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FROM MODELS TO MANNEQUINS: THE OXYMORONIC EQUATION OF INTERNATIONAL LABOR LAW STANDARDS IN THE WORLD OF FASHION

NAMRATA BHOWMIK* AND NAMAN ANAND**

ABSTRACT

There are certain things that even fashion cannot justify . . .

– *Lewis F. Korn*s¹

Fashion law is an emerging field that addresses the legal issues that arise in the fashion industry. With the rapid growth and globalization of the fashion industry, there is an increasing need for specialized legal guidance in this area. Fashion law encompasses a wide range of legal issues, including intellectual property, contract law, employment law, international trade law, and environmental law.

One of the main drivers behind the need for fashion law is the rise of counterfeiting and intellectual property theft in the fashion industry. With the proliferation of e-commerce and social media, it has become easier than ever for counterfeiters to produce and sell fake designer goods. Fashion law provides legal protections for designers, brands, and manufacturers to safeguard their intellectual property rights and prevent infringement.

Moreover, the fashion industry has a significant impact on the environment, with issues such as textile waste, carbon emissions, and ethical sourcing of materials. Fashion law can play a crucial role in ensuring that fashion companies comply with environmental regulations and ethical standards.

Interestingly, fashion models comprise a group of working professionals that do not have any laws dealing with the specific issues that they are faced with on account of their profession. This Article discusses the various reasons why there is a need for fashion law.

Keywords: fashion law, legal protection, fashion models, fashion industry, and globalization.

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¹ LEWIS F. KORNS, THOUGHTS 15 (2007).

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I. INTRODUCTION

I see a 16-year-old now, and to ask her to take her clothes off would feel really weird. But they were like, [i]f you don't do it, then we're not going to book you again. So I'd lock myself in the toilet . . .

– *Kate Moss*²

It is easy to forget the legal and ethical concerns that models face in the fashion industry. Those legal and ethical concerns leave models faced with immense amounts of pressure throughout their careers. This includes the pressure to fit into a renowned designer's clothes, lose weight, meet modeling agencies' expectations, and even pose nude, sometimes against their will.³ There exists additional pressure on models to fit themselves into the 'hourglass' or 'size zero' conundrum, and for models who are 'too big' or 'too small'—it can be the difference from getting the job or not.⁴ Models, especially those under the age of 18, may not know how to handle the pressures of modeling, rejection, sexual harassment, or prejudice.⁵

Fashion models will travel wherever it takes to reach their dreams and make a career of modeling. The majority of fashion models moving to New York, Paris, and Milan come from all over the world.⁶ Models from low-income families often send money home to their families.⁷ They sometimes face the pressure of being the sole earner in their family. This pressure may lead to health problems such as anxiety, anorexia, depression, or drug abuse, among other issues.⁸ That pressure will also keep

² James Fox, *The Riddle of Kate Moss*, VANITY FAIR (Nov. 19, 2012), <https://www.vanityfair.com/hollywood/2012/12/kate-moss-naked-emotions>.

³ *See id.*

⁴ Jess Cartner-Morley, *It Feels Like the Process is Getting Reversed': How Fashion Fell out of Love with Curves*, GUARDIAN (Nov. 1, 2022, 1:00 AM), <https://www.theguardian.com/fashion/2022/nov/16/it-feels-like-the-progress-is-getting-reversed-how-fashion-fell-out-of-love-with-curves>.

⁵ *See* Olivia Fleming, *Models Share Stories of Sexual Assault in the Fashion Industry*, HARPER'S BAZAAR (Dec. 19, 2017), <https://www.harpersbazaar.com/culture/features/a12817440/models-sexual-assault-stories-fashion-industry/>.

⁶ *See generally* Slava Solodkiy, *Life of Fashion Models: Debts, Low Salaries, Sexual Harassment and Career Instability*, MEDIUM (May 27, 2016), https://medium.com/@slavasolodkiy_67243/life-of-fashion-models-debts-low-salaries-sexual-harassment-and-career-instability-7e7e600e05c6.

⁷ Allana Akhtar, *Meet the First Hijab-Wearing Runway Model, Who Started Making Money at 10 and Loves Paying Taxes*, MONEY (Aug. 27, 2018), <https://money.com/halima-aden-money-work-ethic/>.

⁸ Lisa Granshaw, *How Models Should Address Mental Health Issues in the Fashion Industry*, BACKSTAGE (May 7, 2021), <https://www.backstage.com/magazine/article/sydney-giordano-model-alliance-mental-health-73208/>. *See generally* Wendy Spettigue & Katherine A. Henderson, *Eating Disorders and the Role of the Media*, 13 CANADIAN CHILD & ADOLESCENT PSYCHIATRY R. 16 (2004).

models in the industry, despite the presence of social issues like, human trafficking, color or race-based discrimination, and invasive backstage photography, amongst the plethora of other crimes.⁹

Modeling becomes especially difficult considering how labor-intensive the fashion industry is. From Sabyasachi's labor-intensive design label¹⁰ to e-commerce websites like Wish selling products for questionably low prices, the fashion industry never stops.¹¹ The social concerns surrounding the fashion industry has led to an increased interest in its legal regulation. Lawyers and legal professionals used to identify fashion law as just a part of intellectual property ("IP") matters. Lately, however, the legal profession has uncovered it as a niche platform that portrays the interplay of factors apart from IP, such as fashion marketing and sales, mergers and acquisitions ("M&A"), international trade law, sustainability, and modeling laws, along with many others.¹² Like every aspect of life, labor in the garment industry is governed by a plethora of national and local laws.¹³ Given that a large part of the fashion industry is concerned with the protection of designs and trademarks,¹⁴ it is undeniable that IP dominates the industry.¹⁵ Still, it cannot function in isolation.¹⁶ For example, in

⁹ Resham Mehta, *Fashion Modeling and Human Rights*, BASKARAN AND ASSOCIATES (Nov. 26, 2020), <http://baskaranslegal.com/blog/2020/11/26/fashion-modeling-and-human-rights/>.

¹⁰ Praachi Raniwala, *Unfamiliar Territory for Indian Bridal Industry*, N.Y. TIMES (July 16, 2020), <https://www.nytimes.com/2020/07/16/fashion/weddings/unfamiliar-territory-for-indian-bridal-industry.html>; see also Vikas Chachra, *Covid-19 and Textile Industry*, BUSINESS WORLD (May 2020), <https://www.businessworld.in/article/Covid-19-And-Textile-Industry/09-05-2020-191637/>.

¹¹ Jesse Zambrano, *Do Shoppers Know The Truth Behind Wish*, CAVSCONNECT (Nov. 25, 2017), <https://www.cavsconnect.com/opinion/2017/11/25/do-shoppers-know-the-truth-behind-wish/>.

¹² Marcella Ballard, *IP Protection for the Fashion Industry*, in NAVIGATING FASHION L. 1, 4 (2016); Douglas Hand, *M&A and Fashion: If the Deal Fits... Buy It!*, ANNUAL SURVEY OF AM. L., <https://annualsurveyofamericanlaw.org/mergers-and-fashion/> (last visited Jan. 26, 2023).

¹³ See, e.g., *Apparel Industry Workers*, U.S. DEPT. OF LABOR, <https://www.dol.gov/agencies/whd/workers/apparel> (last visited Jan. 26, 2023); see also Rachel Cernansky, *California's Garment Labour Law: The Global Implications*, VOGUE BUSINESS (Sept. 30, 2021), <https://www.voguebusiness.com/sustainability/californias-garment-labour-law-the-global-implications>. But see Press Release, International Labour Organization, *Globalization Changes the Face of Textile, Clothing and Footwear Industries* (Oct. 28, 1996).

¹⁴ See *IP and Business: Intellectual Property in the Fashion Industry*, WIPO MAGAZINE, MAY-JUNE 2005, at 17.

¹⁵ John Zarocostas, *The Role of IP Rights in the Fashion Business: A US Perspective*, WIPO MAGAZINE, Aug. 2018, at 33.

¹⁶ Sara Cavagnero, *Governing the Fashion Industry (Through) Intellectual Property Assets: Systematic Assessment of Individual Trade Marks Embedding Sustainable Claims*, 16 J. INTELL. PROP. L. & PRAC. 850 (2021).

addition to IP, the fashion industry is where free speech is brought through the clothing design's reflection of one's personality, integrity, and sacredness of one's body.¹⁷

Considering the continuance of social concerns within fashion law, there are several human rights and labor law concerns that call for the urgency of establishing a legal framework of models' rights in the fashion industry, which would clearly define their specific rights.

Law and culture significantly influence fashion choices, human psychology, and human rights. As a result, fashion legislation covers IP, fundamental rights of speech and personality, employment, and market practices.¹⁸ This Article explores the various labor law issues relevant to this newborn sect of law, *i.e.*, fashion law, from an international and comparative standpoint to enhance the prominence of critical areas of the fashion-law crossover and highlight essential focus points for further analysis and research. It shall cover numerous jurisdictions such as the United Kingdom, United States, and European Union Nations.

II. HUMAN RIGHTS AND LABOR IN THE FASHION INDUSTRY: WHY IS IT IMPORTANT?

Apart from labor difficulties in supply chains, the fashion industry has also been chastised for the terrible working conditions of fashion models.¹⁹ Models frequently complain about the challenges of retrieving revenue for work done and the absence of assistance from organizations in recouping reimbursement.²⁰ Fashion models have frequently complained²¹ about the problems of restricted work rights and various other labor issues, despite the widespread assumption that modeling is a glamorous career.²² The global character of the industry, in particular, exposes fashion models to various legal regimes that might provide rights, but these rights are usually not publicized or maintained.²³

When considering all of these issues, it is essential to see a model as a human being before a professional, which provokes one to think about guaranteeing these individuals some of the most basic and non-negotiable fundamental human rights, such as those found in the European Convention on Human Rights ("ECHR"), Universal Declaration of Human Rights ("UDHR"), the Convention on the Rights of

¹⁷ Prachi Juneja, *Dressing and Personality Development*, MANAGEMENT STUDY GUIDE, <https://www.managementstudyguide.com/dressing-and-personality-development.htm> (last visited Jan. 26, 2023).

¹⁸ Mark K. Brewer, *Fashion Law: More than Wigs, Gowns, and Intellectual Property*, 54 SAN DIEGO L. R. 739, 770 (2017).

¹⁹ See generally Alexandra R. Simmerson, *Not So Glamorous: Unveiling the Misrepresentation of Fashion Models' Right as Workers in New York City*, 22 CARDOZO J. INT'L & COMP. L. 153, 153–54 (2013); see also Solodkiy, *supra* note 6.

²⁰ See *id.* at 178–79.

²¹ See generally *Shanklin v. Wilhelmina Models, Inc.*, 77 N.Y.S.3d 67 (N.Y. App. Div. 2018).

²² Simmerson, *supra* note 19 at 154–55.

²³ See *id.* at 177–88.

the Child (“OHCHR”), the Declaration of the Rights of the Child, and the European Social Charter, or in numerous constitutions, to name a few.²⁴

Examples of these basic and non-negotiable fundamental rights include:

- The Right to Health
- The Right to be a Child
- Prohibition of a Human Being’s Exploitation
- The Right to Education
- The Right to Physical and Psychological Integrity
- Prohibition of Discrimination
- The Right for Each Person to Control the Use of Their Own Image²⁵

The assertion of such rights is critical to a human beings’ personal growth, which is intrinsic to their human dignity.

A. *The Harmful Realities that Exist Within the Modeling Industry*

1. Mental Health and Substance Use Disorder

At the outset, many people love the modeling profession for its glamour and grandeur, statuesque models, haute couture, and unending worldwide catwalks that have presented some of our generation’s most renowned supermodels. Many young aspiring models worldwide seek to get into this multibillion-dollar profession.²⁶ Nevertheless, an unpleasant side exists that can only be seen by those who have lived life from the inside.²⁷

Employees in the creative industries are twenty-five percent more prone to develop a mental disease.²⁸ Forty percent of fashion models have an eating disorder or experience depression.²⁹ The fashion industry is fast-paced and high-pressured, with

²⁴ See generally *Questions and Answers About Human Rights*, COUNCIL OF EUROPE, <https://www.coe.int/en/web/compass/questions-and-answers-about-human-rights> (last visited Jan. 26, 2023).

²⁵ See generally G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948); see also *What is the European Convention on Human Rights?*, EQUAL. & HUM. RTS. COMM’N (Apr. 19, 2017), <https://www.equalityhumanrights.com/en/what-european-convention-human-rights>; G.A. Res. 44/25, Convention on the Rights of the Child, (Nov. 20, 1990).

²⁶ Uditha Sanjaya, *How to Get into the Fashion Industry as a Teenager*, DEVOLUXE (June 26, 2022), <https://devoluxe.com/get-into-fashion-industry-as-teenager/>.

²⁷ See generally Fleming, *supra* note 5.

²⁸ Ian Sample, *New Study Claims to Find Genetic Link Between Creativity and Mental Illness*, GUARDIAN (June 8, 2017, 1:04 PM), <https://www.theguardian.com/science/2015/jun/08/new-study-claims-to-find-genetic-link-between-creativity-and-mental-illness>.

²⁹ Christian Nordqvist, *Eating Disorders Among Fashion Models Rising*, MEDICALNEWSTODAY (July 8, 2007), <https://www.medicalnewstoday.com/articles/76241#1>; see also Robert T. Muller, *Models Face Routine Exploitation, Mental Health Problems*,

long shifts, late wrap-ups, considerable travel, minimal rest, and skipping meals, all of which can negatively impact a model's mental well-being.³⁰

This hurried lifestyle, as well as emotions of worry, are amplified during fashion week.³¹ The pressure to succeed and please fashion businesses are enormous, and many people suffer from depression.³² Although the fashion business does not explicitly encourage psychiatric disorders, the nature of the industry does foster eating disorders, personality doubts, and anxiousness.³³ The sense of worth is essential to a model's physical and emotional well-being.³⁴ With fresh faces constantly emerging as a danger to their livelihood, there is no loyalty. Considering the pressure and increased rates of mental illness, the fashion industry offers a challenging working atmosphere that requires more regulation.

