

**‘FEEL[ING] UNPRETTY TOO’*: DO BODY IMAGE LAWS
MEASURE UP IN THE POST-COVID -19 WORLD?**

DR MARILYN BROMBERG[†] AND NICHOLAS CARDACI[‡]

CONTENTS

ABSTRACT	94
INTRODUCTION.....	95
I. EATING DISORDERS	97
II. COVID-19 AND MENTAL HEALTH.....	99
III. COVID-19 AND EATING DISORDERS	99
IV. BODY IMAGE LAW	103
V. WHY BODY IMAGE LAWS ARE NOT A SOLUTION.....	105
<i>A. Evidence of the Ineffectiveness of Image Labelling Rules</i>	105
1. <i>Evidence Concerning French & Israeli-style Image Labelling Rules</i>	106
(a) <i>Generic Disclaimers</i>	106
(b) <i>Specific Disclaimers</i>	107
2. <i>Evidence Concerning Alternative Image Disclaimers</i>	108
3. <i>Perverse Consequences</i>	110
<i>B. Problems with the Practical Application of French & Israeli- style Health Requirements for Modelling</i>	111
1. <i>Unintended Consequences in Practice</i>	111
(a) <i>Problems with BMI Thresholds</i>	111
(b) <i>Alternate Holistic Approaches: No Silver Bullets</i>	113
2. <i>The Issue of Enforcement</i>	114
CONCLUDING REMARKS	115

ABSTRACT

Tragically, COVID-19 has devastated the world in many ways. Eating disorders are one of the many areas in which COVID-19 has impacted the world. Eating disorders are a serious psychiatric illness and the number of people who have eating disorders has increased due to COVID-19. It may appear that one way to address this problem in the United States and

[†] Dr. Marilyn Bromberg, PhD, LLB (Dist), BBA (Hon) is the Director of Higher Degrees (Coursework) at the University of Western Australia Law School and a practising lawyer.

[‡] Nicholas Cardaci, LLB, B.Comm, GDLP is an Australian lawyer.

help lower the number of people with eating disorders is for the American Federal Government to pass a Body Image Law, like in France, Norway, and Israel. One of the main parts of such a law is to post warning labels on images of models that were modified to make the models look thinner which states that the images were modified. This article argues that the American Federal Government should not consider passing a Body Image Law to address eating disorders and body image concerns because they do not work. The authors believe that this is the first article to consider Body Image Law in a COVID-19 world.

INTRODUCTION

The ongoing COVID-19 pandemic has left a trail of destruction across the world during 2020 and 2021, and continues to do so.¹ It affected, and in many locations continues to affect, nearly every aspect of life such as health, education, jobs, food, exercise, and socializing. COVID-19 is an infectious respiratory disease caused by the SARS-CoV-2 coronavirus.² It all started in December 2019 when a “cluster of pneumonia cases” were found in Wuhan, China.³ The cases were reported to the World Health Organization and, once identified as SARS-CoV-2, became known as COVID-19.⁴ COVID-19 can cause mild to severe illness and even death.⁵ COVID-19 became an international pandemic,⁶ causing deaths, hospitalizations, and severe economic problems.⁷ By December 2020, COVID-19 infected over seventy million people internationally and was responsible for over 1.6 million deaths.⁸ It impacted at least 213 countries and territories.⁹

* TLC, *Unpretty*, on FANMAIL (LaFace Records & Arista Records 1999).

1. Elizabeth M. Glowacki et al., *Identifying #addiction Concerns on Twitter During the COVID-19 Pandemic: A Text Mining Analysis*, 42 *SUBSTANCE ABUSE* 39, 39 (2020).

2. Dimitra Kale et al., *Associations Between Vaping and Covid-19: Cross-Sectional Findings from the HEBECO Study*, 221 *DRUG AND ALCOHOL DEPENDENCE* 1, 1 (2021); *Coronavirus Disease (COVID-19)*, WORLD HEALTH ORG., <https://www.who.int/health-topics/coronavirus> (last visited Jul 24, 2021) [Hereinafter *COVID-19*].

3. Glowacki et al., *supra* note 1, at 39.

4. *Id.* at 39; *COVID-19*, *supra* note 2.

5. Dimitra Kale et al., *supra* note 2, at 1.

6. Glowacki et al., *supra* note 1 at 39.

7. *Id.*

8. *COVID-19 Weekly Epidemiological Update*, WORLD HEALTH ORG. (Dec. 15, 2020), <https://www.who.int/publications/m/item/weekly-epidemiological-update---15-december-2020>.

9. Muhammad Aziz Rahman et al., *Factors Associated with Psychological distress, Fear and Coping Strategies During the COVID-19 Pandemic in Australia*, 16 *GLOBALIZATION & HEALTH*, Oct. 2020, at 1, 2.

Governments worldwide required, and some still require, many public places to close due to COVID-19 including schools, workplaces, restaurants, and gyms.¹⁰ Many also required lockdowns at different periods. During these lockdowns, people had to stay at home and only leave for important tasks (for example, to buy medication or food). Governments also closed international borders and placed restrictions on social activity.¹¹ Social distancing became mandated, requiring individuals¹² to stay two meters away from people they do not live with to avoid spreading infection.¹³ Individuals have also been required to wear masks in public spaces.¹⁴ Many people lost their jobs due to COVID-19 or had to work from home.¹⁵ Several industries were particularly hit hard financially by COVID-19, such as tourism.¹⁶ For most people, COVID-19 caused a major change to routine and social contact.¹⁷ COVID-19 also had a significantly negative impact on mental health, including on people who have eating disorders. This Article will focus on the connection between COVID-19 and eating disorders. Specifically, this Article will discuss eating disorders generally, COVID-19 and mental health, how COVID-19 impacted eating disorders, Body Image Law, and why the U.S. Government should not pass a Body Image Law. This Article is important because eating disorders can be serious and life threatening. The number of people suffering from eating disorders increased during COVID-19, so

10. Danielle Clark Bryan et al., *Exploring the Ways in Which COVID-19 and Lockdown has Affected the Lives of Adult Patients with Anorexia Nervosa and Their Carers*, 28 EUR. EATING DISORDERS REV. 826, 827 (2020); Paulo P. P. Machado et al., *Impact of COVID-19 Lockdown Measures on a Cohort of Eating Disorders Patients*, 8 J. EATING DISORDERS, Nov. 2020, at 1, 1–2.

11. Paul M. Dietze & Amy Peacock, *Illicit Drug Use and Harms in Australia in the Context of COVID-19 and Associated Restrictions: Anticipated Consequences and Initial Responses*, 39 DRUG & ALCOHOL REV. 297, 297 (2020).

