belgium, on the other hand, embraced the right to disconnect under the "Law on Promoting Economic Growth and Social Cohesion," which was introduced as part of a series of initiatives to reform Belgian labor law². This law obliges employers with more than 50 employees to discuss the right to disconnect and the use of digital tools with the Occupational Health and Safety Committee in order to ensure compliance with the legal provisions concerning rest periods and holidays, as well as to secure a separation between the workers' professional and private lives. Meanwhile, Chile being the first non-EU country to adopt this right has implemented it under Law No. 21.220, which amends the labor law by incorporating a new chapter on remote work³. The emergence of this legislation coincided with the spread of the COVID-19 pandemic in the country, through the introduction of mechanisms aimed at curbing its transmission.

Although a draft law concerning the right to disconnect was proposed at the end of 2018 in Chile, with the objective of

1 See Article 19 of Law No. 81 of May 22, 2017: Measures for the Protection of Non-Entrepreneurial Independent Work and Measures Aimed at Promoting Flexible Arrangements in the Times and Places of Subordinate Work; available at:

<https://www.gazzettaufficiale.it/eli/id/2017/06/13/17G00096/sg> (Accessed March 24, 2025, at 12:50).

2 **Note:** Although the legislator did not prescribe a specific penalty for the failure to respect a worker's right to disconnect on the part of the user, the user may nevertheless be punished pursuant to Article L 2242- 1 of the Labor Code with imprisonment for one year and a financial penalty of 3750 euros if they fail to comply with the obligation to negotiate the work environment—which includes the right to disconnect.

3 The Law of March 26, 2018, relating to the strengthening of economic growth and social cohesion; available at:

https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2018032601 (Accessed March 24, 2025, at 14:00).

extending this right to both public and private sector workers, thereby protecting their rest periods, holidays, and personal and family lives Law No. 21.220 addresses this right solely in the context of remote work, similar to the Italian approach. Under this framework, work is carried out under a flexible work arrangement between employer and worker, whereby the latter performs his or her tasks partially or entirely remotely in compliance with general working hour provisions, and the right to disconnect is regulated through an agreement between the worker and the employer. Subsequently, Argentina, following Chile's lead, adopted this right under Law No. 27.55 concerning remote work, which grants remote workers the right to disconnect during legally prescribed rest periods and holidays. Notably, this law is considered the first in the world to specify penalties for non-compliance with this right¹, while several attempts have been made to enshrine this right through proposed bills in the Philippines², India³, Canada⁴, and the United States⁵.

1 Law 21.220, an amendment to the Labor Code concerning remote work, dated March 26, 2020; available at:

<https://www.bcn.cl/leychile/navegar?idNorma=1143741> (Accessed March 25, 2025, at 14:14).

2 Law 27.555 on Teleworking; available at:

<https://www.boletinoficial.gob.ar/error/show> (Accessed March 25, 2025, at 13:30).

3 House of Representatives Bill No. 4721, An Act Granting Employees the Right to Disconnect from Work-Related Electronic Communications after Work Hours; available at:

https://www.congress.gov/ph/legisdocs/basic_17/HB04721.pdf (Accessed March 26, 2025, at 13:24).

4 Bill No. 211 of 2018 on the Right to Disconnect; available at:

https://www.livelaw.in/pdf_upload/pdf_upload-357204.pdf (Accessed March 19, 2025, at 22:10).

5 Bill 1097 on the Right to Disconnect; available at:

<https://www.assnat.qc.ca/en/> (Accessed March 19, 2025, at 22:22).

THE SECOND TOPIC:

The Necessities for Adopting the Right to Disconnect and the Mechanisms for Its Implementation in Algerian Labor Law

The evolution in work methods, resulting from the use of digital tools and affecting all professions be they manual, intellectual, or knowledge-based requires legislative intervention to establish appropriate legal frameworks to regulate these changes. Among these is the worker's right to disconnect, which is warranted by a multitude of factors that necessitate its enshrinement within labor law (the demand), achieved by adopting a set of principles and mechanisms that ultimately ensure the primary objective of guaranteeing the worker's legally mandated right to rest while engaged in remote work.