Adding further to the problem, the widespread availability of heroin, along with the new rebellious path in modeling and photography, spawned 'heroin chic,' a fad that swiftly evolved into "a lifestyle . . . a culture."³⁵ This trend was characterized by models posing with their hair unkempt, minimal, or haphazardly applied makeup, looking as natural as possible.³⁶ A pale complexion, sharp bones, a slim frame, and dark under-eye circles defined the look.³⁷ This infectious trend further made its way to the typical household even through pop culture references; for example, in the famous sitcom *Seinfeld* Elaine makes a sarcastic comment about hair volume by

PSYCHOLOGY TODAY (Jan. 25, 2018), <https://www.psychologytoday.com/us/blog/talking-about-trauma/201801/models-face-routine-exploitation-mental-health-problems>.

³⁰ Valeriya Safronova, Joanna Nikas & Natalia V. Osipova, *What It's Truly Like to Be a Fashion Model*, N.Y. TIMES (Sept. 5, 2017), <https://www.nytimes.com/2017/09/05/fashion/models-racism-sexual-harassment-body-issues-new-york-fashion-week.html>.

³¹ Melissa Keen, *What It's Really Like Modeling in a Fashion Show*, UK MODELS (Jan. 13, 2020), <https://www.ukmodels.co.uk/blog/really-like-modeling-fashion-show/>.

³² Kelly Press, *Mental Illness in Fashion: Opening up the Conversation*, FASHION UNITED (June 12, 2018), <https://fashionunited.uk/news/fashion/mental-illness-in-fashion-opening-up-the-conversation/2018061230162>.

³³ NIKOLETT BOGÁR & FERENC TÚRY, *THE FASHION INDUSTRY AND EATING DISORDERS: THE DANGERS OF THE CATWALK XII* (2019).

³⁴ Antonia Dittrich, *Fashion's Impact on Mental Wellbeing*, DW (Sept. 24, 2019), <https://www.dw.com/en/how-fashion-impacts-our-mental-wellbeing/a-50562794>.

³⁵ Jenna Ledford, *From Dirty Realism to Heroin Chic: How Fashion Becomes a Scapegoat for Cultural Anxieties 2* (Spring 2007) (B.A. thesis, University of North Texas) (on file with UNT digital library).

³⁶ *See id.* at 1.

³⁷ Chris Foy, *What Is "Heroin Chic" and Why Its Return is a Problem*, FHE HEALTH (Mar. 28, 2022), <https://fherehab.com/learning/heroin-chic>.

referring to this trend:³⁸ “It is all about freedom, really—and being proud of the holes in your jumper.”³⁹

The fashion business became a hive of drug abuse.⁴⁰ The world rapidly adopted the ‘heroin chic’ fad influenced by the photographs of famous personalities like Jodie Kidd, Drew Barrymore, Kate Moss, and Jaime King. Designers such as Calvin Klein capitalized on the trend in their advertisements, helping to glamorize narcotics.⁴¹ Calvin Klein commercials have always been promoters of “what’s in” in fashion, and not to miss, they also played a major role in promoting the usage of certain substances to maintain a look that can be deemed to be “model-like” by the fashion industry. Calvin Klein has also been known for the employment of several imagery in their campaigns that used highly sexualized adolescent models and provocative phrases that sparked several debates but succeeded in projecting an image of a tremendously appealing lifestyle to the young, ultimately portraying what is in reality an unhealthy lifestyle as one that is fashionable.⁴²

Davide Sorrenti was a well-known young photographer who actively promoted the ‘heroin chic’ image in his work. He died at the age of twenty due to a heroin overdose.⁴³ Thankfully, ‘heroin chic’ was only a passing fad. After Sorrenti died in 1997, various anti-drug declarations were issued by members of the media, the fashion industry, and the U.S. government.⁴⁴ This incident served as a strong wake-up call, powerful enough for the authorities to pay attention and the general public to notice the fatal flaw of this new-age fad.⁴⁵

U.S. President Bill Clinton talked to thirty-five prominent city mayors on U.S. drug policy in 1997, accusing the ‘heroin chic’ movement of making narcotics appear

³⁸ *Id.*

³⁹ Robin Muir, *What Katy Did*, INDEPENDENT (Feb. 22, 1997, 1:02 AM), <https://www.independent.co.uk/arts-entertainment/what-katy-did-1279938.html>.

⁴⁰ Ledford, *supra* note 35, at 1; *see also* Thanush Poulsen, *The Dark Side of Our Fashion Industry: Drug Abuse*, ANNE OF CARVERSVILLE (Feb. 7, 2019), <https://anneofcarversville.com/style-photos/2019/2/7/the-dark-side-of-fashion-industry-is-drug-abuse>.

⁴¹ Warren Richey, *Boycott Groups: Klein Ads Carry Scent of ‘Heroin Chic’*, THE CHRISTIAN SCIENCE MONITOR (Oct. 25, 1996), <https://www.csmonitor.com/1996/1025/102596.us.us.5.html>.

⁴² Jessie Van Amburg, *Poll: Are Calvin Klein Ads Sexual or Sexist?*, TIME (May 12, 2016, 5:39 PM), <https://time.com/4327901/calvin-klein-ads-sexual/>.

⁴³ Alexandr Lyapin, *Hero or Heroin: Life and Death of David Sorrenti*, BIRD IN FLIGHT (May 18, 2020), https://birdinflight.com/en/why_its_masterpiece/20200518-davide-sorrenti.html.

⁴⁴ Edward Helmore, *‘Heroin Chic’ and the Tangled Legacy of Photographer Davide Sorrenti*, GUARDIAN (May 23, 2019, 11:17 AM), <https://www.theguardian.com/fashion/2019/may/23/heroin-chic-and-the-tangled-legacy-of-photographer-davide-sorrenti>.

⁴⁵ Amy M. Spindler, *A Death Tarnishes Fashion’s Heroin Look*, N.Y. TIMES (May 20, 1997), <https://www.nytimes.com/1997/05/20/style/a-death-tarnishes-fashion-s-heroin-look.html>.

“glamorous, sexy, and cool.”⁴⁶ He further said, “[t]he glorification of heroin is not creative, it’s destructive. It’s not beautiful; it’s ugly. And this is not about art. It’s about life and death. And glorifying death is not good for any society.”⁴⁷

After President Clinton spoke on the issue, thirteen top designers, such as Reynold Pearce, Stella McCartney, John Galliano, Reynold Pearce, Andrew Fionda, and John Rocha, issued a statement criticizing the fashion industry’s use of narcotics to market its products: “We also disapprove of the fashion industry glamorizing the use of addictive substances . . . as this could have a detrimental effect on the lives of young people, many of whom are greatly influenced by the appearance and actions of members of our industry.”⁴⁸

2. Colorism and Modeling

When speaking of fashion, one can never dispose the idea of how the word ‘fashion model’ only brings image of fair and slim people. It is sad to see how humanity has had to fight for ages to make sure that what is deemed beautiful and pretty also includes people of various colors and sizes—another issue that haunts the world of fashion and beauty . . . ‘the perfect fairness.’

Ajak Deng, a South Sudanese supermodel, resorted to Instagram in 2019 to tell a heart-breaking narrative about her experience in the modeling profession.⁴⁹ She decried the lack of respect that she got from her modeling agency, IMG Models, and how “lonely it is at the top,” visibly depressed and with tears streaming down her cheeks.⁵⁰ Deng revealed suicidal thoughts due to the severe and persistent criticisms she was subjected to.⁵¹ In her post, she explained that “the people that work with you constantly tell you that you’re a horrible person. If I do commit suicide, know that it’s because of you”⁵²

The post generated a lot of uproar throughout social media, once again focusing attention on the mental health difficulties of professional models, particularly

⁴⁶ All Politics, *Clinton Decries ‘Heroin Chic’ Fashion Look*, CNN (May 21, 1997), <https://www.cnn.com/ALLPOLITICS/1997/05/21/clinton.mayors/>.

⁴⁷ *Id.*

⁴⁸ Colin Blackstock, *The Ugly Side of Heroin Chic*, INDEPENDENT (Oct. 11, 1997, 11:02 PM), <https://www.independent.co.uk/news/the-ugly-side-of-heroin-chic-1235403.html>.

⁴⁹ Tira Urquhart, *Super Model Ajak Deng Breaks Down and Blasts Modeling Agency for Their Horrible Treatment*, LIFESTYLE (May 3, 2019, 5:28 PM), <https://www.bet.com/article/5ula53/super-model-ajak-deng-breaks-down-and-blasts-modeling-agency>.

⁵⁰ *Id.*

⁵¹ Lauren Onyeneho, *Facing the Dark Side of Mental Health in the Modeling Industry*, MEDIUM (June 26, 2019), <https://medium.com/@lauraonyeneho/facing-the-dark-side-of-mental-health-in-the-modeling-industry-9d66ca86add8>.

⁵² *Id.*

on models of color.⁵³ When models adopt unhealthy coping mechanisms to reach superstardom, they frequently pay a high price.⁵⁴ Deng then made a follow-up Instagram story talking about her meltdown.⁵⁵ She was offered treatment by IMG Models to help her deal with her “trust issues.”⁵⁶ In a follow up post, she explained, “it’s okay to reach out . . . it’s okay to feel neglected, it’s okay to feel left out . . . but there are people out there who care My only issue is that I blocked everybody out. I thought that nobody cared.”⁵⁷

According to the Center for Disease Control and Prevention research that examined suicide rates amongst professions, the fashion sector scored the seventh position on the list, trailing only the police, mechanics, and industrial workers.⁵⁸ This corroborates the vital link between mental illness and employment in the fashion business.⁵⁹ However, several models are currently leading a powerful wave of women unafraid to speak up about their problems in the fashion profession and among this long list include Constance Smith, a Boston-based We Speak agency model, and Brittany Mason, a Los Angeles-based fashion model.⁶⁰

Body shaming and colorism were the two most serious issues affecting Smith’s mental health. She worked as a freelance model in Boston for years until the We Speak agency signed her in 2018.⁶¹ Smith’s objective as a plus-size model was to represent ‘everyday women’ in the fashion industry. Her self-esteem suffered as a result of her beginnings in Boston.⁶² Mason had to establish her value as an Afro-Latina at specific castings for Hispanic ladies.⁶³

Despite living in different roles and working in various aspects of the fashion business, both women’s hardships as Black models are much too typical.⁶⁴ Mason,

⁵³ *Id.*; see, e.g., Sydney Gore, *Ajak Deng Quits Modeling After Too Much Racism in the Industry*, NYLON, <https://www.nylon.com/articles/ajak-deng-modeling-racism> (last visited Jan. 1, 2023).

⁵⁴ Onyeneho, *supra* note 51.

⁵⁵ Junub TV, *South Sudanese Model, Ajak Deng Breaks Down on er Instagram*, YOUTUBE (May 5, 2019), <https://www.youtube.com/watch?v=cF-popMhO9c>.

⁵⁶ Onyeneho, *supra* note 51.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

who is twenty-five years old, has worked for Mercedes Benz and Lipland Cosmetics.⁶⁵ As an unsigned model, she has amassed an enormous following of more than 50,000 people across all social media channels.⁶⁶ Rejection is indeed an aspect of the profession, as is the sensation of being an impostor, which Mason said was her downfall at the start of her journey.⁶⁷ Her mental health suffered due to uncertainty, especially when customers took advantage of her money and efforts.⁶⁸ She considered giving up at one point.⁶⁹ Mason described this feeling of never being enough for the agency when she explained:

There are times during castings where directors are looking for “ethnic” models or African-born models with strong features, darker skin, and full lips. It’s crazy because though I’m born here, I’m African with roots from Sierra Leone . . . Very often I’m the only Black model in the room. If you think that’s enough to stand out, it’s not. The best decision for me to do was cut my hair to show more of my features which in turn has open more doors for me. I look for what’s right for me. What I bring to the table is not meant for everyone.⁷⁰

The detrimental effects of colorism on mental health cannot be denied. The recent courage of models and public figures in speaking out against colorism is a step towards change. However, more needs to be done in terms of regulation and protection of these individuals from the negative impact of colorism. It is important for society to recognize and address this issue to promote inclusivity and equity for all individuals, regardless of their skin color.

3. Catwalks, Cardio, and Cocaine: Drugs and Fashion

The fashion business is well-known for the glitz, bustle, and nightlife that accompanies it. What goes unrealized is that the glitz and glam are only the tips of the iceberg.

It is hardly astonishing that many individuals cope with such massive stress using equally extreme measures. In the fashion business, drug abuse, especially, is quite frequent.⁷¹ The consumption of illegal drugs and the abuse of prescription medications are frequently regarded with little judgment.⁷² Simultaneously, it is easy to be dazzled

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *High on the Runway: Drug Abuse in the Fashion Industry*, DESTINATION HOPE TREATMENT CENTER, <https://destinationhope.com/high-on-the-runway-drug-abuse-in-the-fashion-industry/> (last visited Jan. 2, 2023).

⁷² *See id.* (explaining how abuse in the fashion industry is “frequently regarded with little judgment” based on rampant abuse).

by the gleaming exterior and overlook the industry's vast normalization of drug misuse.⁷³ Many individuals would instead focus on the pure elegance of fashion than on the harsh truth. Such apathy encourages denial of the problem and makes a person less inclined to seek therapy.⁷⁴

Addiction news spreads swiftly and may inflict an onslaught of public shame on a celebrity.⁷⁵ Due to worries about anonymity, it makes locating the correct institution to receive treatment twice as tricky.⁷⁶ As a result, it is difficult to exaggerate a single private recovery center's influence on a person's life.⁷⁷ The few who recognize that they have a problem and seek assistance face similar difficulties. The prime example in this regard is the case of the celebrity model, Naomi Campbell, in 2004 whereby the European Court of Human Rights ("ECtHR") had ruled that the publications and images that were put out by the newspaper was not in breach of Article 10 of the European Convention on Human Rights ("ECHR"), concerning the newspaper's freedom of expression.⁷⁸

The fashion business has long been one of the most powerful influences in shaping people's dressing sense and what an "ideal" fashion figure is.⁷⁹ Nowadays, the world values self-care and raising awareness about the dangers of substance abuse.⁸⁰ As a result, it is impossible to foresee a drug-advocacy advertising campaign succeeding at the current time.⁸¹

However, this was not the case at the start of the 1990s. While drug misuse was never publicly advocated by the fashion industry or the media, several elements converged to produce a comfortable and supportive climate for drug popularization.⁸² Heroin became substantially purer and inexpensive, allowing addicts to snort it rather

⁷³ David Bailey, *The Dark Side of Our Fashion Industry: Drug Abuse*, ANNE OF CARVERSVILLE (2013), <https://anneofcarversville.com/style-photos/2019/2/7/the-dark-side-of-fashion-industry-is-drug-abuse>.