12. Clark Bryan et al., *supra* note 10, at 827; Fernando Fernández-Aranda et al., *COVID-19 and Implications for Eating Disorders*, 28 EUR. EATING DISORDERS REV. 239, 239 (2020); SiennaMarisa Brown et al., *A Qualitative Exploration of the Impact of COVID-19 on Individuals with Eating Disorders in the UK*, 156 APPETITE 1, 1 (2021).

13. See, e.g., *Two and Four Square Metre Rules*, VIC.GOV.AU, <http://www.coronavirus.vic.gov.au/four-and-two-square-metre-rules> (last visited Nov 19, 2021).

14. Jean-Ralph Zahar & Bernard Allaouchiche, *Even Vaccinated Against COVID-19, We Must Continue to Wear a Mask*, 40 ANAESTHESIA, CRITICAL CARE & PAIN MED. 1, 1 (2021).

15. Elizabeth G. Klein et al., *Pulling Your Mask Down to Smoke: Qualitative Themes from Young Adults on Nicotine Use During a Pandemic*, 56 SUBSTANCE USE & MISUSE 437, 437 (2021).

16. K. Michael Haywood, *A Post COVID-19 Future - Tourism Re-Imagined and Re-Enabled*, 22 TOURISM GEOGRAPHIES 599, 600 (2020).

17. Isabel Baenas et al., *COVID-19 and Eating Disorders During Confinement: Analysis of Factors Associated with Resilience and Aggravation of Symptoms*, 28 EUR. EATING DISORDERS REV. 855, 855 (2020).

it is even more important to consider what action to take to decrease these numbers. This Article is also important because the Norwegian government passed a Body Image Law in 2021, during the COVID-19 pandemic. Politicians in other countries may consider passing a Body Image Law during COVID-19 as a result of the increase in eating disorders arising from the pandemic. This Article provides information highly relevant to their decision making.

I. EATING DISORDERS

Eating disorders are very concerning because they carry a higher rate of mortality compared to other psychiatric disorders.¹⁸ Eating disorders are serious, complex, and potentially life-threatening mental illnesses characterized by disturbances in behaviors, thoughts, and attitudes to food, eating, and body weight or shape.¹⁹ These disorders have detrimental impacts upon a person's life and result in serious medical, psychiatric and psychosocial consequences.²⁰ Eating disorders are associated with cognitive and emotional challenges.²¹ They also have one of the highest rates of medical complications of all psychiatric disorders, including "... hair loss, growth retardation, osteoporosis, loss of tooth enamel, gastrointestinal bleeding, bowel paralysis, dehydration, electrolyte abnormalities, hypokalemia, hyponatremia, and cardiac arrest."²² The three main eating disorders are Anorexia Nervosa ('Anorexia'), Bulimia Nervosa ('Bulimia'), and Binge Eating Disorder ('BED').

Anorexia is a "serious psychiatric illness."²³ People who suffer from this illness try to avoid uncertainty and have trouble dealing with unexpectedness.²⁴ Some of the main characteristics of Anorexia are starvation, malnutrition, and fear of weight gain.²⁵ Anorexia usually

18. Scott J. Crow et al., *Increased Mortality in Bulimia Nervosa and Other Eating Disorders*, 166 AM. J. PSYCHIATRY 1342, 1342 (2009).

19. *What is an Eating Disorder?*, NAT'L EATING DISORDERS COLLABORATION, <https://nedc.com.au/eating-disorders/eating-disorders-explained/the-facts/whats-an-eating-disorder/> (last visited Nov. 19, 2021).

20. *Id.*

21. Kelly L. Klump et al., *Academy for Eating Disorders Position Paper: Eating Disorders are Serious Mental Illnesses*, 42 INT. J. EATING DISORDERS 97, 99 (2009).

22. *Id.* at 100.

23. Sandra Schlegl et al., *Eating Disorders in Times of the COVID-19 Pandemic—Results From an Online Survey of Patients with Anorexia Nervosa*, 53 INT'L J. EATING DISORDERS 1791, 1791-1792 (2020).

24. *Id.* at 1792.

25. Janet Treasure et al., *Anorexia Nervosa*, 1 NATURE REV.S. DISEASE PRIMERS 1, 1 (2015).

begins as a young adult.²⁶ People who suffer from Anorexia often suffer from other psychiatric conditions like major depression, anxiety, obsessive-compulsive disorder, trauma-related disorders, and substance misuse.²⁷ Anorexic women who become pregnant face higher rates of pregnancy complications and their children are at higher risk of developing emotional and nutritional challenges.²⁸ Some of the reasons why people develop Anorexia include being a perfectionist, being afraid of being overweight, and having poor self-esteem (thinking that they do not deserve to eat).²⁹

Bulimia is an eating disorder that involves binge eating within a two-hour timeframe, trying to compensate for the binge eating (through purging, exercise, fasting, etc.), and finding weight or shape extremely important.³⁰ The binge eating episodes and compensatory behaviors occur at least once weekly for three months.³¹ Fasting involves not eating anything for eight or more hours while awake to modify weight or shape.³²

BED consists of consistently binge eating a significant amount of food and feeling out of control.³³ It is the most common eating disorder and involves frequent (once a week or more for three months), short (less than two hours), psychologically stressful binge eating periods during which individuals do not have control and eat more food than other people would in a similar situation.³⁴ BED is associated with major depressive or other psychiatric disorders, problems with relationships, obesity and diabetes, and it predisposes people to metabolic syndrome.³⁵ BED can also include eating alone because of being embarrassed, feeling bad after a binge eating episode, and eating quickly.³⁶

26. James E. Mitchell & Carol B. Peterson, *Anorexia Nervosa*, 382 NEW ENG. J. MED. 1343, 1343-1344 (2020).

27. *Id.* at 1344.

28. Klump et al., *supra* note 21, at 100.

29.

30. Tracey D. Wade, *Recent Research on Bulimia Nervosa*, 42 PSYCHIATRIC CLINICS N. AM. 21, 21 (2019).

31. *Id.*

32. *Id.*

33. Kimberly A. Brownley et al., *Binge-Eating Disorder in Adults: A Systematic Review and Meta-Analysis*, 165 ANNALS INTERNAL MED. 409, 409 (2016).

34. *Id.*

35. *Id.*; see also Susan L. Samson & Alan J. Garber, *Metabolic Syndrome*, 43 ENDOCRINOLOGY METABOLISM CLINICS N. AM, Mar. 2014, at 1, 1 (Metabolic syndrome are clinical issues that exist together which include high glucose, abdominal obesity, and hypertension. Having this syndrome increases the risk of developing heart problems and type two diabetes).

36. Jennifer R. Shapiro et al., *Evaluating Binge Eating Disorder in Children: Development of the Children's Binge Eating Disorder Scale (C-BEDS)*, 40 INT'L J. EATING DISORDERS 82, 82 (2007).