First Requirement:

The Necessities for Adopting the Right to Disconnect

The right to disconnect is but a part of a broader issue that requires addressing namely, the optimal use of information and communication technology through the establishment of mechanisms designed to mitigate the negative effects of its overuse. This consideration forms the primary justification for adopting and implementing the right to disconnect within labor law, in addition to several other reasons .

First Section :

The Requirements Pertaining to Work and the Resulting Relationships

These requirements, related to work and the ensuing relationships, can be exemplified as follows:

1-The Evolution of the Employment Relationship: The employment relationship is one of the essential criteria for establishing an employment contract; it is defined as “the performance of work under the authority of the employer, who is vested with the power to issue orders and directives, monitor their execution, and sanction the shortcomings of his subordinates¹.” The changes that have occurred in the labor sector as a result of the digital revolution have transformed the concept of the employment relationship. Historically, this link was designed for the classical model of work characterized by work performed inside a factory where workers carried out specific tasks under the employer’s supervision. In contrast, digital development has given rise to project-based work, which focuses on achieving an objective specified by the employer without detailing the tasks to be performed, thereby affording the worker greater autonomy relative to the employer.

However, despite this, the digital era has presented us with a contradictory vision regarding the dependency relationship. On one hand, employees are now able to utilize information and communication technology at any time and from any location, which grants them greater autonomy in organizing their work. While this increased autonomy might initially seem to encourage remote work and even foster the illusion of self-management, it simultaneously enables continuous control over workers. Employers can assign tasks outside normal working hours, regardless of location or time, and they may also monitor

1 Local Bill 0726-2018, aimed at amending the New York City Charter and the New York City Administrative Code as regards private employees disconnecting from electronic communications outside working hours, March 2018; available at: <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3458217&GUID=8930D471-5788-4AF4-B960-54620B2535F7#> (Accessed March 19, 2025, at 22:45).

all activities including call frequency, duration, and contacts by linking employees' work computers to their own. Consequently, workers are subjected to persistent remote surveillance regarding their performance¹.

2-The Emergence of Remote Work: The advent of remote work is closely linked to the rise of information and communication technologies; thus, it is not an entirely new phenomenon. However, its global proliferation has been recently accelerated by the outbreak of the COVID-19 pandemic, after which working from any location or at any time became commonplace. Although remote workers are presumed to benefit from the same legal and contractual rights and advantages as those performing their duties within a traditional workplace, this practice has given rise to many challenges. Many of these issues remain unresolved even in countries that have formally integrated remote work into their legal frameworks. For instance, concerning work accidents, a worker enjoys significant freedom in choosing when, where, and how to work, while the employer exercises limited or almost no control over the work environment². This raises questions such as: Can a worker who suffers a fall while composing a work-related email outside of regular working hours be entitled to the accident compensation provided by law? Undoubtedly, there is no clear answer within the labor legislation of countries that have adopted this model. Despite being a new work modality, it is still governed by outdated legal frameworks that do not suit its

1 Court of Cassation., November 13, 1996, Société Générale, No. 94-13.187, social law, 1996, p. 1067, note by Jean-Jacque Dupeyroux.

2 Jean-Emmanuel Ray, *Quality of Life(s) and the Work of Tomorrow*, Droit Social, 2015, p. 154.

characteristics¹. Thus, a remote worker who encounters such an incident will be compelled to prove the work-related nature of the accident in order to obtain compensation. It can, therefore, be stated that there remains a legal gap concerning work performed outside official hours, making the recognition of the right to disconnect the first step in resolving this situation.

Second Section: ***The Imperatives Pertaining to the Worker***

There are several reasons that necessitate the adoption of the right to disconnect, predominantly aimed at protecting the worker from both psychological and physical harm factors that can adversely affect personal and family life. These reasons are outlined as follows:

1-Establishing Boundaries Between Personal and Professional Life: In the past, delineating the boundaries between a worker's professional and personal lives was not a contentious issue since the worker was not forced to perform work tasks beyond regular hours; upon leaving the workplace, the individual could entirely devote themselves to their private life. However, the proliferation and increasing use of information and communication technologies to execute work tasks have blurred the spatial and temporal boundaries between work-related duties and personal life. Employees may now respond to and complete work assignments outside the physical workplace, while also attending to personal needs from their work environment. Although this blurring of boundaries is not entirely new, its extent has increased with the ever-growing use of digital tools. Previously, a worker might have brought home

1 Bruno Mettling, *Digital Transformation and Working Life*, Report to the Minister of Labor, Employment, Professional Training, and Social Dialogue, p. 16.

paper files weighing several kilograms from time to time to complete tasks that could not be finished during working hours; nowadays, it is common for the worker to carry work documents on a lightweight USB drive. This shift significantly impacts personal life by encroaching upon the legally allotted time for personal rest.