⁷⁴ *Id.*

⁷⁵ See S. Robert Lathan, *Celebrities and Substance Abuse*, 22 BAYLOR UNIV. MED. CTR. PROC. 339, 340 (2009).

⁷⁶ See Roger Weiss, *Private Rehabilitation Centers: Addiction Treatment in Privacy and Comfort*, ADDICTION RESOURCE, <https://addictionresource.com/drug-rehab/private/> (Nov. 1, 2021).

⁷⁷ *Id.*

⁷⁸ *Campbell v. MGN Limited* [2004] AC (HL) 22 (appeal taken from Eng.).

⁷⁹ Phoebe R. Apeagyci, *Significance of Body Image Among UK Female Fashion Consumers: The Cult of Size Zero, the Skinny Trend*, 1 INT'L J. FASHION DESIGN 1, 3 (2008).

⁸⁰ *The Social Impact of Drug Abuse*, U.N. INT'L DRUG CONTROL PROGRAMME (World Summit for Soc. Development), Mar. 6–12, 1995, at 11, 46.

⁸¹ *Id.* at 9.

⁸² *Id.* at 1.

than inject it with possibly contaminated needles.⁸³ As a result of these factors, heroin was no longer associated only with the poor but also spread and affected the middle and lower classes.⁸⁴ Simultaneously, and as mentioned briefly above, a new orientation in the fashion business emerged, led by photographers such as Juergen Teller, Corinne Day, and Craig McDean.⁸⁵ Models in their images were raw, natural, and rebellious of the glitter of the 1980s.⁸⁶

The fashion industry places immense pressure on models to look a certain way, which simultaneously requires one to keep their body weight low to make themselves look more “attractive.”⁸⁷ Such notions often forced fashion models to start consuming substances that could help them suppress their appetite, thereby helping them maintain a low body weight, for example, cocaine.⁸⁸ This not only led to a rise in the levels of cocaine addiction but also resulted in long-term eating disorders among fashion models.⁸⁹

The availability of and accessibility to cocaine in the fashion industry is rampant and even celebrated in the industry.⁹⁰ However, the other mental health issues that this kind of addiction triggers in people, and in fashion models in this case, can include anorexia, anxiety, depression, and even post-traumatic stress disorder (“PTSD”).⁹¹

⁸³ *Heroin*, NAT’L INST. ON DRUG ABUSE (Research Report Series), rev. Nov. 2014, at 1.

⁸⁴ *Economic and Social Consequences of Drug Abuse and Illicit Trafficking*, U.N. Int’l Drug Control Programme (World Summit for Soc. Development), Mar. 6–12, 1995, at 10, 25.

⁸⁵ Karen de Perthuis, *The Complex World of the Fashion Photograph*, RESEARCHGATE (July 28, 2020), https://www.researchgate.net/publication/334507467_Fashion%27s_Image_The_Complex_World_of_the_Fashion_Photo.

⁸⁶ *Id.*

⁸⁷ *Cocaine: High Fashion, Low Weight*, CIRQUE LODGE, <https://www.cirquelodge.com/addiction/cocaine/low-weight/> (last visited Jan. 2, 2023).

⁸⁸ Karen D. Ersche et al., *The Skinny on Cocaine: Insights into Eating Behavior and Body Weight in Cocaine-dependent Men*, 71 *APPETITE* 75, 75 (Dec. 1, 2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3863945/>.

⁸⁹ *Cocaine: High Fashion, Low Weight*, *supra* note 87.

⁹⁰ *High on the Runway: Drug Abuse in the Fashion Industry*, *supra* note 71.

⁹¹ Amanda Krause, *A Former Victoria’s Secret Model Says Agencies Told Her to Use Cocaine and ‘Have Lots of Sex’ to Lose Weight While She Was Underage*, INSIDER (July 7, 2021), <https://news.yahoo.com/former-victorias-secret-model-says-143505707.html>.

4. The Pursuit for Perfection: The Negative Implications and Existence of Body Shaming

a. *Body Shaming in the World of Fashion*

Body shaming, in the present world, includes both “fat shaming” and “skinny shaming,” and this is true in the fashion industry too.⁹² What gained the most prominence was the 2017 ban of “size-zero” models from catwalking for brands like Gucci and Dior.⁹³ As discussed in more detail later, an example of this is the 2017 French legislation which compels models to obtain a doctor’s certificate before walking down the runway to ensure they are within a healthy weight range.⁹⁴

As a result of legislation like that in France, models and the public are having varied reactions. Jamie King, a prominent American model and actress, criticizes the “size-zero ban” and explains:

I think it would be radically unfair to say if you’re a size zero, then you can’t work, just like it’s unfair to say that if you’re a size 16, you can’t work . . . I’m naturally really thin and sometimes it’s really hard for me to gain weight. When people on Instagram say, “Go eat a hamburger,” I’m like, “Wow, they’re body shaming me for the way I look.”⁹⁵

While King’s concerns on the negative implications of regulating healthy body standards are valid, the livelihood of most models, including the King’s, is based on an industry that regulates her body.⁹⁶ Swallowing that one’s art fosters fanciful and unrealistic ideas of the feminine body can be difficult, but legislation can try to regulate and temper those difficulties.

Eating disorders in children, adolescents, and young adults are particularly prevalent because of the negative treatment that overweight or obese individuals receive. In 2005, research headed by Janet Latner of the University of Canterbury in New Zealand discovered that children and adolescents are less accepting of their overweight or obese peers than adults are.⁹⁷ As a result, overweight or obese young individuals are more prone to develop psychological disorders, such as depression and

⁹² Radhika Sanghani, *Holly Willoughby and the Thin-Shaming Trend that Shames Us All*, TELEGRAPH (June 20, 2017), <https://www.telegraph.co.uk/women/life/holly-willoughby-thin-shaming-trend-shames-us/>; Jamie E. Shenton, *Consumer Culture Won’t Lead to Body Positivity*, SAPIENS (Jan. 26, 2022), <https://www.sapiens.org/culture/kichwa-body-positivity/>.

⁹³ Exige Igualdad, *Size 0 Models Are Now Banned by These Luxury Fashion Brands*, GLOBAL CITIZEN, <https://www.globalcitizen.org/es/contenUsize-O-models-are-now-banned-by-these-luxury-fashi/> (last visited Jan. 2, 2023).

⁹⁴ Janet L. Treasure et al., *Models As a High-Risk Group: The Health Implications of a Size Zero Culture*, 192 BRITISH J. PSYCHIATRY 243, 243–44 (2008).

⁹⁵ Alev Aktar, *Jaime King Wants People to Stop ‘Body-Shaming’ Skinny Models*, N.Y. POST (Sept. 9, 2017), <https://nypost.com/2017/09/09/jaime-king-wants-people-to-stop-body-shaming-skinny-models/>.

⁹⁶ *Id.*

⁹⁷ Janet D. Latner et al., *Stigmatized Students: Age, Sex, and Ethnicity Effects in the Stigmatization of Obesity*, 13 OBESITY RSCH. 1226, 1229 (2005).

low self-esteem.⁹⁸ This was explained by 2015 research lead by Tilda Farhat of the U.S. National Institutes of Health when she highlighted that overweight and obese persons are predisposed to being susceptible later in life.⁹⁹

Overweight status in adolescence has been associated with sexual risk behavior (Akers et al., 2009), social exclusion (Chen & Brown, 2005), peer victimization (Pearce et al., 2002), and a lower likelihood of establishing romantic relationships (Chen & Brown, 2005; Halpern, King, Oslak, & Richard Udry, 2005; Pearce et al., 2002), all developmental milestones particularly salient for adolescence.¹⁰⁰

This notion is further supported by the media's portrayal of overweight or obese individuals, for example, the portrayal of an "obese best friend"¹⁰¹ is a character that generally offers comic relief or is portrayed as insane.¹⁰² There is usually only place for one or two token plus-size ladies, as evidenced by Taylor Swift and her 'girl squad' enlisting Lena Dunham to play the part of the token one who is not a runway model.¹⁰³ By continuing to further the negative stigma surrounding one's weight, eating disorders can become rationalized as a way to fix one's problems. Indeed, as many physicians and scientists have pointed out, fat-shaming or fat discrimination¹⁰⁴ is the final form of legitimate societal bias.¹⁰⁵

Modeling and young age stigma associated with weight is a complex issue that requires attention from various stakeholders. Parents, educators, and healthcare providers must work together to promote healthy eating habits and physical activity among children and adolescents. Regulation of the fashion industry, including size diversity and anti-discrimination policies, can also help reduce the negative impact of

⁹⁸ Gary S. Goldfield et al., *Body Dissatisfaction, Dietary Restraint, Depression, and Weight Status in Adolescents*, 80 J. SCH. HEALTH 186, 186 (2010).

⁹⁹ Tilda Farhat et al., *Weight Perceptions, Misperceptions, and Dating Violence Victimization Among U.S. Adolescents*, 30 J. INTERPERSONAL VIOLENCE 1511, 1526 (2015).

¹⁰⁰ *Id.*

¹⁰¹ *Fat Best Friend*, TV TROPES, <https://tvtropes.org/pmwiki/pmwiki.php/Main/FatBestFriend> (last visited Jan. 2, 2023).

¹⁰² See, e.g., Laura Bogart, *How Melissa McCarthy Sold Out Overweight Women*, SALON (July 14, 2014, 12:00AM), https://www.salon.com/2014/07/14/how_melissa_mccarthy_sold_out_overweight_women/.

¹⁰³ See Erica Tempesta, *'I Shan't Be Walking That Runway Again!' Lena Dunham Admits Performing Alongside Taylor Swift and Her Svelte Supermodel Friends Made Her Feel 'Chubby' and 'Short'*, DAILY MAIL, <https://www.dailymail.co.uk/femail/article-3161374/I-shan-t-walking-runway-Lena-Dunham-admits-performing-alongside-Taylor-Swift-svelte-supermodel-friends-feel-chubby-short.html>, (July 15, 2015).

¹⁰⁴ Sahale A. Flanagan, *Obesity: The Last Bastion of Prejudice*, 6 OBESITY SURGERY 430, 436 (1996).

¹⁰⁵ See Rebecca Puhl & Kelly D. Brownell, *Bias, Discrimination, and Obesity*, 9 OBESITY RESEARCH 788, 789 (2001).

unrealistic beauty standards. It is crucial to recognize that weight stigma can have long-term psychological and physical consequences, and efforts to combat it must be ongoing and comprehensive. By working towards a culture of body positivity and inclusivity, we can create a healthier and happier society for all.

b. Fewer Opportunities, Lack of Promotions, and Lower Pay: Body Shaming Outside the World of Fashion

Body-shaming is prevalent in the workplace, even outside of the fashion industry. Numerous studies have discovered that one's career outcomes can be directly tied to one's outward facing appearance, like weight. For example, in 2016, Psychologist Stuart W. Flint of the Sheffield Hallam University conducted a study finding that obese men and women were found to be at a disadvantage against slimmer persons because employers perceived the obese to be less physically competent and indolent.¹⁰⁶ This is highlighted by another 2016 study where, Eden King of George Mason University and his colleagues found that being obese or overweight negatively influenced the top managers' perceived leadership performance.¹⁰⁷

Taking this one step further, the connection between one's weight and their career outcomes is even more noticeable when narrowing in on the effect on female employees. Looking again at Flint's 2016 study, his research found that obese women are found to be less likely to be employed than obese males. This is highlighted by the 2009 study by Dan-Olof Rooth of Kalmar University in Sweden sent false applications to actual job posting, with sets of images of the same individual digitally manipulated to seem somewhat obese.¹⁰⁸ He discovered that obese women's call-back response was eight percent lesser than their slimmer equivalents.¹⁰⁹ Even the employee's perception of themselves is negatively affected. According to a study by Eva Muenster of the University of Mainz, overweight people perceive that their careers are in jeopardy more than slim people.¹¹⁰ Muenster continues by explaining that, "[j]ob insecurity might lead employees into a vicious cycle . . . job insecurity might represent an important psychological burden which again might trigger obesity and other diseases."¹¹¹ Furthermore, a 2014 study by Vanderbilt Law School found that obese women are "more likely to work in lower-paying and more physically demanding jobs; less likely to get higher-wage positions that include interaction with

¹⁰⁶ Stuart W. Flint et al., *Obesity Discrimination in the Recruitment Process: "You're Not Hired!"*, FRONTIERS IN PSYCH., May 2016, at 1, 1, doi:10.3389/fpsyg.2016.00647.

¹⁰⁷ Edin B. King et al., *Waistlines and Ratings of Executives: Does Executive Status Overcome Obesity Stigma?*, 55 HUM. RES. MGMT. 283, 293 (2016).

¹⁰⁸ Dan-Olof Rooth, *Obesity, Attractiveness, and Differential Treatment in Hiring*, 44 J. HUM. RES. 710, 712 (2009).

¹⁰⁹ *Id.*

¹¹⁰ Eva Muenster et al., *Association Between Overweight, Obesity and Self-Perceived Job Insecurity in German Employees*, BMC PUB. HEALTH, 2011, at 1, 2, <http://www.biomedcentral.com/1471-2458/11/162>.

¹¹¹ *Id.* at 1.

the public; and make less money in either case compared to average size women and all men.”¹¹²

When taking the research a step further with a gender-ethnic lens, the statistics continue to highlight the negative impacts of body shaming. In 2004, research by Cornell University’s John Cawley discovered that a weight gain of sixty-five pounds in white women was connected with a nine percent decline in income.¹¹³ Weight, however, had a less statistically significant influence on other gender-ethnic group combinations in this study.¹¹⁴ Weight issues and the fashion industry have been a subject of debate for years. The industry’s portrayal of thinness as the ideal beauty standard has resulted in a negative impact on the self-esteem and mental health of individuals who do not fit that mold. Furthermore, the lack of size diversity in the industry has led to discrimination against those who do not conform to the industry’s narrow beauty standards. However, in recent years, there have been efforts to promote size inclusivity in the fashion industry, including the use of plus-size models and the introduction of extended size ranges. These efforts are a step towards creating a more inclusive industry that celebrates all body types. However, none of these deny the existence of the body-shaming that exists in the fashion industry amongst models to date.