Eating disorders, like other mental illnesses, were significantly affected by the COVID-19 pandemic. This Article now proceeds to examine the relationship between the two.

II. COVID-19 AND MENTAL HEALTH

COVID-19 negatively impacted and continues to influence the mental health of many people worldwide. Further, people with existing mental health challenges are at risk of relapse due to COVID-19.³⁷ This risk of relapse may be in part due to COVID-19 and its causing increased anxiety and stress among many people³⁸ and the increase in the number of people suffering from post-traumatic stress disorders³⁹ and poor sleep.⁴⁰ Social distancing or any prolonged period of uncertainty can be very difficult for people who suffer from psychological challenges, such as anxiety and depression.⁴¹ Also, long periods of uncertainty and unpredictability increase the chances that someone will abuse substances.⁴² Staying at home during lockdowns increased the number of people engaging in potentially addictive negative behavior in order to cope with the situation, such as watching pornography and gambling online. People who may be more likely to use these behaviors to cope typically suffer from obesity, eating disorders, and challenging family situations at home.⁴³ This set of factors explains the background for why eating disorders increased during COVID-19, which the next section of this Article will discuss.

III. COVID-19 AND EATING DISORDERS

Some aspects of COVID-19, such as changes to daily activities, social isolation, changes to physical activity or sleep, and fear of being

37. Hannah Shaw et al., *What Was the Impact of a Global Pandemic (COVID-19) Lockdown Period on Experiences Within an Eating Disorder Service? A Service Evaluation of the Views of Patients, Parents/Carers and Staff*, 9 J. EATING DISORDERS, Jan. 2021, at 1, 2; Baenas et al., *supra* note 17, at 856.

38. Viren Swami et al., *COVID-19-Related Stress and Anxiety are Associated with Negative Body Image in Adults From the United Kingdom*, 170 PERSONALITY INDIVIDUAL DIFFERENCES, Feb. 15, 2021, at 1, 1 (2021).

39. Fernández-Aranda et al., *supra* note 12, at 239.

40. Catherine McCombie et al., “Now It’s Just Old Habits and Misery” – *Understanding the Impact of the Covid-19 Pandemic on People With Current or Life-Time Eating Disorders: A Qualitative Study*, 11 FRONTIERS PSYCHIATRY, Oct. 27, 2020, at 1, 2.

41. Pravesh Sharma et al., *Changes in Substance Use Among Young Adults During a Respiratory Disease Pandemic*, 8 SAGE OPEN MED., Oct. 14, 2020, at 1, 1.

42. *Id.*

43. Fernando Fernández-Aranda et al., *COVID Isolation Eating Scale (CIES): Analysis of the Impact of Confinement in Eating Disorders and Obesity - A Collaborative International Study*, 28 EUR. EATING DISORDERS REV. 871, 873–874 (2020).

contagious, may contribute to eating disorder symptoms worsening.⁴⁴ COVID-19 may make it harder for some people with eating disorders to obtain treatment⁴⁵ because many day hospitals and outpatient programs closed due to the pandemic.⁴⁶ While people who suffer from eating disorders may be able to attend virtual meetings with medical professionals, these meetings do not allow for their weight, physiological signs, or other important physiological measures to be examined.⁴⁷

It is estimated that between twenty and eighty percent of people who suffer from an eating disorder exercise excessively.⁴⁸ If people who suffer from an eating disorder cannot exercise excessively due to COVID-19, they may try other unhealthy actions instead to keep their weight low such as purging or calorie restricting.⁴⁹ Also, social distancing may result in using more social media and seeing more eating and appearance posts, which produces negative psychological results for viewers.⁵⁰

In 2019, approximately two billion people suffered from moderate to extreme food insecurity.⁵¹ Food insecurity is associated with disordered eating symptoms.⁵² Further, people who suffer from high to very high levels of food insecurity are more likely to suffer from BED and Bulimia as, even where people do not meet the “ED psychopathology,” food insecurity “may be associated with increases in food preoccupation, rigid eating rituals, binge eating, and distorted body image.”⁵³ COVID-19 has stopped some people from being able to easily access food either through limited availability of food and interruptions in the food supply chains. This change of access may be assumed to be capable of causing similar effects on those impacted by pandemic-induced food insecurity. Those who have not experienced food insecurity before the COVID-19 pandemic were forced to deal with new challenges – such as empty shelves, long

44. Dawn Branley-Bell & Catherine V. Talbot, *Exploring the Impact of the COVID-19 Pandemic and UK Lockdown on Individuals with Experience of Eating Disorders*, 8 J. EATING DISORDERS, Aug. 24, 2020, at 1, 2.

45. *Id.*; Montserrat Graell et al., *Children and Adolescents with Eating Disorders During COVID-19 Confinement: Difficulties and Future Challenges*, 28 EUR. EATING DISORDERS REV. 864, 865 (2020).

46. Fernández-Aranda et al., *supra* note 12, at 240; Shaw et al., *supra* note 37, at 2.

47. Marita Cooper et al., *Eating Disorders During the COVID-19 Pandemic and Quarantine: An Overview of Risks and Recommendations for Treatment and Early Intervention*, EATING DISORDERS, July 9, 2020, at 1, 5.

48. *Id.* at 4.

49. *Id.*

50. Brown et al., *supra* note 12, at 2.

51. Cooper et al., *supra* note 47, at 2.

52. Vivienne M. Hazzard et al., *Food Insecurity and Eating Disorders: A Review of Emerging Evidence* 22 CURRENT PSYCHIATRY REP., Oct. 19, 2020, at 1, 3.

53. Cooper et al., *supra* note 47, at 3.

lines, and limited windows when they can shop. There is research on the subject of food insecurity that suggests this sort of situation leads to a “feast or famine” pattern that cycles through “... food abundance, hoarding, and overconsumption with compensatory behaviors, followed by food scarcity, skipping meals, and dietary restraint.”⁵⁴

Studies from around the world found that eating disorder symptoms worsened during COVID-19. A study of participants in the United States and Norway found that participants of both countries who had Anorexia increased food restriction during COVID-19 and people who had Bulimia and BED binge ate more and had more thoughts about doing so.⁵⁵ Additionally, in another study, former patients of an eating disorder clinic in Germany, who left the clinic in 2019, were given an online anonymous survey.⁵⁶ The survey was distributed in May 2020, just after Germany finished a lockdown period.⁵⁷ One hundred and fifty-nine people participated in the survey.⁵⁸ Over seventy percent of participants stated that COVID-19 increased their concerns about eating and their body, their fear of gaining weight, and their need to exercise.⁵⁹ Over forty-one percent of patients agreed or strongly agreed that their eating disorder symptoms worsened due to COVID-19, and over thirty-three percent disagreed or strongly disagreed that their symptoms worsened due to COVID-19.⁶⁰

In the United Kingdom, an online survey was given to 129 people who were over sixteen years old and had an eating disorder or recovered from one.⁶¹ The survey commenced weeks after a lockdown in the United Kingdom.⁶² 86.7% of participants stated that their eating disorder symptoms worsened due to COVID-19.⁶³ Over thirty percent stated that their symptoms were much worse due to COVID-19.⁶⁴ Only two participants stated that their symptoms improved due to COVID-19.⁶⁵ The participants also reported being discharged early from eating disorder

54. *Id.*; Baenas et al., *supra* note 17, at 856; Clark Bryan et al., *supra* note 10, at 827.