2-Protecting the Worker's Health: The extension of working hours, stemming from the excessive use of digital technologies to perform work tasks, contributes to harmful effects on the worker's health. These effects are particularly evident in the form of physical strain and psychological breakdown¹ resulting from mental stress. Such adverse impacts can extend to various relational aspects of the worker's life whether within the workplace (in relation to the employer, colleagues, or clients) or in personal settings (in interactions with family members or others)².

Moreover, the rapid pace enabled by digital tools and the intensification of work necessitate that the worker respond more quickly and deliver more in less time, often with shorter breaks. This inevitably affects productivity³ and leads to health problems such as musculoskeletal disorders due to overexertion, as well as mental health issues⁴. Just as our physical capacities have limitations, our cognitive and mental capacities can also be

1 Laurène Gratton, op. cit., p. 1051.

2 Françoise Favennec-Herry, *Quality of Working Life and Working Time*, Social Law, 2015, p. 113.

3 Paul-Henri Antonmattei and al., *Psychosocial Risks: Identifying, Preventing, Treating*, Lamy, Paris, 2010, p. 16.

4 Paul-Henri Antonmattei and al., *ibid.*, p. 16.

overwhelmed by an excessive workload, rendering the mind incapable of coping with an unmanageable cognitive load¹.

The pioneering efforts in enshrining the worker's right to disconnect from the digital world belong to the French legislator, who was among the first to acknowledge this right for both remote and on-site workers. The French experience in this area has served as a model for many countries that have incorporated this right into their legal systems and even for those that are still preparing draft proposals with, naturally, some variations reflecting the distinct political and economic orientations of each nation. By reviewing these experiences, several mechanisms can be proposed to operationalize this right within national labor legislation, as follows:

***Second Requirement:
Mechanisms for Implementing the Right to
Disconnect from the Digital World in Labor Law***

The pioneering efforts in enshrining the worker's right to disconnect from the digital world belong to the French legislator, who was among the first to acknowledge this right for both remote and on-site workers. The French experience in this area has served as a model for many countries that have incorporated this right into their legal systems and even for those that are still preparing draft proposals with, naturally, some variations reflecting the distinct political and economic orientations of each nation. By reviewing these experiences, several mechanisms can be proposed to operationalize this right within national labor legislation, as follows:

1 Pierre-Yves Gomez & Romain Chevalet, *Impact of ICT on Occupational Health*, French Management Review, 2011, p. 107.

First Section :
Explicit Recognition of This Right within Labor Law

Although it is possible to infer the right to disconnect from existing labor laws by defining legal limits on working hours and mandated rest periods it is preferable to explicitly recognize and integrate this right into labor legislation. There are multiple ways to connect the right to disconnect with the workers' rights already enshrined in the current labor law. One approach is to link this right ¹directly with the right to work within legally prescribed durations; that is, through those legal provisions that determine the maximum permissible working hours and the minimum daily and weekly rest periods. An advantage of addressing the right to disconnect from the digital world in this context is that it highlights the fact that engaging with emails or other communications beyond the legally defined working hours constitutes overtime. Therefore, such engagement outside official working hours should be accounted for as overtime or as an exploitation of the worker by the employer, thereby entitling the worker to claim appropriate compensation.

The second option: linking the right to disconnect with remote work: This option, which has been implemented by Italy², Chile³, and Argentina⁴, underscores the particular importance of

1 Thierry Pillon & François Vatin, *Treatise on the Sociology of Work*, second edition, Octeres edition, 2007, pp. 17–29.

2 Law 27.555 on Teleworking; available at:
<https://www.boletinoficial.gob.ar/detalleAviso/primera/233626/20200814>
(Accessed March 18, 2025, at 11:11).