Action against body-shaming in the fashion industry is crucial because it perpetuates harmful beauty standards that can lead to mental health issues and low self-esteem. It also reinforces discrimination against those who do not conform to those standards, leading to exclusion and marginalization. Creating a more inclusive industry that celebrates all body types is essential for promoting a healthy and positive body image.

5. Fashion and Human Trafficking

A discussion on human trafficking can never go on without a mention of the fashion and glamor industry. When talking about the fashion industry, we hear shocking figures regarding fashion production and associated labor, for example, 170 million children work in garment and textile factories to meet consumer demand in Europe and the United States;¹¹⁵ or the fatal accidents that keep taking place, for instance the world-renowned Rana Plaza incident. The darker side of the modeling profession is less well mentioned. The #MeToo movement helped shed attention on how models are subjected to verbal and sexual abuse at the workplace.¹¹⁶ However,

¹¹² *Overweight Women Lose in the Labor Market: Vanderbilt Study*, VANDERBILT RESEARCH NEWS (Oct. 21, 2014, 1:53PM), <https://news.vanderbilt.edu/2014/10/21/overweight-women-labor-market/>.

¹¹³ John Cawley, *The Impact of Obesity on Wages*, 39 J. OF HUM. RES. 451, 457 (2004).

¹¹⁴ *Id.* at 463.

¹¹⁵ Nashat Zaman, *Child Labour in the Fashion Industry*, SHAPE CHARITY, <https://shapecharity.org/2021/07/19/child-labour-in-the-fashion-industry/> (last visited Jan. 28, 2023, 5:42 PM).

¹¹⁶ Emeline Wuilbercq & Elsa Olhen, *Perils of the Catwalk: African Models Warn of Trafficking Threat*, REUTERS (July 17, 2020, 4:23 AM), <https://www.reuters.com/article/us-ethiopia-models-trfn-idUSKCN24I0WZ>.

what is rarely highlighted is the connection between the modeling business and the world's fastest expanding crime, human trafficking.¹¹⁷

Scenes from Hollywood films such as the 2008 blockbuster *Taken* may come to mind when people think about human trafficking.¹¹⁸ Liam Neeson is a former CIA agent who travels to Paris to save his daughter, who's been abducted by a child trafficking network.¹¹⁹ Although films like these aid in raising awareness about human trafficking, they can also unwittingly spread myths and beliefs that impede the process of abolishing it.¹²⁰

One prevalent misconception is that trafficked people are always abducted against their will.¹²¹ Although this is true in certain circumstances, in actuality, traffickers utilize deceit and manipulation to entice unsuspecting victims into surrendering away their liberties.¹²² Typically, grooming begins with the formation of a connection or partnership.¹²³ Before exploitation occurs, trust is built, and blatant lies are told.¹²⁴ Debt bondage is an even more intricate control mechanism used to keep people bound in a trafficking situation for an extended period.¹²⁵ People are compelled to stay and work to repay an actual or perceived debt generated due to their trip or occupation.¹²⁶ Sometimes, the debt accumulates at a rate that they seem unable to fulfill, and they have little prospect of ever paying it off.¹²⁷

¹¹⁷ Ewelina U. Ochab, *The World's Fastest Growing Crime*, FORBES (July 29, 2017, 5:05PM), <https://www.forbes.com/sites/ewelinaochab/2017/07/29/the-worlds-fastest-growing-crime/>.

¹¹⁸ Erin O'Brien, *Slavery and Human Trafficking Campaigns by Hollywood Celebrities can be Misleading*, ABC NEWS (July 6, 2018, 3:43PM), <https://www.abc.net.au/news/2018-07-07/beware-the-hollywood-hype-on-human-trafficking/9893330>.

¹¹⁹ Stuart Heritage, *Taken Recap: "Would the World be a Better Place if Liam Neeson Hadn't Gone to all That Trouble to Save His Daughter?"*, THE GUARDIAN (July 19, 2013, 8:34 PM), <https://www.theguardian.com/film/filmblog/2013/jul/19/taken-recap-liam-neson>.

¹²⁰ *Human Trafficking in the Movies*, STOP THE TRAFFICK (Oct. 10, 2020), <https://www.stopthetraffik.org/movies/>.

¹²¹ *Myths and Facts*, NAT'L TRAFFICKING HOTLINE, <https://humantraffickinghotline.org/what-human-trafficking/myths-misconceptions> (last visited Jan. 28, 2023, 6:02 PM).

¹²² *Id.*

¹²³ *Love and Trafficking: How Traffickers groom and Control Their Victims*, POLARIS (Feb. 11, 2021), <https://polarisproject.org/blog/2021/02/love-and-trafficking-how-traffickers-groom-control-their-victims/>.

¹²⁴ *See id.*

¹²⁵ Ann Jordan, *Slavery, Forced Labor, Debt Bondage, and Human Trafficking: From Conceptual Confusion to Targeted Solutions*, AM. UNIV. WASH. COLL. L. CTR. FOR HUM. RTS. AND HUMAN. L., Issue Paper 2 (2011), <https://www.issueab.org/resources/15356/15356.pdf>.

¹²⁶ *Id.*

¹²⁷ *Id.*

Poverty is a significant contributor to the growth of human trafficking.¹²⁸ Beyond the sense of homelessness or famine, poverty can include a variety of other factors.¹²⁹ Inadequate access to healthcare and schooling also play a role.¹³⁰ Vulnerability, insecurity, and even exclusion from the society might result from a lack of economic or social prospects.¹³¹ The persistent stress of individuals enduring poverty on whatever level robs them of a sense of belonging to the global society.¹³²

The mainstream media's barrage of glossy, dazzling pictures extolling the Western way of life only can exacerbate feelings of loneliness among people living in poverty. However, these pictures evoke a longing for a better life, which is why human traffickers prey upon those in poverty.¹³³ They employ their deceit and make fake promises to individuals looking for a way out.¹³⁴ Vulnerable young people, dreaming of being a part of this "glamorous world," all around the world become victims of human trafficking when the prospect of a lucrative modeling career proves too enticing to pass up.

In context of the same, to understand what effect human trafficking has in the fashion industry and its associated impacts, we shall look at two of the world's most well-known countries for their extremely high human trafficking rates and traditionally good-looking people, *i.e.*, Colombia and Russia.¹³⁵

¹²⁸ United Nations Office on Drugs and Crime, *An Introduction to Human Trafficking: Vulnerability, Impact and Action*, UNITED NATIONS, Background Paper (2008) at 67, https://www.unodc.org/documents/human-trafficking/An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf (explaining that poverty facilitates increased vulnerability and susceptibility to trafficking).

¹²⁹ *Id.* at 72.

¹³⁰ *Id.*

¹³¹ Department of Economic and Social Affairs, *What Triggers Economic Insecurity and Who is Most at Risk?*, UNITED NATIONS (Apr. 8, 2021), <https://www.un.org/development/desa/dspd/2021/04/economic-insecurity/> (providing examples of economic and social factors which may contribute to vulnerability).

¹³² *See generally* Programme for International Student Assessment, *Preparing Our Youth for an Inclusive and Sustainable World, The OECD PISA Global Competence Framework*, ORG. FOR ECON. COOP. & DEV. (2016) at 13, <https://www.oecd.org/education/Global-competency-for-an-inclusive-world.pdf>.

¹³³ UNITED NATIONS, *supra* note 128, at 68.

¹³⁴ *Id.* at 86.

¹³⁵ Heather Hopkins, *2017's Worst Countries For Human Trafficking*, THE BORGEN PROJECT <https://borgenproject.org/tag/worst-countries-for-human-trafficking/> (last visited April 10, 2023).

a. Colombia

The arrest of model Liliana del Carmen Campos Puello in 2018 made international news.¹³⁶ She was detained for recruiting minor girls to operate in a sex-trafficking network as a Colombian Instagram celebrity.¹³⁷ Over a year, at least 250 juveniles were allegedly enticed to Cartagena on Colombia's Caribbean coast.¹³⁸ Campos Puello preyed on teenage girls from low-income families, luring them with the promise of becoming professional models.¹³⁹ Under the pretense of modeling chances, she allegedly assisted them with documents and covered their expenditures.¹⁴⁰ Upon arrival, they were deprived of their identification and things and pushed into prostitution.¹⁴¹

Campos Puello utilized her Instagram account to show off her luxurious, enticing lifestyle.¹⁴² While the specifics of the young girls who fell victim to her trickery are certainly unknown, Campos Puello was deliberately targeting individuals from lower socioeconomic backgrounds.¹⁴³ Together with hopes to pose and enjoy the experiences that come with a model's lifestyle, the young ladies had been looking for an opportunity and a route out of the poverty and insecurity they felt they would face forever.¹⁴⁴ Despite Colombia's economic expansion ranking as one of the world's developing economies,¹⁴⁵ over three out of every ten Colombians live in poverty.¹⁴⁶ This, combined with growing unemployment rates and ongoing internal disputes generating mass displacement, may result in some sort of unrest in many Columbia

¹³⁶ See Sara Dorn, *Colombian Instagram model Accused of Running Child Sex Trafficking Ring*, N.Y. POST (Aug. 24, 2019, 12:06 PM), <https://nypost.com/2019/08/24/colombian-instagram-model-accused-of-running-child-sex-trafficking-ring/>.

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ See Greg Depersio, *Considering Colombia's Emerging Market Economy*, INVESTOPEDIA (Sept. 11, 2022), <https://www.investopedia.com/ask/answers/090915/colombia-emerging-market-economy.asp>.

¹⁴⁶ Julia Lee, *10 Facts About Poverty in Colombia*, THE BØRGEN PROJECT (Mar. 16, 2018), <https://borgenproject.org/tag/poverty-in-colombia/>.

towns.¹⁴⁷ Campos Puello exploited those young girls through deceit and trickery to benefit from their hopes for a brighter future.¹⁴⁸

b. Russia

Thirteen percent of Russia's population lives below the poverty level.¹⁴⁹ Poverty, combined with economic insecurity, a lack of jobs, and wide disparities in the nation's development levels, is simply adding to the country's growing number of vulnerable groups.¹⁵⁰ Against this backdrop, teenage girls in distant districts of Russia fantasize about becoming high-profile fashion models. This was further explored by Reggie Yates who traveled to Siberia in 2015 for a BBC documentary on ambitious young fashion models.¹⁵¹ He followed them through the casting process as they vied for the attention of international recruiters in the hopes of making their aspirations come true.¹⁵² Even though it is evident that the girls' goals of becoming models are affected by the industry's elegance and splendor, the lack of chances they face due to living in small one-bedroom flats with their parents in several of Russia's most remote places is also addressed.¹⁵³

In the documentary, Reggie encountered former model Valeria, scouted at the age of fourteen, and spent a decade traveling the world as a model.¹⁵⁴ She told Reggie about the hardships of sending young Russian girls around the globe under modeling contracts:¹⁵⁵

You are alone, in another mentality and another world. No friends, parents, you are a child. If you put on weight, one cm or more your contract is finished . . . The girls think they are models but it can become prostitution. Some girls are scared because they are told they won't get their passports back to travel home.¹⁵⁶

¹⁴⁷ *Id.*

¹⁴⁸ *Trafficking in the Name of Modeling*, STOP THE TRAFFIK (Oct. 14, 2020), <https://www.stopthetraffik.org/models/>.

¹⁴⁹ Christopher McLean, *Child Poverty in Russia*, THE BORGEN PROJECT (Feb. 25, 2021), <https://borgenproject.org/tag/poverty-in-russia/>.

¹⁵⁰ See Robert Stephen, *10 Facts About Poverty in Russia*, THE BORGEN PROJECT (Apr. 14, 2018), <https://borgenproject.org/tag/poverty-in-russia/>.

¹⁵¹ Real Stories, *Russia's Extreme Teen Model Factory | Reggie Yates Extreme | Real Stories*, YOUTUBE (May 27, 2021), <https://youtu.be/yEYH4NVmJvA>.

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

According to the ILO, there are an estimated 40.3 million individuals in modern slavery worldwide at any one moment.¹⁵⁷ However, the exact figure is not known. Human trafficking is a covert crime that occurs all around us. Sometimes, people may be too afraid or embarrassed to disclose themselves as victims. Other individuals may be unaware that they are victims. There seems to be no official estimates of people trafficked and abused in the modeling profession, but we know it occurs.¹⁵⁸ People are eager to trust others with their ambitions against a backdrop of instability and deprivation, and thus traffickers perceive a financial incentive.¹⁵⁹

Everyone has a role to play in the battle against human trafficking, from the world's biggest companies and designers to worldwide modeling agencies and devoted fashion fans everywhere.¹⁶⁰ But most importantly, the countries these practices take place in have a role to play in protecting models from these practices.

6. The Global Outlook

In addition, law and culture influence fashion choices significantly that often have profound implications on human psychology and human rights. Fashion legislation encompasses a diverse range of laws that cover aspects such as intellectual property rights, freedom of expression, protection of personality rights, labor standards, and market practices. This Article explores the various labor law issues relevant to this new field of fashion law from an international standpoint to enhance the prominence of critical areas of the fashion-law crossover and highlight essential focus points for further analysis and research.

Global observation of the fashion industry produces several statutes, international guidelines,¹⁶¹ standards, and practices typically related to the fashion industry that discuss labor rights issues. These laws vary significantly from country to country. In the United States, the National Labor Relations Act of 1935 provides the workers primary legal security and protection.¹⁶² Whereas in India, the Constitution¹⁶³ and the Industrial Disputes Act of 1947 offer substantial labor protection provisions in

¹⁵⁷ Alliance 8.7, *Global Estimates on Modern Slavery*, INT'L LAB. ORG. & WALK FREE FOUND. (2017) at 9, https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf.