55. Jet D. Termorshuizen et al., *Early impact of COVID-19 on Individuals with Self-Reported Eating Disorders: A Survey of ~1,000 individuals in the United States and the Netherlands*, 53 INT’L J. EATING DISORDERS 1780, 1783-1784 (2020).

56. Schlegl et al., *supra* note 23, at 1792.

57. *Id.*

58. *Id.* at 1793.

59. *Id.* at 1795.

60. *Id.*

61. Branley-Bell & Talbot, *supra* note 44, at 2.

62. *Id.*

63. *Id.* at 3.

64. *Id.*

65. *Id.*

treatment.⁶⁶ Some could access treatment virtually, but the participants preferred treatment in person.⁶⁷

Additionally, a pilot survey at the Eating Disorder Unit of the Department of Psychiatry at the University Hospital of Bellvitge, Spain used a telephone survey to learn how the first two weeks of lockdown affected eating disorder patients.⁶⁸ About thirty-eight percent had an increase in their eating disorder symptoms.⁶⁹

In Australia, members of the general public aged eighteen or older were invited to take a survey anonymously: ‘COVID-19 and you: Mental Health in Australia Now Survey’ (‘COLLATE’).⁷⁰ The survey will be administered monthly for twelve months.⁷¹ After the first twelve monthly surveys are administered, annual surveys will be completed until 2024.⁷² The first COLLATE survey had many questions regarding COVID-19’s impact on Australians’ mental health.⁷³ Over five thousand people completed the first eating and exercise part of the survey which was taken approximately three weeks after WHO officially announced the beginning of the pandemic.⁷⁴ One hundred and eighty participants stated that they suffered from eating disorders.⁷⁵ Over thirty-five percent of participants who suffered from eating disorders reported that their BED worsened during COVID-19.⁷⁶ Over eighteen percent of the eating disorder sufferers stated that they increased purging during COVID-19.⁷⁷ In addition, eighty-eight survey participants had a history of Anorexia, and, of this group, over twenty percent increased their binge eating and over eighteen percent increased their purging.⁷⁸ Finally, of the more than five thousand survey participants who stated they did not have eating disorders, over thirty-four percent reported increased binge eating behavior.⁷⁹

Now that this Article has explained in detail what body image is and how COVID-19 has impacted it negatively, it will proceed to discuss Body

66. *Id.* at 5.

67. *Id.* at 7.

68. Fernández-Aranda et al., *supra* note 12, at 239.

69. *Id.*

70. Andrea Phillipou et al., *Eating and Exercise Behaviors in Eating Disorders and the General Population During the COVID-19 Pandemic in Australia: Initial Results From the COLLATE Project*, 53 INT’L J. EATING DISORDERS 1158, 1159 (2020).

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.* at 1163.

75. *Id.* at 1161.

76. *Id.* at 1162.

77. *Id.* at 1162.

78. *Id.*

79. *Id.* at 1163.

Image Law and explain why governments, namely the U.S. government, should not consider passing a Body Image Law as it will not help to improve body image.

IV. BODY IMAGE LAW

There is considerable evidence from medical research that when a woman sees an image of a woman who is unhealthily thin, they may compare themselves to the image. If they believe that they are larger, in comparison to the woman in the image, then this can negatively impact the woman's body image which can lead to an eating disorder. Images of unhealthily thin women are ubiquitous in Western societies: on social media, in magazines, on billboards, in public places, etc. Consequently, three governments have passed laws to address the issue of negative body image impacts (for women) from seeing unhealthily thin models: Body Image Laws.⁸⁰ The Israeli government was the first government to pass such a law in 2012.⁸¹ The civil law requires models to have a minimum Body Mass Index ('BMI') of 18.5 to model.⁸² Also, if an image was modified to make the model appear thinner, then the image must have a disclaimer informing the viewer.⁸³ The French government followed Israel in 2017 by passing a criminal law in this area.⁸⁴ The law states models must be of health that is compatible with the practice of modelling and have a doctor's certificate to confirm both of these requirements.⁸⁵ In regards to images modified to make models appear thinner, such images must carry a disclaimer of "photographie retouchée" (retouched photograph).⁸⁶ Penalties for breaching the law include fines and

80. See Marilyn Bromberg & Cindy Halliwell, 'All About That Bass' and *Photoshopping a Model's Waist: Introducing Body Image Law*, 18 UNIV. NOTRE DAME AUST. L. REV. 1 (2016) (explaining how Israel and France both have passed Body Image Laws); See Allyson Chiu, *Why Experts Say Norway's Retouched Photo Law Won't Help Fight Body Image Issues*, WASH. POST (July 8, 2021, 10:00 AM), https://www.washingtonpost.com/lifestyle/wellness/photo-edit-social-media-norway/2021/07/08/f30d59ca-df2c-11eb-ae31-6b7c5c34f0d6_story.html.

81. Bromberg & Halliwell, *supra* note 80, at 7.

82. *Id.* at 11.

83. Sarah E. McComb & Jennifer S. Mills, *A Systematic Review on the Effects of Media Disclaimers on Young Women's Body Image and Mood*, 32 BODY IMAGE 34, 35 (2020) (This is categorized as a 'specific disclaimer' in the literature).

84. Connor Bildfell, *Legislating Away Illness: Examining Efforts to Curb the Development of Eating Disorders through Law*, 26 DALHOUSIE J. LEG. STUDIES 37, 50 (2018).

85. *Id.* at 50-51.

86. McComb & Mills, *supra* note 83, at 35 (This is categorized as a "generic disclaimer" in the literature: *Id.* at 36).

imprisonment.⁸⁷ The Norwegian government passed a Body Image Law in 2021.⁸⁸ This law requires a warning on images where a person's size, shape, or skin was modified, and breaching the law can attract fines.⁸⁹

Other governments have tried to legislate in this area but were unsuccessful. There are three instances of these legislative attempts that this Article will discuss.