3 Law No. 81 of May 22, 2017, op. cit.

4 Law 21.220 on the Amendment of the Labor Code Concerning Remote Work, dated March 26, 2020; See:
<https://www.bcn.cl/leychile/navegar?idNorma=1143741> (Accessed March 19, 2025, at 21:45).

the right to disconnect within the realm of remote work. This significance is due to the escalating risk of overlapping the boundaries between personal and professional life a phenomenon that was starkly demonstrated during the COVID-19 lockdown period, when millions of workers were compelled to work remotely. Nevertheless, this right should not be confined solely to those engaged in remote work; it is equally important that workers operating on-site receive the same level of protection, since they too are susceptible to violations of their right to rest after leaving the workplace in the evening or during holidays.

The Third Option: Recognizing the Right to Disconnect as a Digital Right: In this approach, the right to disconnect from the digital world is acknowledged as one of the digital rights as has been done in Spain¹. There, the Spanish Data Protection Law, inspired by the European Union's General Data Protection Regulation (GDPR) and which confers a series of rights to citizens in general and to workers in particular, includes the right to disconnect. However, the success of Spain's experience part of a broader revolution in digital rights reform may not be easily replicated in another country that is not subject to the same regulatory framework, such as Algeria.

The Fourth Option: Integrating the Right to Disconnect with Occupational Health and Safety Laws : The fourth option, and the most commonly applied in practice, involves linking the right to disconnect with occupational health and safety regulations especially the employer's obligation to provide a risk-free work environment. The persistent pressure and anxiety stemming from continuous connectivity or the inability to extricate oneself from the digital world and enjoy genuine rest

1 Organic Law 3/2018, op. cit.

can have severe consequences on both the physical and mental health of workers. In addition, pervasive anxiety, depression, and burnout among workers could result. Enshrining this right would, therefore, serve as a means of mitigating these occupational health hazards.

2- Providing a Clear and Explicit Definition of the Right and

Its Justifications: It is advisable to offer a clear definition or a succinct explanation of this right, as well as to specify the exceptions that may apply in cases such as emergencies or exigencies while emphasizing the core principles on which it is based. Foremost among these is the protection of workers exercising their right to disconnect from the digital world, so that they are shielded from any negative repercussions arising from its exercise. It would also be beneficial to explicitly state that no preferential treatment should be accorded to those who choose not to exercise this right, and to establish safeguards against any retaliatory measures by the employer. This approach is explicitly provided for in Argentine law and in numerous collective agreements in Spain, and it has also been proposed in draft legislation concerning this right in the Philippines¹, India², and the United States³.

1 House of Representatives Bill No. 4721, An Act Granting Employees the Right to Disconnect from Work-Related Electronic Communications after Work Hours, [Law granting employees the right to disconnect from work-related electronic communications after work hours]; see:

https://www.congress.gov/ph/legisdocs/basic_17/HB04721.pdf (Accessed March 19, 2025, at 22:00).

2 Bill No. 211 of 2018 on the Right to Disconnect, op. cit.

3 Local Bill 0726-2018, aimed at amending the New York City Charter and the New York City Administrative Code regarding private employees disconnecting from electronic communications outside working hours, op. cit.

Moreover, it is worth noting that most countries incorporating this right in their labor legislation have highlighted that its primary objective is to ensure adherence to legally mandated rest periods and to protect the worker's personal and family life. Embedding these provisions within the legal framework governing employment relations draws attention to those worker rights that require special protection much like the legally enshrined rest periods given that any infringement may impinge upon both the personal and professional lives of workers.

3- Extending the Right to All Workers and Mandating Training Courses: This right should be granted universally to all workers regardless of their work arrangement (whether full-time, part-time, on-site, or remote) or sector (public or private). Furthermore, workers should be required to participate in training programs that address the proper use of digital tools and methods for mitigating their negative impacts, akin to the measures enacted by the French¹ and Spanish² legislators.

4-Establishing Penalties for Violations of This Right: There has been a proposal to create formal procedures for workers to file complaints in cases where this right is violated by an employer. This suggestion has been part of draft laws on the right to disconnect from the digital world in both the United States³ and India⁴. It should be noted that, although similar proposals have emerged in various other legislations, their effective implementation often depends on the robustness of the governing legal texts and the influential role of trade unions.

