

Since March of 2020, my mother, a member of the Government Services Union, has conducted her job from home. Due to the COVID-19 pandemic, this has been the case for a great deal of Canadians. Despite dropping COVID cases and rising vaccine rates, many have found returning to a centralized headquarters to be unnecessary. While this transition has had some benefits, one unintentional result has been a blurring of the boundary between the home and the workspace, one that could lead to unfair compensation, mental health issues, and violations of workers' rights.

Across the European Union, the issue known as the "right to disconnect" has been a hot button topic over the past few years. This concept first came to public attention in 2001 through the French Supreme Court, which dictated that an employee was not required to continue their work tasks in the home. This decision was further developed to include modern electronic devices with the "El Khomri Law" named after the country's Minister of Labour Myriam El Khomri, who introduced the new provision in 2016 alongside a number of other labour legislations. This was enacted into law in January of 2017 and focused primarily on the regulation of using digital tools during rest hours. This law was introduced two years after a study commissioned by El Khomri that suggested a negative correlation between overtime use of electronic devices for work and one's mental and physical health.

While not written into law, the "right to disconnect" has been a part of German work culture for years, with several major companies enforcing hours during which workers may not be contacted. In Canada, only the province of Ontario has produced legislation surrounding this topic as Bill 27, aka the Working for Workers Act of 2021, requiring that employers who employ twenty-five or more employees on January 1st of any given year must develop a written policy to ensure the right to disconnect.

The lack of division between one's work and home life is an issue that has been recognized by Canadian labour groups for years. The pandemic has only further forced employees to bring their workplace dilemmas to their living space, contaminating a place of comfort and safety with additional stressors and conflict.

In the 2019 Minister of Labour Mandate Letter, the office of the Prime Minister mentioned the "right to disconnect" as a top priority, requesting the Minister of Labour to: "Co-develop new provisions with employers and labour groups that give federally regulated workers the 'right to disconnect'". The Minister subsequently established a Panel on Modern Federal Labour Standards to conduct research into five issues of the modern workspace, including: "Disconnecting from work-related e-communications outside of work hours."

The Public Service Alliance of Canada (PSAC) brought this issue to the attention of the Panel, arguing that the use of electronic devices at home for the purpose of working after-hours constituted as overtime and had to be compensated as such. PSAC also cited the El Khomri law as an example and argued that the right to disconnect should be codified into Canadian law.

The Panel found, as expected, that the Canadian workforce was becoming increasingly home-based, and that "workplace expectations drive employees to stay connected to work via email or messaging apps, and to send or reply to work-related messages at any time." The Panel noted how the pressure of staying digitally connected to the workspace has a detrimental effect on one's family life, as the stress typically associated with one's work is never totally alleviated. Women are especially vulnerable to these pressures, as the Panel found: "In Canada in 2015, women spent 33% more time than men on unpaid work activities and are likely to be unavailable for after-hours work which can have an impact on accessing promotions or better jobs."

Ultimately, PSAC asked the Panel to recognize on-call/digitally connected time as work, and for employees to be fairly compensated for such overtime. The Panel failed to recommend that the right to disconnect be codified into law. An updated report from February of this year discussed these issues further but did not recommend a government mandated right to disconnect.

Given the dramatic changes that have overtaken the Canadian workforce over the past two and a half years, it is imperative that labour unions continue to push for the right to disconnect to be written into Canadian law. Failure to do so will result in further mental health issues among the workforce, unpaid overtime, and a further societal dependence on mobile digital technology.