First, in 2018 in Ontario, Canada, Yvan Baker, a Member of Provincial Parliament, introduced a bill that would require individuals who publish photographs or videos for commercial use that were technologically modified to include text that states that it was modified.⁹⁰ It also required the Ontario Minister of Government and Consumer Services to create an annual eating disorder awareness campaign.⁹¹ Finally, it allowed the Ontario Minister of Health and Long-Term Care to give awards to individuals who took "meaningful action" to reduce the number of people who suffer from eating disorders.⁹² The session of the Ontario Parliament in which the bill was read dissolved before the bill could become law.⁹³

Second, during 2019 in Massachusetts, Kay Khan from the State's House of Representatives proposed a unique bill providing for tax credits to businesses that do not alter images of models.⁹⁴ The tax credit is the equivalent to one percent of the cost of purchases associated with an advertising campaign, and the total cannot be more than \$10,000 in any tax year.⁹⁵ The bill was referred to the Committee on Revenue in June 2019, and in 2020 it was sent for a study order.⁹⁶

Finally, in the United Kingdom, Dr Luke Evans, MP proposed a bill in 2020.⁹⁷ The bill contained provisions that require advertisers, broadcasters, and publishers to show a logo when a human body or body part was digitally altered in its proportions by displaying a label stating

87. Bildfell, *supra* note 84, at 51.

88. Chiu, *supra* note 80.

89. *Id.*

90. *Combating Eating Disorders in Ontario Act*, 41st Leg. Ont. 29 § 2 (2018) (Can.).

91. *Id.* § 5.

92. *Id.* § 6.

93. *Bill 29, Combating Eating Disorders in Ontario Act, 2018*, LEGIS. ASSEMB. OF ONT., <https://www.ola.org/en/legislative-business/bills/parliament-41/session-3/bill-29/status> (last visited June 12, 2021).

94. H.R. 3892, 191st Gen. Ct. (Mass. 2019).

95. *Id.*

96. *Bill H.3892*, MASS. LEG., <https://malegislature.gov/Bills/191/HD2881> (last visited June 12, 2021).

97. *See generally* HC Deb (15 Sept. 2020) (680) cols. 202-04.

that the image was altered.⁹⁸ The bill made it to the second reading in the House of Commons, but it did not progress.⁹⁹

V. WHY BODY IMAGE LAWS ARE NOT A SOLUTION

This Article will discuss two main reasons why the increase in eating disorders should not be countered by legislating Body Image Laws in the United States. First, there is a body of empirical evidence that shows the ineffectiveness of laws requiring disclaimers for modified images. Second, there are significant practical difficulties that would impede enforcement of requirements for health and weight of models. In this context, Body Image Law refers to (1) “modelling health requirements”: laws that create rules dealing with BMI or health requirements of models for them to be able to work, and/or (2) “image labelling rules”: laws that require labels or disclaimers on modified images explaining that the images were modified.¹⁰⁰

A. Evidence of the Ineffectiveness of Image Labelling Rules

Proponents of image labelling rules hold an underlying assumption that if people perceive an image emphasizing thin and toned bodies as a beauty ideal (‘thin-ideal images’)¹⁰¹ to be an unrealistic comparison to themselves, then people are less likely to compare themselves to that image and suffer from the resulting body dissatisfaction.¹⁰² Thus, image labelling rules are suggested as a solution since, it is argued, they will make thin-ideal images seem like unrealistic comparisons to viewers.¹⁰³

While plausible, there is significant contrary evidence to suggest that image labelling rules are ineffective in reducing body dissatisfaction and

98. *Id.* at col. 202.

99. *Digitally Altered Body Images Bill*, UK PARLIAMENT, <https://bills.parliament.uk/bills/2778> (last visited Jun 12, 2021).

100. Bildfell, *supra* note 84, at 61.

101. The customary beauty ideal is similar for both males and females. A resource from the Australian State of Victoria describes the male ideal as being “lean and muscular.” The female ideal is generally understood as being thin and toned: *See* McComb & Mills, *supra* note 83, at 34; *See also* *Body Image - Men*, BETTER HEALTH CHANNEL (2019), <https://www.betterhealth.vic.gov.au/health/healthyliving/body-image-men> (last visited Aug 26, 2021).

102. McComb & Mills, *supra* note 83, at 35 (Body dissatisfaction is the degree to which a person has a negative evaluation of their own body: Natascha-Alexandra Weinberger et al., *Body Dissatisfaction in Individuals with Obesity Compared to Normal-Weight Individuals: A Systematic Review and Meta-Analysis*, 9 OBESITY FACTS 424, 425 (2016).

103. McComb & Mills, *supra* note 83, at 35.

other negative psychological consequences associated with viewing thin-ideal images.¹⁰⁴

1. Evidence Concerning French & Israeli-style Image Labelling Rules

There has been significant experimental research regarding whether the image labelling rules from the Israeli and French Body Image Laws, which require “specific” and “generic” image disclaimers respectively, are effective at reducing negative psychological consequences, such as body dissatisfaction, caused by viewing thin-ideal images.¹⁰⁵

To particularize what general and specific disclaimers are:

a) *Generic disclaimers* warn viewers that the image presented was altered¹⁰⁶ (e.g., “Warning: this image has been digitally altered”).¹⁰⁷

b) *Specific disclaimers* warn viewers specifically how the image presented was altered¹⁰⁸ (e.g., “Warning: this image has been digitally altered to lengthen and thin legs”).¹⁰⁹

A systematic review by Sarah E. McComb and Jennifer S. Mills, into the effectiveness of the aforementioned image disclaimers for young women (aged eighteen to thirty), was published in 2020.¹¹⁰ It reviewed fifteen relevant studies published to PubMed and MEDLINE databases prior to February 22, 2019.¹¹¹ The findings of this review are now considered.

(a) Generic Disclaimers

Regarding generic disclaimers, similar to those of the French law, the McComb and Mills review showed that they were ineffective at reducing the relevant body dissatisfaction.¹¹² Specifically, the review considered eleven studies that tested participants’ responses to images with generic disclaimers relative to images without disclaimers.¹¹³ In eight of eleven studies, generic disclaimers were ineffective at preventing body

104. *Id.* at 50-51.

105. *Id.*

106. *Id.* at 36, 43.

107. *Id.* at 45.

108. *Id.* at 43.

109. *Id.* at 45.

110. *See Id.* at 51.

111. *Id.* at 34.