¹⁵⁸ STOP THE TRAFFIK, *supra* note 148.

¹⁵⁹ *Id.*

¹⁶⁰ Monique Derr, *Sex Trafficking in the Modeling Industry*, OPERATION UNDERGROUND RAILROAD (June 12, 2016), <https://www.ourrescue.org/blog/sex-trafficking-in-the-modeling-industry>.

¹⁶¹ See *ILO: International Labour Organization*, UNITED NATIONS: OFFICE OF THE SECRETARY-GENERAL'S ENVOY ON YOUTH, <https://www.un.org/youthenvoy/2013/08/ilo-international-labour-organization/> (last visited Jan. 3, 2023, 9:59 PM).

¹⁶² See generally National Labor Relations Act of 1935 ch. 7 (codified as amended at 29 U.S.C. §§ 151–69).

¹⁶³ See generally India Const. art. 19, cl. 1(g), art. 23, art. 24, art. 43 (India).

India.¹⁶⁴ The International Labor Organization, better known as the ILO, strives to provide sufficient safeguards to international labor by establishing fundamental standards across all nations.¹⁶⁵ The Group of Seven (“G7”) has been seeking to strengthen labor laws in global value chains by promulgating due diligence provisions in the clothing and apparel industries by recognizing the economic effect of inadequate safety and employment conditions.¹⁶⁶ Along with the ILO, the G7 in 2015 had called for a “Vision Zero Fund” to provide for staff injured in labor accidents and perhaps encourage optimized fire control and safety controls.¹⁶⁷

Nevertheless, allegations of poor labor conditions in the fashion industry are chronic.¹⁶⁸ The global web of independent companies being compelled to reduce their costs and immunize major American and European retailers from their responsibilities for shortcomings and breaches of the practices of other companies within their distribution networks simultaneously forms a part of the global apparel manufacturing and delivery networks.¹⁶⁹ Diverse nations in this highly industrialized world have strict legislation to protect labor;¹⁷⁰ however, these laws are all but standardized, *i.e.*, they are not uniform and are frequently violated in practice.¹⁷¹ Over hundreds of companies participating in the production operations of the world’s leading manufacturers ultimately fail to ensure that the applicable human rights

¹⁶⁴ See generally The Industrial Disputes Act, 1947 (India).

¹⁶⁵ ILO: *International Labor Organization*, *supra* note 161.

¹⁶⁶ Summit, *Leaders’ Declaration G7 Summit*, 1, 5 (June 2015).

¹⁶⁷ *EU Announces Support to Improve Workplace Safety and Labour Practices in Producing Countries*, EU IN SERBIA (Dec. 10, 2015), europa.rs/eu-announces-support-to-improve-workplace-safety-and-labour-practices-in-producing-countries/; *Strategy 2019–2023, VISION ZERO FUND* (Vision Zero Fund/Int’l Lab. Org.), 2016, at 2, https://www.ilo.org/wcmsp5/groups/public/ed_dialogue/lab_admin/documents/publication/wcms_729031.pdf.

¹⁶⁸ See Enrico D’Ambrogio, *Workers’ Conditions in the Textile and Clothing Sector: Just an Asian Affair? Issues at Stake After the Rana Plaza Tragedy*, RESPECT (2014), <https://respect.international/workers-conditions-in-the-textile-and-clothing-sector-just-an-asian-affair-issues-at-stake-after-the-rana-plaza-tragedy/>; see also “*Work Faster or Get Out*”, HUM. RTS. WATCH (Mar. 12, 2015), http://internap.hrw.org/features/HRW_2015_reports/Cambodia_Garment_Workers/.

¹⁶⁹ See, e.g., *Zeng Liu v. Donna Karan Int’l, Inc.*, 207 F. Supp. 2d 191, 193 (S.D.N.Y. 2002) (stressing the fact that some courts might willingly hold some American or European retailers responsible for abuses in their distribution networks on having a major impact on the production chain).

¹⁷⁰ See *Pressure Grows to Protect Domestic Workers*, HUM. RTS. WATCH (Oct. 27, 2013, 10:01PM), <https://www.hrw.org/news/2013/10/27/pressure-grows-protect-domestic-workers>.

¹⁷¹ Uma Rani et al., *Minimum Wage Coverage and Compliance in Developing Countries*, 152 INT’L LAB. REV. 381, 387–88 (2013).

responsibilities are complied with,¹⁷² frequently depending on women and children who have low levels of education and no other alternative but to agree to work for low salaries in deteriorating working conditions.¹⁷³ Current tragic events like the fall of Rana Plaza¹⁷⁴ continue to demonstrate the inability of the legislation to provide adequate, reliable safeguards and injury cures.¹⁷⁵

In addition, the growing fashion industry adds to an atmosphere that threatens decent working standards since close supply chains are increasing pressure on manufacturers, which in turn is jeopardizing and exploiting healthy and ethical practices¹⁷⁶ while sustaining the unequal global wage structure.¹⁷⁷ Although various international legislative interventions look to enhance labor conditions, they fail because the international compliance process is insufficient. The national labor law and particular business dynamics reflect increasing pressure on working conditions in the global supply chains.¹⁷⁸ It reflects the influence of various non-state actors.¹⁷⁹ “Private regulation” covers activities generally outside the jurisdiction of State supervision and concern workplace environments and employer-employee relationships.¹⁸⁰ Although, in the absence of effective global compliance mechanisms of “soft law”¹⁸¹ that advocate for general obligations under international law and its guidelines may stand out to be a better collection of rules than the components of “hard law.”¹⁸²

In the next Part, this Article will consider the labor laws in the United Kingdom, Denmark, and the United States to understand how international labor laws work in

¹⁷² Duygu Turker & Ceren Altuntas, *Sustainable Supply Chain Management in the Fast Fashion Industry: An Analysis of Corporate Reports*, 32 EUR. MGMT. J. 837, 845, 847 (2014).

¹⁷³ *Id.* at 839.

¹⁷⁴ D’Ambrogio, *supra* note 168.

¹⁷⁵ See *Bangladesh: 2 Years After Rana Plaza, Workers Denied Rights*, HUM. RTS. WATCH (Apr. 22, 2015), <https://www.hrw.org/node/269697/printable/print>.

¹⁷⁶ Liz Barnes & Gaynor Lea-Greenwood, *Fast Fashioning the Supply Chain: Shaping the Research Agenda*, 10 J. FASHION MKTG. & MGMT. 259, 268 (2006).

¹⁷⁷ See ELIZABETH L. KLINE, *OVER-DRESSED: THE SHOCKINGLY HIGH COST OF CHEAP FASHION* 77, 79 (2012) (describing the inequality of wages across the country).

¹⁷⁸ Barnes & Lea-Greenwood, *supra* note 176.

¹⁷⁹ David J. Doorey, *In Defense of Transnational Domestic Labor Regulation*, 43 VAND. J. TRANSNAT’L L. 953, 957 (2010).

¹⁸⁰ Kevin Kolben, *Integrative Linkage: Combining Public and Private Regulatory Approaches in the Design of Trade and Labor Regimes*, 48 HARV. INT’L L. J. 203, 225–226 (2007).

¹⁸¹ JOHN KIRTON, *HARD CHOICES, SOFT LAW: VOLUNTARY STANDARDS IN GLOBAL TRADE, ENVIRONMENT AND SOCIAL GOVERNANCE* 25 (2004).

¹⁸² *Id.*; see generally Yossi Dahan, Hanna Lerner, & Faina Milman-Sivan, *Global Justice, Labor Standards, and Responsibility*, 12 THEORETICAL INQ. L. 439, 439 (2011).

these countries and if their existing laws take into consideration the needs of fashion models, or if they cater to the needs of creating a healthier world that does not promote unrealistic and unhealthy body goals.

a. *The United Kingdom*

For far too long, society and the law have ignored how intrinsically a healthy lifestyle is related to mental health collectively, and it is high time that a change is brought about eating disorders and mental health issues. Furthermore, eating disorders and mental health issues may co-occur. Even if the point of the initiation of whether they have an effect on each other is not known as of yet, it is plausible that these conditions are neurally inter-linked. They may even form risk factors for each other with anxiety and depression being the most common and well-known examples.¹⁸³

In a global society, almost every person talks about human rights and how labor concerns require urgent focus. Within this statutory protection, however, the United Kingdom (“UK”) does not have any specific legislation discussing health laws pertaining to fashion models.¹⁸⁴ However, very few countries (close to nil) provide statutory protection to fashion models. The UK is one of very few countries to provide statutory protection to fashion models. Much of the legislation focuses on regulating advertisement standards and healthy body standards.

The UK first recognized the importance for legislation after a body image summit in June 2000 held by the then-labor administration.¹⁸⁵ At the summit, they explored the negative impacts of the excessively slim runway and marketing models being broadcasted as the “standard.” It was agreed that something needed to be done to broaden the range of body sizes and images broadcast to the nation.¹⁸⁶

One example of the UK’s attempt at promoting positive body images was its legislation regulating Photoshop and advertising. Unfortunately, however, the legislation prohibiting excessive Photoshop and underweight models is inconsistent and lacks clarity.¹⁸⁷ The legislation explains that the UK is not permitted to incorporate false messaging in advertisements under the Consumer Protection from Unfair Trading Regulations 2008.¹⁸⁸ The restrictions prohibit all action that is not in

¹⁸³ Sarah Gupta, *How Does an Eating Disorder Affect Your Physical and Mental Health?*, GOODRX (Feb. 10, 2021), <https://www.goodrx.com/conditions/eating-disorders/eating-disorders-and-health>.

¹⁸⁴ Julia Babiarz, *The UK Needs to Pass a Law Against Super-Skinny Models – a Law Student and Model Explains Why*, LEGAL CHEEK (Nov. 20, 2017, 2:08PM), <https://www.legalcheek.com/lc-journal-posts/the-uk-needs-to-pass-a-law-against-super-skinny-models-a-law-student-and-model-explains-why/>.

¹⁸⁵ Rebecca Coleman, *Pricing Bodies: A Feminist New Materialist Approach to the Relations Between the Economic and Socio-Cultural*, 19 J. SOCIAL THEORY 1, 4–5 (2018).

¹⁸⁶ Audrey Gillan, *Skinny Models ‘Send Unhealthy Message’*, GUARDIAN (May 30, 2000, 8:33PM), <https://www.theguardian.com/uk/2000/may/31/audreygillan>.

¹⁸⁷ Babiarz, *supra* note 184.

¹⁸⁸ *Marketing and Advertising: The Law*, GOV.UK, <https://www.gov.uk/marketing-advertising-law/regulations-that-affect-advertising> (last visited Jan. 3, 2022); The Consumer Protection from Unfair Trading Regulations 2008 No. 1277 (UK).

“good faith.”¹⁸⁹ This legislation is supplemented by the UK Code of Non-broadcast Advertising and Direct and Promotional Marketing, covering gaps where the law falls short.¹⁹⁰ The Advertising Standards Authority (“ASA”) is in charge of making decisions on this Code.¹⁹¹ It has been determined, for example, that a photograph of a Gucci model published in *The Times* made her appear “gaunt.”¹⁹² They deemed the image to be “irresponsible.”¹⁹³ Furthermore, the ASA prohibited a photograph of Kiki Willems, an eighteen-year-old Dutch model, because she appeared unhealthy.¹⁹⁴ The ASA also banned an advertisement for apparel brand Drop Dead from employing a model who seemed underweight.¹⁹⁵

Nonetheless, since this Code is not “a truly statutory regulation,” many people opt to disregard it.¹⁹⁶ The former Head of the National Body Image Advisory Group, Mia Freedman, has stated that non-mandatory rules like this one are given a “fashionable middle finger” since very few model agents or businesses actually consider it.¹⁹⁷ If people cannot perceive the immediate legal consequences of their actions, they may opt to subvert the law and avoid morality.¹⁹⁸ So, despite the ASA’s efforts in eradicating excessively unhealthy and unrealistic images of beauty from the modeling and advertising industries, improvement is limited, and numerous advertisements go

¹⁸⁹ *Guidance on the Consumer Protection from Unfair Trading Regulations 2008*, OFF. FAIR TRADING (Office of Fair Trading/Dep’t for Business Enterprise & Regulatory Reform), May 2008, at 47.

¹⁹⁰ *The CAP Code: The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing*, CAP (Committee of Advertising Practice), at 3.

¹⁹¹ *Id.*

¹⁹² *ASA Rules Gucci Video Ad Featuring Unhealthy Thin Model Was Not Prepared Responsibly*, WIGGIN (Apr. 11, 2016), <https://www.wiggin.co.uk/insight/asa-rules-gucci-video-ad-featuring-unhealthily-thin-model-was-not-prepared-responsibly/>.

¹⁹³ *Id.*

¹⁹⁴ Charlotte Gush, *Kiki Willems’ Saint Laurent Ad Banned in the UK*, VICE (Mar. 6, 2015), <https://i-d.vice.com/en/article/7xv4ne/kiki-willems-saint-laurent-ad-banned>.

¹⁹⁵ Loulla-Mae Eleftheriou-Smith, *Watchdog Bans Drop Dead Ad Featuring Skinny Model*, CAMPAIGN LIVE UK, <https://www.campaignlive.co.uk/article/watchdog-bans-drop-dead-ad-featuring-skinny-model/1103077> (last visited Jan. 3, 2023).

¹⁹⁶ Lindsey Smith Tallie et al., *Governmental Policies to Reduce Unhealthy Food Marketing to Children*, 77 NUTRITION REV. 787, 789 (2019).

¹⁹⁷ Mia Freedman, *Voluntary Code of Conduct: Why I Was Wrong*, MAMAMIA (May 18, 2011), <https://www.mamamia.com.au/should-disclosure-of-re-touching-be-mandatory-not-voluntary/>.

¹⁹⁸ *See generally End Airbrushing of Model’s Physical Appearance in Photos for Commercial Purposes in the UK*, CHANGE, <https://www.change.org/p/end-airbrushing-of-model-s-physical-appearance-in-ads-these-images-represent-a-beauty-standard-that-is-unrealistic-and-unattainable-it-contributes-to-various-kinds-of-psychological-problems-in-particular-eating-disorders-together-we-can-change-that> (last visited Jan. 3, 2022).

unnoticed.¹⁹⁹ The efficacy of self-regulation as a substitute to statutory control is naive.