1 See Article L.2242-8 of the French Labor Code.

2 Organic Law 3/2018, op. cit.

3 Local Bill 0726-2018, op. cit.

4 Bill No. 211 of 2018, op. cit.

The current laws that safeguard this right have not provided for such mechanisms, nor do they stipulate specific penalties for violations.

5- Enhancing the Role of Social Partners: Social partners play a crucial role in formulating policies related to the implementation of the right to disconnect and in determining its practical application. Consequently, the legislator must explicitly allow them room for negotiation on the subject. For example, both French¹ and Belgian² labor laws mention this right only as a negotiable matter between trade unions and employers, without specifying further measures regarding the outcomes of such negotiations. It is important to note that this approach proves effective only in countries where union membership and the scope of collective bargaining are substantial. In contexts where these conditions are less robust, it would be advisable to incorporate fundamental principles into labor legislation such as prohibiting the penalization of employees who log off and to establish a baseline set of rights which can later be expanded by social partners.

Second Section:
***Respect the worker's desire to connect or disconnect
from the digital world***

The right to disconnect exists primarily to establish collective safeguards shielding employees from the overuse of digital technologies. Rather than addressing individual

1 Article L2242-17 of the French Labour Code.

2 The Law of March 26, 2018, relating to the strengthening of economic growth and social cohesion; available at:

https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2018032601 (Accessed March 19, 2025, at 22:30).

preferences, its focus is on protecting workers as a group even from their own potential overwork, this explains why the French legislation adopts a broad, collective approach¹.

However, in flexible work settings, applying this right on an individual basis may be more appropriate. When work occurs inside traditional offices, employees often have autonomy over when and how they engage digitally for instance, reconnecting after office hours to complete tasks. In such cases, workers can control the timing and duration of their digital engagement. Blanket bans on using digital tools outside physical workplaces or fixed hours are increasingly impractical, as work boundaries expand beyond office walls. Ultimately, disconnection might also be reframed as the choice to connect deliberately, adapting to modern work's fluidity.²

The concept of "chosen connectivity" reflects employees' ability to exercise some autonomy in using digital tools for work, even beyond traditional office settings. By opting to stay connected, workers can adapt their schedules to better align remote tasks with personal or family commitments, enhancing overall work-life balance. While this flexibility improves job satisfaction, it is not universally applicable: certain roles inherently require on-site presence, and remote work should remain occasional or restricted to a few days weekly to avoid eroding workplace relationships. Notably, not all employees face excessive connectivity demands, but for "digitally connected " roles expected to grow as professions evolve with

1 Fabrice Rosa, *The perimeter of an employee's personal life put to the test by new technologies*, *Juris tourisme* 2020, n°228, p.17.

2 Grégoire Loiseau, *Disconnection: Observations on the regulation of work in the new space-time of connected companies*, *Social Law* ,2017 p.463.

advancements in AI, robotics, and digital tools ¹flexible arrangements can significantly benefit well-being.

The ILO's 2017 report, "Working Anytime, Anywhere: The Effects on the World of Work " underscores how digital tools empower workers to manage their time more independently, particularly through telework, which often improves work-life harmony. However, it also highlights that only about 17% of workers across EU nations regularly utilize such digital flexibility, suggesting its adoption remains limited despite its potential advantages².

Several recent agreements have incorporated provisions granting employees autonomy over their connectivity. For instance, the Airbus Helicopters Quality of Working Life agreement, established on February 17, 2016, introduces a "right to choose when to connect," stating: "Given the rise of technology enabling constant connectivity, it is essential to define clear usage guidelines to prevent misuse while preserving employees' access. The agreement clarifies that employees retain the freedom to decide whether to engage with work tools outside standard hours. Conversely, management is prohibited from mandating such connectivity beyond regular schedules. Employees, therefore, cannot face criticism or penalties for

1 Report of the French Employment Guidance Council (COE), Automation, Digitalization and Employment, January 12, 2017.

2 International Labour Organization , *Working anytime, anywhere: The effects on the world of work*, available on: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40dgreports/%40dcomm/%40publ/documents/publication/wcms_544138.pdf , (Accessed may 06, 2025, at 15:54).