112. *Id.* at 48

113. *Id.*

dissatisfaction.¹¹⁴ Further, making the disclaimers larger and more noticeable did not increase their effectiveness.¹¹⁵

McComb and Mills noted that the two studies which found that generic disclaimers *were* effective at reducing body dissatisfaction were methodically different to the others; they were methodological outliers.¹¹⁶ Specifically, McComb & Mills noted the first study's participants were all studying fashion and retail and "may serve to benefit the most" from the labels given their higher level of exposure to thin-ideal images.¹¹⁷ The second study uniquely used fashion shoot photographs as the thin-ideal images for participants' viewing, rendering it methodologically unlike the other studies according to McComb and Mills.¹¹⁸

(b) Specific Disclaimers

The McComb and Mills review also considered the effectiveness of specific disclaimers, like those required by the Israeli Body Image Law. The first major finding of the review was that there were no significant differences in effectiveness in generic and specific disclaimers in three of the four studies that tested specific disclaimers.¹¹⁹ In addition, those three studies found that there was no significant difference in body dissatisfaction caused by participants viewing images with specific disclaimers relative to viewing images with no disclaimer.¹²⁰ Further, regarding the effect of specific disclaimers on young women specifically, four of the five studies found there was no significant difference in the body dissatisfaction caused by images with specific, generic, or no disclaimers.¹²¹

From this evidence, the McComb and Mills review shows that specific disclaimers are ineffective, and "...specifically outlining which body parts have been altered in an image is not superior in mitigating body dissatisfaction to simply stating that the image has been altered."¹²²

114. *Id.* (In the reviewed studies, body dissatisfaction was measured by methods specified in the 'outcome measures' column of *Id.* at tbl 1).

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.* at 43.

122. *Id.* at 51.

2. Evidence Concerning Alternative Image Disclaimers

Significant research has also been conducted into the effectiveness in reducing body dissatisfaction of alternative image labels that do not fall into either of the categories previously discussed. Like generic and specific disclaimers, the body of evidence suggests that studied alternative image labels are ineffective at reducing the psychological consequences of viewing thin-ideal images. The following types of alternative disclaimers have been subject to research:

a) *Warning/consequence disclaimers*: warning about the consequences of viewing thin-ideal images or trying to imitate those shown therein¹²³ (e.g., “Warning: Trying to look as thin as this model may be dangerous to your health,”¹²⁴ or “Note: Viewing thin and unrealistic images of women can make you feel bad about yourself”);¹²⁵

b) *Information disclaimer*: states whether the model displayed is of a healthy weight or not¹²⁶ (e.g., “These models are underweight” or “these models are of a normal weight”);¹²⁷

c) *Graphic disclaimer*: A graphic that indicates the image was edited (e.g., an image of a paintbrush with the word “retouched” underneath it);¹²⁸

d) *Subvertising*: Captions written as if they are from the perspective of the subject of an image containing one of the aforementioned disclaimers or undermining the message of the image¹²⁹ (e.g., general disclaimer: “Photoshop made me ripped”¹³⁰ or consequential disclaimer: “Because I care about my followers, I just wanted to remind everyone: Viewing thin and unrealistic images of women can make you feel bad about yourself”).¹³¹

Regarding warning/consequence disclaimers, the McComb and Mills review considered four studies which found that body dissatisfaction did

123. Marika Tiggemann & Zoe Brown, *Labelling Fashion Magazine Advertisements: Effectiveness of Different Label Formats on Social Comparison and Body Dissatisfaction*, 25 *BODY IMAGE* 97, 98 (2018); McComb & Mills, *supra* note 83, at 45.

124. McComb & Mills, *supra* note 83, at 45.

125. *Id.*; See also Tiggemann & Brown, *supra* note 123 at 98, 101.

126. Tiggemann & Brown, *supra* note 123 at 101-02; McComb & Mills, *supra* note 83, at 45.

127. McComb & Mills, *supra* note 83, at 45.

128. *Id.*

129. McComb et al., *The Effects of Self-Disclaimer Instagram Captions on Young Women’s Mood and Body Image: The Moderating Effect of Participants’ Own Photo Manipulation Practices*, 38 *Body Image* 251, 252 (2021).

130. McComb & Mills, *supra* note 83, at 45.

131. McComb, et al., *supra* note 129, at 254.

not differ when participants were exposed to thin-ideal images with or without a warning disclaimer, suggesting they are ineffective.¹³²

Regarding information disclaimers, evidence of effectiveness has been mixed.¹³³ Overall, eleven of the fourteen relevant studies found them to be ineffective, but a study using participants from the Netherlands found a medium (beneficial) effect for adolescent girls, and another two studies found medium effects for young female participants.¹³⁴

Regarding graphic disclaimers, the one relevant study that the McComb and Mills review considered found that these disclaimers did not reduce body dissatisfaction or state appearance comparison in participants who saw thin-ideal images with graphical labels as compared to participants who viewed the images alone.¹³⁵ Despite being recommended for use in the UK's Campaign for Body Confidence in 2010, there is little research on graphic disclaimers, limiting any assessment of their effectiveness.¹³⁶

Regarding subvertising, the McComb and Mills review considered two studies. Both found that they were ineffective at reducing body dissatisfaction as body dissatisfaction levels were the same for participants viewing thin-ideal images with no label compared to a subvertising label.¹³⁷ In 2021, further evidence was published after the McComb and Mills review: the results of a study were conducted into potential benefits for young women from placing subvertising on thin-ideal images sourced from Instagram.¹³⁸ The participants in this study were young women (undergraduate students aged 18-25).¹³⁹ The study found that the negative psychological consequences, such as body dissatisfaction and depression, were not significantly different between the participants who viewed the images with the disclaimer versus images with no label.¹⁴⁰ Fortunately, the subvertising was not found to be *harmful*.¹⁴¹

132. McComb & Mills, *supra* note 83, at 49.

133. *Id.* at 45.

134. *Id.*

135. *Id.* at 50 (citing Tiggemann & Brown, *supra* note 123) ("State appearance comparison" measures the degree to which the participants compare their appearance to those displayed in the images shown, *See* Tiggemann & Brown, *supra* note 123, at 90).

136. Marika Tiggemann et al., (*Don't*) *Look Here! The Effect of Different Forms of Label Added to Fashion Advertisements on Women's Visual Attention*, 31 *BODY IMAGE* 88, 93 (2019).

137. McComb & Mills, *supra* note 83, at 50.

138. *See generally* McComb et al., *supra* note 129, at 254 (providing examples of general and specific warnings and consequences).

139. *Id.* at 251.

140. *Id.* at 257.