In an attempt to crack down on the industry's lack of regard for the new legislation, liberal democratic candidates planned to enforce harsher photoshop laws. Jo Swinson, a former member of Parliament in the United Kingdom, described airbrushed photographs as examples that “no one can live up to in real life.”²⁰⁰ The administration intended to implement a new policy that would require all airbrushed photographs to be accompanied by wording detailing the modifications done.²⁰¹ The critical question is when does mental health become a political concern? Humans tend to react to visible cues. Preventing the use of photoshop to promote dangerous beauty standards would be a significant step towards protecting the mental well-being of models. Doing so may also demonstrate to models facing such pressure that they are not being ignored. Legislative action may help redefine what is considered “irresponsible,” resulting in only healthy models being promoted as the standard. People should not be forced to aspire to body types and sizes that are unrealistic or harmful. While the ASA has made significant progress in removing irresponsible pictures, it is time for legislative action.

The UK has no legal restrictions on a model's weight or Body Mass Index (“BMI”).²⁰² However, it should not be forgotten that BMI is an inexact estimate of the content of body fat and how “healthy” a person is since it ignores several factors such as racial differences, bone density, variances based on sex differences and muscle mass among other factors.²⁰³ Still, the British Fashion Council (“BFC”),²⁰⁴ the Council of Fashion Designers of America (“CFDA”),²⁰⁵ and the Danish Fashion Institute (“DAFI”) operate instructional training courses with models, designers, and eating disorder charitable organizations to promote models' health.²⁰⁶

¹⁹⁹ *Social Responsibility: Body Image*, ASA (Aug. 1, 2022), <https://www.asa.org.uk/advice-online/social-responsibility-body-image.html>.

²⁰⁰ Brett Michael Dykes, *Image of Ultra-Thin Ralph Lauren Model Sparks Outrage*, YAHOO (Oct. 7, 2009), <https://www.yahoo.com/lifestyle/tagged/health/fall-beauty/image-of-ultra-thin-ralph-lauren-model-sparks-outrage-521480.html?; Babiarz, supra note 184>.

²⁰¹ Babiarz, *supra* note 184.

²⁰² *See Should There Be a UK Model Health Law?*, FASHION CAP. (Aug. 26, 2016), <https://www.fashioncapital.co.uk/industry/news/329-events/15127-should-there-be-a-uk-model-health-law/>. *See generally Calculate Your Body Mass Index*, NIH, https://www.nhlbi.nih.gov/health/educational/lose_wt/BMI/bmicalc.htm (last visited Jan. 3, 2023).

²⁰³ *BMI Not Accurate Enough: Obesity/Mortality Paradox Demonstrates Urgent Need for More Refined Metabolic Measures*, SCIENCE DAILY (Aug. 22, 2013), <https://www.sciencedaily.com/releases/2013/08/130822141948.htm>.

²⁰⁴ BRITISH FASHION COUNCIL, <https://www.britishfashioncouncil.co.uk/> (last visited Jan. 3, 2023).

²⁰⁵ *About CFDA*, THE COUNCIL OF FASHION DESIGNERS OF AMERICA, INC., <https://cfda.com/about-cfda> (last visited Jan. 3, 2022).

²⁰⁶ *Fashioning a Healthy Future*, MODEL HEALTH INQUIRY, Sept. 2007, at 3.

The BFC is also currently collaborating with the British Fashion Model Agency Association (“BFMAA”) to create a best-practice guide for models arriving in London to educate them on what to expect on set and who to call if something goes wrong.²⁰⁷ Other countries appear to be gradually following suit.

Examples of the UK’s instructional training courses include the Model Zone and various training guides. The BFC hosts a “Model Zone” during the London Fashion Week, an endeavor launched by model Erin O’Connor,²⁰⁸ to connect models with independent, confidential resources for their health and safety.²⁰⁹ Additionally, the BFC provides various training guides. For example, the BFC provides designers with a “base guide” for remuneration based on a company’s sales.²¹⁰ However, those fees are all negotiable based on core time, exclusivity, and what happens with the show footage.²¹¹

But with all that given, the central question that arises is what stands in the way of the UK in implementing a law on these lines?

As to the regulation of advertisements, there should be stronger enforcement of the regulation. Excessive Photoshop in advertising to showcase a seemingly “healthy physique” so as to perpetually eradicate the issue of strong persistence of mental health issues amongst fashion models should also be explicitly labeled, and consumers should be mindful of such modifications.²¹² The Parliament, in this regard, also plays a critical role in safeguarding the public and legislation to address this rising issue.²¹³

A good suggestion would be to strengthen existing consumer laws by adopting stern penalties and enhancing the mandate of consumer watchdogs. A good example of the same would be the Australian Competition and Consumer Protection Commission,²¹⁴ which keeps a stern watch on Digital Platforms and regulates

²⁰⁷ *The British Fashion Council Launch Models First Initiative*, BRITISH FASHION COUNCIL, <https://www.britishfashioncouncil.co.uk/pressreleases/The-British-Fashion-Council-Launch-Models-First-Initiative> (last visited Jan. 3, 2023).

²⁰⁸ Charlotte Gush, *The Model Zone is an Oasis of Calm in the London Fashion Week Storm*, VICE (Sept. 18, 2015), <https://i-d.vice.com/en/article/neb9vk/the-model-zone-is-an-oasis-of-calm-in-the-london-fashion-week-storm>.

²⁰⁹ *The Model Zone September 2017*, BRIT. FASHION COUNCIL (Sept. 2017), <https://www.britishfashioncouncil.co.uk/pressreleases/The-Model-Zone-September-2017>.

²¹⁰ Kate Abnett, *New Guidelines on Models’ Rights Aim to Fix Industry Wrongs*, BUSINESS OF FASHION (Sept. 14, 2015), <https://www.businessoffashion.com/articles/fashion-week/models-rights-law-industry-education/>.

²¹¹ Bex Palmer, *How Much Do Models Get Paid in the UK?*, BACKSTAGE (Oct. 13, 2022), <https://www.backstage.com/uk/magazine/article/how-much-do-models-get-paid-in-the-uk-75455/>.

²¹² Charles R. Taylor et al., *Photoshopping of Models in Advertising: A Review of the Literature and Future Research Agenda*, 9 J. GLOB. FASHION MKTG. 381, 388 (2018).

²¹³ Mental Health Care Act 17 of 2022 (S. Afr.); Mental Health Care Act 17 of 2022 § 45 (S. Afr.).

²¹⁴ *Digital Platforms Inquiry*, Austl. Competition and Consumer Comm’n, June 2019, at 2.

sensitive content. Another factor is the pendency of Freedom of Information Act (“FOI”) applications and the speedy disposal of such complaints, particularly those pertaining to the consumption of online content and the harmonization of data disclosures.²¹⁵

As for a model’s personal health, the UK legislature must make a stronger effort. Like many other countries of the world, the UK needs to adopt legislation requiring that all models undergo regular physical and mental health checkups to ensure that they are fit to work. Additional measures such as regular mental health leaves and general health check-ups need to be brought into the fold by giving a broader meaning to the term “health” in employment contracts and crystallizing the same into commercial best practice—as seen in common law nations such as South Africa, where the Mental Health Care Act of 2017²¹⁶ criminalizes dismissals based on mental health issues and mandates the provision of mental health leaves.²¹⁷

b. Denmark

The safety of models is being prioritized in Denmark through a fresh approach. In 2015, the Danish Fashion Ethical Charter, which was first introduced in 2007, was revised to incorporate new guidelines.²¹⁸ These regulations now include compulsory mental and physical health assessments to screen models for eating disorders and risky behavior, as well as a minimum age requirement of sixteen. Furthermore, fashion brands are required to become signatories of the charter prior to being granted permission to showcase their collections at Copenhagen Fashion Week.

Although the government does not mandate it, the Charter is backed by more than 300 businesses, including prominent trade associations, modeling agencies, magazines, photographers, and fashion brands. Additionally, the Charter’s website includes a “Black List”²¹⁹ of signatories who fail to comply with its regulations, though as of now, the list is empty.

This Charter is seen as a revolutionary move towards regulating fashion practices by many, including the CEO of Danish Fashion Institute and Copenhagen Fashion Week, Eva Kruse, who said:

Recently in Denmark and abroad there’s been some gloomy examples showing that problems with the beauty ideals the fashion industry creates continue to exist. The stupendous amount of support being given to the Danish Fashion Ethical Charter speaks for itself; the Danish industry is aware of its responsibility and is prepared to take a collective step towards models

²¹⁵ Henry Pearce, *A Proposal for a New Risk-Based Licensing Approach to Disclosing Anonymized Data Under the (UK) Freedom of Information Act 2000*, 30 INFO. & COMM. TECH. L. 108, 108 (2021).

²¹⁶ Mental Health Care Act 17 of 2002 (S. Afr.).

²¹⁷ *Id.* at § 45. (S. Afr.).

²¹⁸ *Danish Fashion Ethical Charter*, DANISH FASHION ETHICAL CHARTER, <http://danishfashionethicalcharter.com/> (last visited Apr. 10, 2023).

²¹⁹ *Id.*

having better well-being and towards a body image that is healthy and not sickly.²²⁰

However, this Charter encourages but does not require agencies to conduct yearly health examinations for models, to protect models from developing eating disorders.²²¹ Although no rates are defined, models must be paid in cash under Denmark's Ethical Charter.²²²

Additionally, the model age regulations are a similar blend of restrictions and guidelines. Designers must sign the Danish Fashion Ethical Charter to participate in Copenhagen Fashion Week, which prohibits them from utilizing models under the age of sixteen years of age in displays (excluding childrenswear).²²³

c. The United States of America

The United States recognized that while modeling agencies handle a model's bookings and negotiate salary and working conditions, it is not always apparent who is responsible for the model's well-being during a job.²²⁴ This is especially true when the fashion industry is wrought with poorly drafted, or completely ignored, human rights policies. And despite the prevalence of problems, many in the fashion industry fear speaking up. For example:

Models do not always inform their agencies of problems The industry is rife with sexual harassment, and there was never a place to report it This is where it is really alarming: it's an industry where, for the most part, your career is potentially threatened if you cause too much of a stir. I think, especially with young people, there's a lot of compromising that goes on so that you can make ends meet.²²⁵

As a result, the United States created legislation to provide protections and increase regulation within the fashion industry, which has taken three forms: (1) the protection

²²⁰ *Denmark Signs Ethical Charter On Models*, FASHION NETWORK <https://in.fashionnetwork.com/news/Denmark-signs-ethical-charter-on-models-body-image,535387.html> (last visited April 10, 2023).

²²¹ DANISH FASHION ETHICAL CHARTER, <http://danishfashionethicalcharter.com/> (last visited Jan. 3, 2022).

²²² *Id.*

²²³ Casja Lykke Carlson, *Denmark Signs Ethical Charter on Models, Body Image*, FASHION NETWORK (May 12, 2015), <https://in.fashionnetwork.com/news/Denmark-signs-ethical-charter-on-models-body-image,650459.html>.

²²⁴ See Mimosa Spencer, *Kering, LVMH Host Roundtable Talk on Model Well-being*, WOMEN'S WEAR DAILY (July 11, 2019, 5:46PM), <https://wwd.com/fashion-news/fashion-features/kering-lvmh-host-roundtable-talk-on-model-well-being-1203219546/>.

²²⁵ See Kate Abnett, *New Guidelines on Models' Rights Aim to Fix Industry Wrongs*, THE BUS. OF FASHION (Sept. 14, 2015), <https://www.businessoffashion.com/articles/fashion-week/models-rights-law-industry-education/>.

of minors in the industry; (2) the regulation of appropriate wages; and (3) the health and safety of fashion models.

i. Regulation for the Protection of Minors in the Fashion Industry

As to the protection of minors, the legislation has taken many forms, from initial guidance that went unfollowed to legislation defining minors as “child performers.” Initially, in the United States, the CFDA strongly recommended designers not to employ models under sixteen years of age during the New York Fashion Week. However, the CFDA does not enforce this prohibition.²²⁶ Then, as a result of the inaction, New York legislators overwhelmingly passed the Child Performer Regulations in February 2013, which places minor models under the New York State Department of Labor (“NYSDOL”) jurisdiction along with that of Arts and Cultural Affairs Law, the Estates, Powers and Trusts Law, and the Education Law.²²⁷ Senate Co-Leader, Jeff Klein, and State Senate Labor Committee Chairwoman, Diane Savino, along with the lobbying efforts of the Model Alliance, introduced the Child Performer Regulations that acknowledge models as “child performers” and provides them with the same rights as dancers, actors, and musicians under eighteen years of age.²²⁸

Specifically, the Child Performer Regulations add “print and runway models” to the list of performers subject to the Department of Labor laws designed to safeguard minors.²²⁹ For example, if fashion businesses wish to cast models under the age of eighteen, then they must seek certification.²³⁰ They must also keep meticulous records of all minors they work with if the Department of Labor conducts an inquiry.²³¹ As to wages, a contractor/employer may not pay a minor performer anything other than cash remuneration, excluding boarding, lodging, and facilities.²³²

The statute even took into consideration the protections of minors from discrimination and sex crimes. For example, whether or not the minor individual is employed/contracted by a covered employer/contractor, anybody in a supervisory role regarding a child performer is responsible for any type of unlawful discrimination

²²⁶ See Valeriya Safronova et al., *What It’s Truly Like to Be a Fashion Model*, N.Y. TIMES (Sept. 5, 2017), <https://www.nytimes.com/2017/09/05/fashion/models-racism-sexual-harassment-body-issues-new-york-fashion-week.html>.

²²⁷ See New York State, *Summary of Child Performer Regulations*, DEP’T OF LAB., <https://dol.ny.gov/summary-child-performer-regulations> (last visited Jan. 6, 2023, 5:06 PM).

²²⁸ See Jeffrey D. Klein, *Senate Co-Leader Jeff Klein, Senator Diane Savino Announce Legislation Preventing the Exploitation and Abuse of Child Models in New York - Supermodel Coco Rocha, Child Models and Victims Join Call for Full Protection of Child Models Under Existing Laws*, N.Y. STATE SENATE (June 9, 2013), <https://www.nysenate.gov/newsroom/press-releases/jeffrey-d-klein/senate-co-leader-jeff-klein-sen-diane-savino-announce>.