refraining from using work-related tools outside designated working hours"¹

Therefore, the ongoing risks tied to hyper-connectivity whether from personal overuse, excessive demands from employees, or pressure from Employers remain unresolved. In this context, the right to disconnect emerges as both a right and an obligation. For employees, this right is less about safeguarding personal and family life (which they self-manage) than about protecting their mental well-being from the disruptions of information and communication overload. Employers, meanwhile, retain a duty to shield workers' health and safety from the harms of unchecked digital exposure, regardless of its source superiors, peers, or the employees themselves.

Yet these risks are not exclusive to time spent outside the workplace. Even within company premises, employers must mitigate digital overexposure, if not by regulating communication flows, then by preventing scenarios where workers face overwhelming demands. Some collective agreements advocate for practices like email-free periods during meetings² or designated "digital silence" days to curb constant connectivity. Disconnection, therefore, transcends mere adherence to rest periods or work-life balance, as labor law traditionally frames it³.

1 Article 3.1 of the agreement, Social Liaisons news no. 17071, April 28, 2016.

2 For example: Renault France Cap 2020 Agreement of January 13, 2017, which states that "the right to disconnect can also be exercised during working hours. Thus, for reasons of efficiency in particular, it is preferable that the use of email and instant messaging be restricted during department meetings as far as possible."

3 Grégoire Loiseau, op.cit, p.469.

The boundaries between professional and personal life are no longer rigidly defined, making disconnection a nuanced challenge. Within the workplace, it must be actively prioritized; outside, it must coexist with flexible connectivity tailored to modern work structures. Viewed this way, disconnection is far more intricate than a simple individual entitlement. It forms part of a broader legal and organizational framework for managing connectivity in the digital age a complex endeavor for those shaping policies for the hyper-connected enterprise.

Conclusion:

In conclusion, despite the fact that the widespread adoption of information and communication technology in the labor sector has contributed to increased productivity, reduced costs for employers, and minimized physical effort for workers, it has also led to several negative repercussions that require strict legal intervention to mitigate. The right of workers to disconnect has emerged as one of the key mechanisms adopted by various countries in their labor legislation to address workers' inability to disengage from the digital world for various reasons. Based on this, the following conclusions can be drawn:

- The Algerian legislator has safeguarded the worker's right to rest to ensure recovery and maintain both physical and mental well-being, stipulating specific rest periods that are considered mandatory under public order.
- The emergence of the right to disconnect stems from the inadequacy of traditional legal standards in defining working hours and legally mandated rest periods in response to the evolving landscape shaped by the spread of information and communication technology.

- The right to disconnect serves as an effective mechanism for ensuring the worker's right to rest, particularly in the context of remote work.
- Although several countries have recognized this right, the mechanisms established to implement it remain insufficient to achieve its intended objective.

Based on these considerations, the following recommendations can be proposed:

- Explicit recognition of the worker's right to disconnect, along with appropriate compensation for any work-related communication initiated by the employer beyond official working hours, classified as overtime.
- Incorporation into labor legislation of a precise definition of what constitutes working hours, taking into account the reality that work may be performed outside the physical workplace.
- Linking recognition of the right to disconnect with mandatory training programs designed to educate workers about the risks of excessive digital connectivity. Many workers, even in countries that have enshrined this right, refrain from exercising it due to feelings of guilt over not responding to work-related communications.
- Establishing stringent penalties for employers who fail to respect this right while integrating effective legal mechanisms within labor law to enforce its application. Reliance solely on collective bargaining and agreements remains insufficient, as they serve only as complementary regulations and lack binding authority.

Bibliography List:

A. Books:

- Laurent Taskin & Patricia Vendramin, *Telework: A Silent Wave*, Louvain: Leuven University Press, 2004.
- Paul-Henri Antonmattei et al., *Psychosocial Risks: Identifying, Preventing, Addressing*, Lamy, Paris, 2010.
- Thierry Pillon & François Vatin, *Treatise on the Sociology of Work*, second edition, Octeres edition, 2007.