141. *Id.*

3. *Perverse Consequences*

Finally, evidence suggests that thin-ideal images bearing warning/consequence or specific disclaimers could, perversely, be more harmful than they otherwise would be without the presence of the label.¹⁴²

One study found that warning/consequence disclaimers increase levels of young female viewers' comparisons of themselves to those shown in the thin-ideal images, relative to participants shown unlabeled images.¹⁴³ In addition, and more worryingly, another study found that participants engaging in restrictive eating were more likely to further restrict their eating if exposed to the images with warning disclaimers, unlike those exposed to the thin-ideal images without warning disclaimers.¹⁴⁴ It has been speculated that these consequences occur because warning labels cause greater attention to be directed towards the photographed model's body.¹⁴⁵

In addition, some evidence suggests specific disclaimers can harm young female viewers who have a strong tendency to compare their appearance to others.¹⁴⁶ There is evidence that such viewers may experience higher body dissatisfaction in response to thin-ideal images that have a specific disclaimer added, and these viewers would suffer less by viewing an unlabeled thin-ideal image.¹⁴⁷ Fortunately, this risk is lesser for women that are already less likely to compare themselves to the images.¹⁴⁸

If there are indeed negative consequences from specific labels, it has been suggested that these would be caused by the increased attention given to the (retouched or modified) body parts mentioned in those labels,¹⁴⁹ and this increased attention is a risk factor in appearance comparison and body dissatisfaction.¹⁵⁰

142. Tiggemann & Brown, *supra* note 123, at 100; McComb & Mills, *supra* note 60, at 51. (Note that the Tiggemann & Brown article classifies these as "Consequence" disclaimers whereas the systematic review combines this classification with warning disclaimers).

143. McComb & Mills, *supra* note 83, at 49 (citing Tiggemann & Brown, *supra* note 123).

144. *Id.*

145. *Id.* at 49-50; *See also* Tiggemann et al., *supra* note 136, at 91.

146. *See* McComb & Mills, *supra* note 83, at 47 (e.g., high is the 'trait appearance comparison tendency').

147. *Id.*

148. *Id.*

149. *Id.* at 48-49.

150. Tiggemann et al., *supra* note 136, at 89.

Finally, there is a risk of harm for informational labels placed on thin-ideal images that (truthfully) state the model is of a healthy weight.¹⁵¹ It has been suggested that such labelling implies the model's body is what a healthy body should look like and is a reasonable target for viewers to try to achieve.¹⁵² This, in turn, could distress healthy-weight viewers who feel their own body does not approximate the model's body, out of a sense of failing to achieve what the label implies is a reasonable expectation.¹⁵³

B. Problems with the Practical Application of French & Israeli-style Health Requirements for Modelling

The Body Image Laws passed in France and Israel both contain modelling health requirements (henceforth simply 'Requirements') which require models to meet specific health standards with reference to holistic health and BMI respectively.¹⁵⁴ Both the empirical evidence and literature suggests that these Requirements are also unlikely to yield the significant benefits that their legislators intended. One major reason for this is that these Requirements are difficult to enforce and administer in practice.

1. Unintended Consequences in Practice

The Requirements in the Israeli Body Image Law have an underlying rationale that models below a certain specified BMI threshold are unhealthy.¹⁵⁵ However, this is not an accurate assessment of BMI thresholds and leads to counterproductive outcomes when applied. As will be shown, the rules can inadvertently allow underweight models to continue modelling and/or prevent models of a healthy weight from modelling.

(a) Problems with BMI Thresholds

BMI is a faulty and "blunt" measure of whether someone is an unhealthy weight or has an eating disorder.¹⁵⁶ At best, it can give a general

151. McComb and Mills, *supra* note 83 at 50.

152. *Id.*

153. See Tiggemann et al., *supra* note 136, at 92-94.

154. Bildfell, *supra* note 84, at 49-51 (According to Bildfell, a more holistic approach would consider each model's age, gender and body shape).

155. Christina Ralph-Nearman et al., *What is the Relationship Between Body Mass Index and Eating Disorder Symptomatology in Professional Female Fashion Models?*, 293 PSYCHIATRY RSCH., Nov. 2020, at 1, 19-20.

156. Bildfell, *supra* note 84, at 71; MODEL HEALTH INQUIRY, FASHIONING A HEALTHY FUTURE: THE REPORT OF THE MODEL HEALTH INQUIRY 13-14 (2007).

indication whether a person is in a healthy weight range (for their age and height), but at worst it is a misleading indicator of health.¹⁵⁷ To the surprise of many, the reality is that BMI values do not necessarily reflect a person's health or fitness.¹⁵⁸ Though this is less surprising when one realizes BMI was designed to measure the degree of obesity in a general population, not in individuals.¹⁵⁹ Despite BMI's shortcomings, it has been used as a measure of healthy weight by the legislators of Requirements. This is likely to make the administration of the Requirements more feasible and efficient.¹⁶⁰

BMI's inaccuracy as a measure of health for individuals stems from the fact that the range of "normal" weight differs between individuals.¹⁶¹ Consequently, there is no clear answer for what constitutes "underweight" which is evident in the range of different thresholds and definitions for "underweight" that are published.¹⁶² Choosing a BMI threshold (e.g., of 18.5 per the Israeli law) is necessarily an arbitrary choice. Such a choice results in naturally thin individuals who are healthy being classified as underweight, and it results in muscular or naturally heavier individuals with an eating disorder being nonetheless classified as healthy.¹⁶³ This risk of misclassification is especially high for physically atypical persons such as athletes and traditional catwalk models.¹⁶⁴

In terms of relevant evidence, there is no evidence that an arbitrary BMI threshold, such as 18.5, is a valuable method of distinguishing between healthy and unhealthy individuals (weight-wise).¹⁶⁵ The ineffectiveness of using an 18.5 BMI threshold for detecting models with eating disorders was poignantly demonstrated in a recent study by Ralph-Nearman et al.¹⁶⁶ This study involved a group of 218 non-models and sixty-seven models in the UK as participants who completed the EDE-Q and had their BMI measured.¹⁶⁷ The study found that *all but one* of the twenty-two participants who scored ≥ 4.0 on the EDE-Q (indicating eating

157. Bildfell, *supra* note 84, at 71.

158. *Id.* at 40.

159. *Id.* at 71.

160. *Id.* at 73.

161. *Id.* at 72.

162. *Id.*

163. Ralph-Nearman et al., *supra* note 155, at 4; Bildfell, *supra* note 84, at 40.

164. Bildfell, *supra* note 84, at 40–41, 72; MODEL HEALTH INQUIRY, *supra* note 156 at 26–27.

165. Ralph-Nearman et al., *supra* note 155, at 4.

166. *See generally Id.* (Generally an 18.5 BMI is often given as a threshold between underweight and normal weight).

167. *Id.* at 8 (The EDE-Q is the 'Eating Disorder Examination Questionnaire' which is a validated questionnaire that is comparable to the clinical tool (the 'EDE') that can provide a reasonable approximation of eating disorder symptoms).

disorder symptomology) had BMIs above 18.5.¹⁶⁸ Put differently, only 4.54% of the participants with eating disorder symptomology (according to the EDE-Q) had BMIs that would suggest they were underweight according to the 18.5 threshold. This suggests that eating disorders can flourish in the population with a BMI above 18.5.