²²⁹ See *id.*

²³⁰ See New York State, *supra* note 227.

²³¹ See generally New York State, *Information for Child Performers*, DEPT. OF LAB., <https://dol.ny.gov/child-performers> (last visited Jan. 6, 2023, 6:09 PM).

²³² See *id.* § 2(3)(A)(iii).

based on sex against a child performer.²³³ Any child performer who has been subjected to such harassment or the parent/guardian of such a performer may file a civil lawsuit in any federal court of competent jurisdiction to seek appropriate relief, punitive and compensatory damages, expenses, and lawyers' fees.²³⁴ Furthermore, an employer accused of engaging in sex-based unlawful harassment against a child performer must conduct an internal evaluation of its policies and processes for protecting child performers and assuring sufficient conformity with the Fair Labor Standards Act of 1938.²³⁵

Fines for such offenses range from \$1,000-\$2,000 USD for the first violation and \$2,000-\$3,000 USD for the second and third violations.²³⁶ Hiring or contracting a juvenile performer that violates these rules and regulations is considered oppressive labor.²³⁷

Then, in 2015, Representative Grace Meng of New York proposed the Child Performers Protection Act of 2015 to the House Committee on Education and the Workforce.²³⁸ The law aims to expand federal employment standards to young workers in the fashion sector, such as models.²³⁹ This Act modifies the Fair Labor Standards Act of 1938 to update the applicability of child labor rules and limitations concerning child performers, including additional limits on the number of hours such children may be engaged at the workplace.²⁴⁰ Such restrictions include: A contractor/employer may not hire a child performer unless a trust has been formed on the child performer's behalf that meets certain conditions and the employer has acquired the trust's account number or any other proof of its existence.²⁴¹

ii. The Regulation of Wages in the Fashion Industry

As mentioned, the Model Alliance, in addition to New York legislator, played a significant role in the Act's introduction and passing.²⁴² One of the key topics

²³³ See *id.* §3(a-b)

²³⁴ See *id.*

²³⁵ See *id.*

²³⁶ See Child Performers, 12 NYCRR 186-10 (2017).

²³⁷ See *id.* § 2(B).

²³⁸ See Child Performers Protection Act of 2015, H.R. 3383, 114th Cong. (2015), <https://www.congress.gov/bill/114th-congress/house-bill/3383/text>.

²³⁹ See *Protections Under New York State Law*, THE FASHION L., <https://www.thefashionlaw.com/resource-center/models-laws-governing-the-modeling-industry-in-the-u-s/> (last visited Jan. 7, 2023, 10:37 AM).

²⁴⁰ See generally Jonathan Grossman, *Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage*, 101 MONTHLY LAB. REV. 22, 22 (1978) (detailing the practical effects and applicability of the fair Labor Standards Act of 1938).

²⁴¹ See H.R. 3383 § 2(3)(A)(ii).

²⁴² See Sara Ziff, *Our Mission – A New Model for Fashion*, MODEL ALLIANCE, <https://www.modelalliance.org/our-mission>. See also Model's Bill of Rights, MODEL

addressed by the Model Alliance is wages.²⁴³ As mentioned, among the most pervasive issues in the worldwide modeling profession is a lack of financial transparency and salary theft by modeling agencies, as per the model and the Model Alliance's creator, Sara Ziff.²⁴⁴

Presently, there seems to be no minimum pay—jobs may be unpaid, and designers can pay in “trade,” *i.e.*, in designer apparel/accessories, as long as it is stated clearly in the job advertisement.²⁴⁵ However, this mode of payment may not always be a very supported payment method as it either implies access to a bunch of free of cost apparels/accessories after a shoot and/or a gift certificate allowing them to purchase certain free products from the concerned designer's stock that at times might be out of season.²⁴⁶

iii. Regulating the Health and Safety of Fashion Models

With such issues rising, there has been an increased need to address the problems of the health and safety of fashion models.²⁴⁷ Model Alliance and the National Eating Disorders Association collaborated with the well-known Harvard public-health incubator, STRIPED,²⁴⁸ and California Assembly member, Marc Levine, to safeguard fashion models' security, well-being, and health and start changing the messages young men and women acquire about the belief and value system of our society.²⁴⁹

ALLIANCE, <https://www.modelalliance.org/models-bill-of-rights> (last visited Jan. 6, 2023, 5:20 PM).

²⁴³ See Tracey L. Lester, *The Models' Bill of Rights: Check out the Demands of the New Model Alliance*, GLAMOUR (Feb. 8, 2012), <https://www.glamour.com/story/the-models-bill-of-rights-chec>.

²⁴⁴ Sara Ziff, *Changes to the Law Would Stop the Exploitation of Models*, THE BUS. OF FASHION (Sept. 14, 2015), <https://www.businessoffashion.com/opinions/news-analysis/op-ed-changes-to-the-law-would-stop-the-exploitation-of-models/>.

²⁴⁵ See Jeanette Cuzella, *Fast Fashion: A Proposal for Copyright Protection of 3D-Printed Apparel*, 13 COLO. TECH. L.J. 369, 380 (2015) (providing a meaning of trade as produced goods with distinctive features). See also Misty W. Sidell, *Many Models get Paid in Clothes, Not Cash, but That Might be Changing*, DAILY BEAST (July 11, 2017, 11:54 PM), <https://www.thedailybeast.com/many-models-get-paid-in-clothes-not-cash-but-that-might-be-changing>.

²⁴⁶ See Lexi Nisita, *What Models Really get Paid for Fashion Week (Spoiler: Not What You'd Guess)*, REFINERY 29 (Feb. 19, 2013, 10:40AM), <https://www.refinery29.com/en-us/2013/02/43169/how-much-money-do-models-make>.

²⁴⁷ See Sara Ziff, *The Fashion Industry has a Health Problem. And That's a Labor Issue*, ON LAB. (Mar. 3, 2016), <https://onlabor.org/the-fashion-industry-has-a-health-problem-and-thats-a-labor-issue/>.

²⁴⁸ See STRIPED, *Home*, HARVARD T.H. CHAN SCH. OF PUB. HEALTH, <https://www.hsph.harvard.edu/striped/> (last visited Jan. 7, 2023, 11:40 AM).

²⁴⁹ See STRIPED, *Protecting Fashion Model Health*, HARVARD T.H. CHAN SCH. OF PUB. HEALTH, <https://www.hsph.harvard.edu/striped/policy-translation/protecting-fashion-model-health/> (last visited Jan. 7, 2023, 11:45 AM).

STRIPED, the Eating Disorders Coalition (“EDC”), the Academy for Eating Disorders (“AED”), and many other activists campaigned in support of the law, writing letters to Governor Jerry Brown pushing him to approve it.²⁵⁰ With so much effort put in place, the Talent Protections Act (California AB 2338) finally got signed in September 2018, establishing rights against sexual harassment for fashion models working in California and addressing eating abnormalities by providing adult models with eating disorders education.²⁵¹

III. HEALTH LAW AND FASHION IN THE EUROPEAN UNION: A TOUCH TOO MUCH

A. France

The French government issued a new law, namely the French Corporate Duty of Vigilance Law, specifically directed at the fashion sector in 2017.²⁵² By doing so, France required models to obtain a health certificate affirming they are healthy.²⁵³

According to France’s Minister of Social Affairs and Health, Marisol Touraine, the law, which was officially published in May 2017 after first being introduced two years prior with several amendments implemented in the interim, aims to “avoid the promotion of inaccessible beauty ideals and to prevent anorexia in young people.”²⁵⁴ To that end, the regulation compels models to undertake a medical check-up every two years to get a health certificate as proof of their health condition.²⁵⁵

As per the legislation, physicians may evaluate a model’s BMI while performing such a health evaluation, which has sparked a significant reaction from industry groups owing to the metric’s potential inaccuracy in measuring an individual’s overall health status.²⁵⁶

²⁵⁰ Chase Bannister, *Message from EDC President: Applauding Groundbreaking Report on the Economic Impact of Eating Disorders in the United States*, EATING DISORDERS COAL. (June 26, 2020), <http://eatingdisorderscoalition.org.s208556.gridserver.com/couch/uploads/file/striped-report-statement.pdf>.

²⁵¹ See CAL. LEG. COUNSEL BUREAU, LEG. COUNSEL’S DIG. ASS. BILL No. 2338 (2018), <https://cdn1.sph.harvard.edu/wp-content/uploads/sites/1267/2019/07/AB-2338.pdf>.

²⁵² See generally Vanessa Friedman, *A New Age in French – Modeling*, N.Y. TIMES (May 8, 2017), <https://www.nytimes.com/2017/05/08/fashion/france-laws-thin-models.html?>

²⁵³ See *id.*

²⁵⁴ Gabriella Canal, *Photoshopped Images Are Now Legally Required to be Labeled in France*, GLOBAL CITIZEN (May 5, 2017), <https://www.globalcitizen.org/es/content/france-passed-a-law-requiring-photoshopped-images/>. See also Joelle Diderich, *Labeling Retouched Photos, Models’ Medical Certificates Required in France*, WOMEN’S WEAR DAILY (May 5, 2017, 5:59 AM), <https://wwd.com/business-news/media/labeling-retouched-photos-models-medical-certificates-required-in-france-10881966/>.

²⁵⁵ See Friedman, *supra* note 252.

²⁵⁶ See The Fashion Law, *How Have ‘Model Health’ Laws Actually Impacted the Fashion Industry?*, THE FASHION L. (Oct. 12, 2020), <https://www.thefashionlaw.com/how-have-fashions-model-laws-impacted-the-fashion-industry/>.

Over four years after the “model law” was implemented, new debates inside the fashion business raise doubts about what, if anything, has changed since then.²⁵⁷ For example, in September 2020, stylist Francesca Burns stirred an industry-wide debate when she uploaded a photo of a model who couldn’t fasten the sample-size Celine pants that she was trying to sport.²⁵⁸

Burns subsequently told *Vogue* that this was not an isolated occurrence:

... in order to fit into “the sample,” many professional models have to adhere to the same very slender body type On probably nine out of 10 shoots I style there will be sample clothing [lent by fashion brands] that doesn’t fit the talent, especially if you’re working with actors or non-professional models.²⁵⁹

Her Instagram post drew considerable support from models and fashion editors alike.²⁶⁰ Critics had noted that perhaps the French model law is “staggeringly easy to workaround.”²⁶¹ Some even questioned the legitimacy and credibility of a health certificate that is valid only for a couple of years.²⁶² Finally, LVMH Moët Hennessy Louis Vuitton-owned Celine’s fitting is hard to come to terms with France’s legally obligatory duty to guarantee that models are not unhealthily skinny, which invites more significant issues about how much of an influence has the law had over the earlier years.²⁶³

According to Paris-based attorney Céline Bondard, while the French legislation allows the French Ministry of Social Affairs and Health to “set clear, penal sanctions in case of failure to conform to the obligation to deliver a health certification,” it does

²⁵⁷ *See id.*

²⁵⁸ *See* Laura A. Jordan, *Fashion Still Has A Size Issue, As This Stylist’s Instagram Post Proves*, *GRAZIA* (Sept. 14, 2020), <https://graziadaily.co.uk/fashion/news/fashion-sample-size-problem/>.

²⁵⁹ Julia Hobbs, *How a Viral Instagram Post Put the Spotlight Back on Model Size Inclusivity*, *RUNWAY* (Sept. 16, 2020), <https://www.vogue.com/article/francesca-burns-fashion-stylist-size-inclusivity-instagram-post>.

²⁶⁰ *See id.*

²⁶¹ *See* Optinstapost, *Use Of “Misleading” Instagram Filters Is Being Cracked Down By British Advertising Watchdog*, *OPTINSTA*, <https://optinsta.com/use-of-misleading-instagram-filters-is-being-cracked-down-by-british-advertising-watchdog/> (last visited Jan. 8, 2023, 2:27 PM).

²⁶² *See* Katherine L. Record et al., “Paris Thin”: *A Call to Regulate Life-Threatening Starvation of Runway Models in the US Fashion Industry*, 106 *AM. J. PUB. HEALTH* 205, 205 (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4815821/pdf/AJPH.2015.302950.pdf>. *See also* Kelly O’Connell, Esq., *The Newest Trend in French Fashion: A “Healthy” Weight*, *O’Connell Law, PLLC* (Dec. 30, 2015), <https://msworldlaw.com/the-newest-trend-in-french-fashion-a-healthy-weight/>.

²⁶³ Gimja Gebre, *The Impact of Model Health on the Fashion Industry*, *LIDIA BEDMAN* (Oct. 31, 2022), <https://www.lidiabedman.com/2021/05/the-impact-of-model-health-law-on-the-fashion-industry.html>.

not ensure that such a law would be enforced.²⁶⁴ In reality, Bondard further claimed that she hadn't encountered any situations concerning the statute since it was adopted.²⁶⁵

B. Israel

Unlike other countries, Israel's implementation of these model-centric restrictions has been relatively slack.²⁶⁶ The Knesset Research and Information Center, in a June 2017 study, issued well over four years after the Israeli government established its own "law for models" to combat "the creation of a low body image and the development of eating disorders in Israel" that minimal enforcement of the newly enforced law had been implemented.²⁶⁷

Renana Gutreich of the Knesset Center said in the report where Israel's Ministry of Economy and Industry notified the Center that:

[N]o one in the Ministry was appointed to be in charge of the enforcement of the Law for Restricting weight in the Modeling Industry . . . In other words, there is a dispute among the Ministries as to which of them ought to be responsible for the implementation of this law.²⁶⁸

She further noted that:

[T]he Israeli Medical Association (IMA), the four health funds and the "Yuli" modeling agency to receive information on the number of medical certificates regarding levels of BMI issued to models since the law came into force, but from the answers received it emerged that there is no information on the subject.²⁶⁹

While Israel shone through as one of the world's first countries to realistically come up with a law for fashion models, as highlighted above, it has not been truly implementable in terms of its functionality owing to politico-administrative differences. While the proper administration of a law by an appropriate authority is of utmost importance, it certainly should not be the basis for that law being rendered absolutely non-functional.