B. Theses and Dissertations:

- Souad Bellalou, *From the Right to Disconnect to the Right to Disconnect: Perspectives on the Law in Quebec and France*, dissertation submitted in partial fulfillment of the requirements for a Master's in Labor Law, Université du Québec à Montréal, 2019.

C. Journal article :

- Fabrice Rosa, *The perimeter of an employee's personal life put to the test by new technologies*, *Juris tourisme* 2020, n°228, p.17.
- Françoise Favennec-Herry, *Quality of Work Life and Working Hours*, *Social Law*, 2015.
- Guylaine Vallée and Dalia Gesualdi-Fecteau, *Setting the Temporal Boundaries of Work: An Empirical Study of the Nature and Scope of Labour Law Protections*, *International Journal of Comparative Labour Law and Industrial Relations*, 2016.

- Jean-Emmanuel Ray, Great Acceleration and the Right to Disconnect, Social Law, 2016.
- Jean-Emmanuel Ray, Quality(s) of Life and the Work of Tomorrow, Social Law, 2015.
- Laurène Gratton, Digital Revolution and Collective Bargaining, Labour Law Review, 2016.
- Mehdi Bakhda, The Weekly Rest in Algerian Legislation, Law Journal, Vol. 07, No. 02, 2018.
- Pierre-Yves Gomez and Romain Chevalet, Impact of ICT on Workplace Health, French Management Review, 2011.
- Valérie Pontif, Digital Transformation and Work Life: Insights from the Mettling Report, Labor Law Review, 2016.

D. Reports:

- Bruno Mettling, Digital Transformation and Work Life, Report addressed to the Minister of Labor, Employment, Vocational Training, and Social Dialogue.
- Employment Advisory Council, Automation, Digitalization and Employment, January 12, 2017
- Lorédane Besnier, Michèle Forté, Tiphaine Garat, Maria-Evdokia Liakopoulou, Nicolas Moizard, and Fabienne Tournadre, Negotiating Disconnection: An Analysis of Disconnection Agreements in the Grand Est Region, Strasbourg, Institute of Judicial Studies, Labor institute of Strasbourg, Univerity of Strasbourg (Unistra), DRES , BETA , LARGE , 2019.

- Patricia Vendramin and Gérard Valenduc, *The Tensions of Time*, Continuing Education file, 2005.

E. Observations :

- Jean-Jacques Dupeyroux, *Observation on decision of the court of cassation*, November 13, 1996, Société Générale, No. 94-13.187, social law, 1996.

F. Internet websites:

- Dalia Gesualdi-Fecteau and Geneviève Richard, *The Right to Disconnect for Workers in Sectors under Federal Regulation*, available at :
https://www.researchgate.net/publication/355196845_Le_droit_a_la_deconnexion_des_travailleurs_et_des_travailleuses_dans_les_secteurs_sous_reglementation_federale](https://www.researchgate.net/publication/355196845_Le_droit_a_la_deconnexion_des_travailleurs_et_des_travailleuses_dans_les_secteurs_sous_reglementation_federale) (accessed March 14, 2025, at 21:37).
- Dalia Gesualdi-Fecteau and Geneviève Richard, *Professional Hyperconnectivity and the Right to Disconnect and Rest: What Legal Framework?*, available at :
https://www.researchgate.net/publication/349059628_L'hyperconnectivite_professionnelle_et_le_droit_a_la_deconnexion_et_au_repos_quel_encadrement_juridique](https://www.researchgate.net/publication/349059628_L'hyperconnectivite_professionnelle_et_le_droit_a_la_deconnexion_et_au_repos_quel_encadrement_juridique) (accessed March 17, 2025, at 21:20).
- Donalee Moulton, *Problem with a Right to Disconnect Law*, Lawyer's Daily, April 11, 2017, available at :

<https://www.law360.ca/articles/2859>](<https://www.law360.ca/articles/2859>) (accessed March 14, 2025, at 00:01).

- International Labour Organization ,Working anytime, anywhere: The effects on the world of work, available at: *https://www.ilo.org/sites/default/files/wcmstp5/groups/public/%40dgreports/%40dcomm/%40publ/documents/publication/wcms_544138.pdf* , (Accessed may 06, 2025, at 15:54).