Given the foregoing, a body image law utilizing a BMI threshold cannot effectively prevent underweight models from modelling given people with normal BMIs can also be eating disorder sufferers.

(b) Alternate Holistic Approaches: No Silver Bullets

To avoid the problems associated with a BMI threshold, the requirements can instead be based on a more holistic assessment of a model's health. Indeed, this was the approach taken with the French Body Image Law which was based on a holistic assessment of health and has been preferred by some authors and experts.¹⁶⁹ For reference, some of the proposed holistic assessment methods have included a combination of "rigorous" health examinations by a physician and counselling with professionals.¹⁷⁰

However, this is not a simple or problem-free solution. First, using holistic assessments does not avoid the need for an arbitrary choice of the specific assessment method. There is no clear cut or "black and white" test for a healthy weight or eating disorder;¹⁷¹ therefore, any choice of assessment method will be arbitrary. While this itself is not fatal, as laws often must use simple metrics to measure complex phenomena,¹⁷² there is no guarantee that the chosen assessment method will avoid similar issues to BMI-based assessments.

Second, holistic assessments are more difficult, inefficient, uncertain, and resource intensive than BMI checks¹⁷³ which could explain why BMI is used in the Israeli law in the first place.¹⁷⁴ One researcher suggests holistic assessments would involve screening for eating disorders specifically, which is difficult to measure as it involves measuring a person's thoughts about food, weight, and body image and how this impacts their life.¹⁷⁵ Overall, holistic assessments, with several parts,

168. *Id.* at 13.

169. Bildfell, *supra* note 84, at 72; MODEL HEALTH INQUIRY, *supra* note 156, at 28.

170. Bildfell, *supra* note 84, at 73; MODEL HEALTH INQUIRY, *supra* note 156, at 28.

171. Bildfell, *supra* note 84, at 73.

172. *Id.* at 73.

173. *Id.* at 72.

174. *Id.* at 73.

175. *Id.* at 72–73.

would take more time and resources to implement which arguably renders them an impractical method of assessing models' health.

2. *The Issue of Enforcement*

The Requirements require “overall and continuous enforcement” by authorities to be effective.¹⁷⁶ Any significant issues with enforcing extant and prospective Body Image Laws would call their viability into doubt. As will be shown, irrespective of whether the Requirements are based on a BMI or holistic assessment, the Requirements are difficult to enforce in practice.

The timing of medical assessments and the validity of models' health certificates poses issues. Conducting models' health assessments only immediately before working invites models to cheat. This can be done by simply wearing heavier clothes.¹⁷⁷ More concerning, it can also be done unhealthily by rapidly gaining weight (e.g., by water loading) to appear healthy for the medical check, and then rapidly losing it to return to a skinny figure (e.g., using laxatives and diuretics).¹⁷⁸ Admittedly, a solution to this cheating could be using medical certificates that are obtained regularly and valid for a period¹⁷⁹ but stipulate that models must maintain a certain BMI or holistic health standard for some time after the pre-work assessment, which would render such cheating behavior clearly against the rules. While true, practically, this would only require even more costly surveillance and monitoring of models.¹⁸⁰

In addition, it would be impractical for authorities to check for medical certificates for every model whenever they work.¹⁸¹ The only practical way to undertake such checks would be for the modelling agencies to be involved to check them.¹⁸² This would cause modelling agencies and/or fashion industry groups to take on significant and new competencies if they were given what would essentially be a regulatory and policing role.¹⁸³ As such, there is no guarantee that they could be effective enforcers of the Requirements.

176. *Id.* at 65.

177. *Id.* at 72.

178. MODEL HEALTH INQUIRY, *supra* note 156, at 3-4.

179. *Id.*

180. *Model Health Checks are Abandoned*, BBC NEWSBEAT, http://news.bbc.co.uk/newsbeat/hi/health/newsid_7559000/7559128.stm (last visited June 27, 2021).

181. Bromberg & Halliwell, *supra* note 80, at 11.

182. MODEL HEALTH INQUIRY, *supra* note 156, at 14.

183. *Id.* at 48.

CONCLUDING REMARKS

Research on COVID-19's impact on people who suffer from mental health problems is "an urgent priority."¹⁸⁴ COVID-19 has also impacted eating disorders significantly and increased the number of people who have them. People who suffer from eating disorders need help to recover more than ever. Such help should not be in the form of the American federal government passing a Body Image Law like those in Israel, France, and Norway.

The health evidence concerning Body Image Laws demonstrates that they do not work. Warning labels on images of models that were modified to make the models look thinner do not help. Requiring models to have a certain BMI or to be healthy before participating in a photoshoot is problematic. So, what, legally, might help to lower the increased number of people who suffer from eating disorders as a result of COVID-19? Perhaps laws that outright forbid manipulating images to make a model look thinner, which have never been passed to the knowledge of the authors, could be a beneficial alternative. This is different to adding a disclaimer label on existing images, like the requirement in the Israeli, French, and Norwegian Body Image Laws.

Directions for future research into the effectiveness of body image laws are twofold. Also there is some evidence that the French Body Image Law is not currently being enforced.¹⁸⁵ The authors of this Article suggest that it would be valuable for researchers fluent in French to examine French sources to determine whether this is the case. Second, the authors have focused on the effectiveness of body image laws, instead of their ethics. Though, of course, even if Body Image Laws were effective there are also ethical considerations of whether it is right to enforce a law that so intensely polices individuals' bodies repeatedly and/or for an extended period. Some critics of the Requirements have argued that such policing amounts to commodification of women and is "creepy" in that it is akin to inspecting farm animals.¹⁸⁶ Ultimately, the human and ethical considerations in Body Image Law discussions cannot be overlooked given the direct impact they have upon human beings and their dignity, and so warrant further discussion.

184. Clark Bryan et al., *supra* note 10, at 827.

185. Elisa S. Danthinne & Rachel F. Rodgers, 'Photographie Retouchee: Using Photography to Address Body Image,' HARV. HEALTH POL'Y REV. (Sep. 15, 2020), <http://www.hhpronline.org/articles/2020/9/15/photographic-reoutchee-using-policy-to-address-body-image>.

186. Jeva Lange, *France Just Banned Unhealthy Skinny Models. Could the U.S. be Next?*, THE WEEK (Dec. 22, 2015), <https://theweek.com/speedreads/595788/france-just-banned-unhealthily-skinny-models-could-next>.

One thing is for sure: moving forward, politicians who advocate and create Body Image Laws should carefully consider the health evidence in existence and apply it in their decision-making. Unfortunately, it does not appear that they have been doing so to date, but the authors encourage forward-thinking politicians to buck the trend.