²⁶⁴ *See id.*

²⁶⁵ *See id.*

²⁶⁶ *See id.*

²⁶⁷ Renana Gutreich, *Implementation and Enforcement of the law for Restricting Weight in the Modeling Industry, 5772-2012*, The Knesset Research and Information Center (2017) at 6–7, <https://m.knesset.gov.il/EN/activity/mmm/me04076.pdf>.

²⁶⁸ *Id.* at 4–5.

²⁶⁹ *Id.* at 5. *See generally* Jennifer Sky, *Are Models Being Forced Into Extreme Measures to Conceal Their Weight?*, OBSERVER (Apr. 21, 2015, 6:15 PM), <https://observer.com/2015/04/young-models-are-not-to-blame-for-industry-pressure-to-be-thin/>.

C. Spain

In 2006, in Spain, a restriction was implemented on a private level by the Spanish Association of Fashion Designers, a trade association to restrict models with a BMI lesser than that of eighteen from walking the ramp or the runway; however, the results of the same have been mixed.²⁷⁰ As a result of the implemented regulation, “[n]early a third of models were banned from taking to the catwalk in the first year the rule was introduced.”²⁷¹

However, the ban’s efficacy has been called into doubt since then. A model once anonymously told the Observer shortly after the ban was put into action that when she participated in runway shows during Madrid Fashion Week, agencies were deliberately engaging themselves in “loopholes,” handing underweight women “Spanx underwear to stuff with weighted sandbags” when it was time for the models to step on the scale for their BMI measurement.²⁷²

There is a delicate balance regarding the efficacy of such laws in the future. Céline Bondard claims that there can be a “threat of discrimination contrary to models deemed overly sparse once they truly have been, in reality, fit to get the job done” due to the possible imprecision of the parameters used to evaluate the health of the models, which includes the BMI metric.²⁷³ While she recognizes that the fashion industry owes a responsibility to protect the well-being of models overall by “fighting stereotypes associated with thin-ness and preventing behaviours which can be damaging to health, particularly among young men and women” and emphasized that such legislation—some of which carries the threat of monetary penalties and/or imprisonment—should not “unnecessarily stigmatize ‘naturally’ lean men and women.”²⁷⁴ Although French law does not consistently achieve this balance, Bondard believes it is “a good French regulatory development in principle”²⁷⁵ especially since it has been augmented by voluntary charters embraced and endorsed by specific private organizations, such as the September 2017 charter issued by LVMH Moët Hennessy Louis Vuitton and Kering, which go far beyond the relevant regulations to

²⁷⁰ See BBC, *Skinny Models Banned from the Catwalk*, BBC (Sept. 13, 2006, 2:57PM), <https://edition.cnn.com/2006/WORLD/europe/09/13/spain.models/>.

²⁷¹ Selina Sykes, *Six Countries Taking Steps to Tackle Super-Skinny Models*, EURONEWS (June 9, 2017), <https://www.euronews.com/2017/09/06/counties-fighting-underweight-modeling>.

²⁷² Sky, *supra* note 269.

²⁷³ Gebre, *supra* note 263.

²⁷⁴ *Id.*

²⁷⁵ *Id.*

outline concrete scenarios and unify practices.²⁷⁶ Of course, this implies that the two industrial behemoths are implementing their voluntary agreement.²⁷⁷

IV. REGULATORY OR PROTECTIVE EFFORTS FROM WITHIN THE INDUSTRY

A. *The Industry and Its Models Reducing the Stigma Associated with Recovery*

After the “heroin chic” fad died down, private treatment centers around the country saw an upsurge in the number of clients.²⁷⁸ But even though the trend took a toll, shattering lives and careers, it also inspired many models, designers, and even artists to seek treatment for their addiction.²⁷⁹ Many did it publicly, some covertly, but the point was clear: drug abuse is a severe problem that can be conquered.²⁸⁰

When Calvin Klein decided to share his issues with alcohol and prescription medication addiction in 2003, the degree of awareness within the fashion industry skyrocketed.²⁸¹ Klein attended private treatment for the first time in the 1980s and came out about his addiction nearly 15 years later, following an incident triggered by his erratic conduct during a Knicks basketball game.²⁸² He said:

For many years, I’ve been able to successfully address my substance abuse issues, which for anyone is a lifelong process, through strict adherence to counseling and regular attendance at meetings. However, when I recently stopped attending meetings regularly, I suffered a setback. Fortunately, I was lucky with the help of others to recognize the problem. And now, I’m again getting the treatment I need to resume a healthy and productive lifestyle.²⁸³

Even though the days of “heroin chic” are long gone, today’s culture of disguised misuse is no less damaging. It is fostered by the ignorance and blindness of people who are scared to confront what lurks beneath the rug. Unless the industry recognizes the problem and addresses the entrenched attitude, mentality, and acceptance, there

²⁷⁶ See TFL, *Kering and LVMH Draft Charter on Models’ Well-Being*, THE FASHION L. (Sept. 6, 2017), <https://www.thefashionlaw.com/kering-and-lvmh-join-draft-charter-on-models-well-being/>.

²⁷⁷ See *id.*

²⁷⁸ Christine L. Harold, *Tracking Heroin Chic: the Abject Body Reconfigures the Rational Argument*, 36 ARGUMENTATION & ADVOC. 65, 66 (1999). See generally *Heroin Use and Eating Disorders*, THE RECOVERY VILLAGE (Apr. 29, 2022), <https://www.therecoveryvillage.com/heroin-addiction/eating-disorders/>.

²⁷⁹ See generally Bethany Chandler, *Looking Back on the 90’s Supermodel: “Heroin Chic”*, MESS MAG. (July 18, 2021), <https://messmag.com/looking-back-on-the-90s-supermodel-heroin-chic/>.

²⁸⁰ See generally *id.*

²⁸¹ Cathryn Horyn, *Calvin Klein is Seeking Treatment for Drug Abuse*, N.Y. TIMES (Apr. 5, 2003), <https://www.nytimes.com/2003/04/05/business/calvin-klein-is-seeking-treatment-for-substance-abuse.html>.

²⁸² *Id.*

²⁸³ *Id.*

will be no change. It might just be time for fashion to slow it down, take a closer look at the price of perfection that it imposes, and eventually bring drug abuse to the forefront.

B. The Model's Rights Bill

Many have blamed the industry itself for the poor employment practices amongst the models for the industry.²⁸⁴ As discussed throughout this Article, while models are often seen to be in a glamorous career, there seems to be a host of complaints arising out of the problems of restricted job rights.²⁸⁵ For example, some of the models' concerns as to compensation alone include: (1) the pay-out of work performed has been impossible to recover and that the companies do not assist them in recovering payments²⁸⁶ and (2) the struggle with the industry's apparel payment practices, called payments in "trade."²⁸⁷ On top of that, any legal structures that may include rights are subject to the international characterization of the occupation.²⁸⁸ The Model Alliance has drawn up a Model Rights Bill to fight these problems, which focuses on adeptness, security, anonymity, the privacy of individuals, and transparency in payment.²⁸⁹ It also provides improved governance and model control while seeking more specific information about mandates and financing costs.²⁹⁰

While the Models' Bill constitutes a crucial step towards enhancing the protection of the models' rights, it needs the force of law to back it up. It is also heavily dependent on voluntary enforcement. Acknowledging the gravity and complexity of labor challenges in the modeling industry, fashion law provides a wealth of resources for analyzing the interrelationship between standards, guidelines, and legislation governing the rights and responsibilities of workers.

However, India does not have any legal statute protecting the models' rights.²⁹¹ The modeling industry is criticized heavily in India, and unlike the Model Alliance,

²⁸⁴ See generally Alexandra Simmeron, *Not So Glamorous: Unveiling the Misrepresentation of Fashion Models' Rights as Workers in New York City*, 22 *CARDOZO J. INT'L & COMPAR. L.* 153, 19–93 (2013) (quoting New York models about the unfair labor and employment practices in the modeling industry).

²⁸⁵ *Id.* at 154.

²⁸⁶ *Id.* at 187–88.

²⁸⁷ *Id.* at 162.

²⁸⁸ *Id.* at 154–55.

²⁸⁹ Nicole Phelps, *The Model Alliance Announces the Fashion Workers Act, a New Pro-Labor Bill to Protect Models and Other Industry Creatives*, *VOGUE* (Mar. 25, 2022), <https://www.vogue.com/article/fashion-workers-act-model-alliance>.

²⁹⁰ Tracey Lomrantz Lester, *The Models' Bill of Rights: Check Out the Demands of The New Model Alliance*, *GLAMOUR* (Feb. 8, 2012), <https://www.glamour.com/story/the-models-bill-of-rights-chec>.

²⁹¹ Ankita Srivastava, *Fashion Modeling Laws in India: everything that is Brimming with Glitz and glamour truly an epitome of Gold?*, *Legal Desire*, <https://legaldesire.com/fashion->

there is no organization protecting models' rights.²⁹² Although there are statutes that provide for equal pay and maternity leave, none of them explicitly deal with the major labor law issues, such as regulations about the payment agreements, moreover, nothing that specifically recognizes fashion models or deals with their specific issues.²⁹³

A probable reason for that can also be that models are not recognized as "labor" since there exists no specific legal definition of the term; however, the Merriam-Webster dictionary has under one of its definitions for the term, "human activity that provides the goods or services in an economy."²⁹⁴

Models form an integral part of brand endorsement procedure, and are a part of the labor community since they are active service providers to the fashion industry.²⁹⁵ This helps in the advertising and marketing of products, especially apparel, and sometimes a brand's image heavily depends on the model at times owing to their popularity factor.²⁹⁶ This happens because the brand image is essentially the perception that the customer develops of a brand, while the brand identity is the perception that the brand tries to create in the minds of the consumers.²⁹⁷

V. A PLAUSIBLE FRAMEWORK FOR IMPROVEMENT OF LABOR CONDITIONS

In this Article's opinion, some of the major points that need to be focused on and kept in mind while drafting a realistic fashion law from a global viewpoint must include the following:

- Setting industry-wide standards: The fashion industry needs to establish standards for working conditions and pay for models, which should include protections for underage models, mandatory breaks, and decent pay. These standards can be set by trade associations, labor unions, or regulatory agencies.
- Providing safe and healthy working conditions: Modeling can be a physically demanding job, with long hours of standing, posing, and walking. Models should be provided with safe and healthy working

modeling-laws-in-india-is-everything-that-is-brimming-with-glitz-and-glamour-truly-an-epitome-of-gold/ (last visited Jan. 29, 2023).

²⁹² Ashwaq Mossdi, *Fashion industry with no working rules*, MINT (May 21, 2018), <https://www.livemint.com/Industry/fXQRMDbMveXnLXnesBMqyH/Fashion-industry-with-no-working-rules.html>.

²⁹³ Srivastava, *supra* note 291.

²⁹⁴ *Labor*, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/labor> (last visited Jan. 29, 2023).

²⁹⁵ Amber Later, *Model Workers: Labor Activism Comes to Fashion Modeling*, GQ (May 12, 2020), <https://www.gq.com/story/coronavirus-modeling-labor>.

²⁹⁶ Ana Raluca Chiosa, *Celebrity endorsement in fashion print advertising*, 1 EUROECONOMICA 18, 28–29 (2013).

²⁹⁷ J.N. KAPFERER, *THE NEW STRATEGIC BRAND MANAGEMENT: CREATING AND SUSTAINING BRAND EQUITY LONG TERM* 191 (Kogan Page Ltd., 4th ed. 2008) (1992).

conditions, including adequate ventilation, lighting, and comfortable changing rooms.

- Implementing fair compensation: Models are often paid very little, and some even work for free. The industry should establish fair compensation for models, taking into account their skills, experience, and working conditions. This could include setting minimum wages, providing overtime pay, and ensuring that models receive benefits like health insurance.
- Protecting models from exploitation: Models are often subject to sexual harassment, abuse, and exploitation by photographers, agents, and other industry professionals. The industry should implement policies to protect models from these abuses, such as mandatory reporting mechanisms and support services.
- Providing education and support: Many models are young and inexperienced and may not be aware of their rights or how to advocate for themselves. The industry should provide education and support services to help models understand their rights and navigate the industry.
- Promoting diversity and inclusivity: The fashion industry should work to promote diversity and inclusivity in all aspects of the industry, including casting, advertising, and runway shows. This means including models of all ages, sizes, and ethnicities, and creating an environment that is welcoming and supportive of all models.

Improving the labor conditions of fashion models is essential for the fashion industry to move towards a more ethical and sustainable future. This includes addressing issues such as long working hours, inadequate pay, and lack of protection from harassment and abuse. Implementing regulations and standards that prioritize the well-being of models can lead to a more inclusive and diverse industry, where all individuals are treated with respect and dignity. Ultimately, prioritizing the health and safety of fashion models can have a positive impact on the entire fashion ecosystem.

VI. CONCLUSION

The fashion industry is a highly influential and lucrative sector, but it is no stranger to controversy. The rampant mistreatment of models and their systemic exploitation has been a subject of extensive critique and scrutiny. In order to address these persistent issues, there is a pressing need for robust legal frameworks that safeguard the rights of models and promote the principles of fairness, justice, and social equity.

Models, as integral players in the fashion ecosystem, are vulnerable to a wide range of physical, emotional, and economic risks. From enduring excruciatingly long work hours to being subjected to unrealistic beauty standards, models are often compelled to maintain an unhealthy physique that puts their lives at risk. Furthermore, their wages are often disproportionately low, and their contracts lack clarity and enforceability, leaving them vulnerable to abuse and exploitation by their employers.

Thus, it is of utmost importance to enact laws that secure the legal rights of models and protect them from these pernicious practices. Such measures would ensure that models receive fair wages, work in safe conditions, and are treated with dignity and respect. Additionally, securing the legal rights of models would serve as a critical step towards promoting a healthier society by mitigating the negative impacts of body

shaming and eating disorders, which have been linked to the fashion industry's unattainable beauty standards.

In conclusion, the need to establish legal frameworks that protect the rights of models in the fashion industry cannot be overstated. It is a fundamental imperative for creating a more equitable, just, and sustainable industry, one that prioritizes the well-being of its workers and reflects the values of a compassionate and empathetic society.