

From Haute Couture to Fast Fashion: The Fashion Industry and its Implications in the Realm of Law



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ABSTRACT: Although it is frequently treated casually, the fashion industry is in fact an all-pervasive and ubiquitous industry. The clothing industry is a vast global enterprise that deals with designing, manufacturing, distributing, marketing, retailing, advertising, and promoting all types of apparel for men, women, and children. This includes everything from high-end designer fashion to everyday clothing like sweatpants. The industry is worth billions of dollars and encompasses everything from the most luxurious haute couture to casual wear. The industry has thrived on its own through all the glitz and glamour. However, the blatant yet complex issues and nuances that comprise the industry need to be addressed, and in order for them to be addressed, consumers need to take cognizance of not just the present issues, but the industry in its entirety as well. This research paper delves into the transformation of the fashion industry from the traditional form of haute couture to the emergence of fast fashion. The paper starts by making the reader conscious of the industry and its alarming effects on various aspects of our society. The paper then discusses the rise of fast fashion, characterized by rapid production, mass consumption, and affordability. These diverging paradigms have not only transformed consumer behavior but have also posed legal challenges to frameworks governing intellectual property, labor rights, and environmental sustainability.

KEYWORDS: Fashion industry, law, fashion law, fast fashion, environment, labor practices.

INTRODUCTION

In the iconic film, *The Devil Wears Prada*, Meryl Streep's monologue, known as the cerulean sweater monologue is extremely popular, the sole reason being that it is a powerful speech for the ignorant layman who thinks that the average choices they make do not affect the world around them. In the monologue, Meryl Streep's character talks about how being uninformed about the recent developments in the fashion industry does not really exempt an individual from it. It talks about how the average person is blithely unaware that the choices they make about something as elementary and inane as clothes are not as basic and uninvolved as they envisioned. Addressing the fact that the cerulean sweater that Anne Hathway's character is wearing is not really blue, it's actually cerulean, the brilliant monologue expostulates that the very cerulean represents millions of dollars of countless jobs and that it's somewhat comical that people believe that the choice they've made about the clothes they wear does not truly exempt them from the fashion industry. This monologue serves as a wake-up call to acknowledge and commit to changing the severely undermined fashion industry. It poses a reminder that the fashion industry is a deeply complex and ever-expanding one that has its own set of insights to offer and issues to solve. The industry is something beyond just stunning gowns and runways and fashion shows. It is a multi-billion dollar global enterprise.

India's fashion industry in particular has a rich history dating back to ancient times, even before the term "industry" entered the global economic vocabulary. However, it wasn't until the early 1990s when economic liberalization brought foreign investment to the industry, exposed the Indian public to international fashion trends, and caught the attention of the rest of the world. As a result, the once-slow fashion industry in India experienced a significant growth spurt after Independence. By 2025, the Indian fashion market is projected to reach \$115-125 billion, growing at a CAGR (compound annual growth rate) of 11-12%. Considering this level of growth, it becomes important to introduce laws to govern not just the life cycle of a particular piece of clothing right from the manufacturing and the production to its filtering into department stores but also the environmental impact of the fashion industry, the unethical labor practices that are in being used by prominent fashion and apparel brands across the world, right from popular sports brands such as Nike to mass fashion brands such as Zara. In India, there is no specific or uniform law known as fashion law, particularly for the fashion industry. However, it is covered under various laws such as contract law, business finance and commercial law, international trade laws, anti-trust and competition law, consumer protection laws, arbitration laws, labor laws, civil laws, and, most importantly, intellectual property laws.

From Haute Couture to Fast Fashion: The Fashion Industry and its Implications in the Realm of Law

This research paper aims to demystify and bring about cognizance about the currently emerging domain of fashion law not just in India but all over the world. It focuses on the need for a uniform law and on the nuanced issues that need to be addressed such as the exploitation of children, the harsh environmental impact, and the somewhat mortifying transition of the fashion industry from haute couture, as a way of expression of self, to the emergence of fast fashion, albeit a series of short-lived trends, the notions of overconsumption and the ramifications on the environment and on the livelihoods of millions of workers needs to be critically analyzed to bring about a change. It acknowledges the fact that the fashion industry represents countless jobs. It further illustrates the need to sensitize the average individual about the industry in order to achieve the desired change.

RESEARCH METHODOLOGY

This paper is of a descriptive nature and the research is based on secondary sources for the deep analysis of the fashion industry and the emerging domain of fashion law, including the relevant legal framework. Apart from that secondary sources of information such as journals, newspapers, and verified websites have also been used for this research.

REVIEW OF LITERATURE

While this research paper aims to campaign or advocate for a uniform law, it is, however, necessary to take cognizance of the current legal provisions present in India governing the fashion industry, governmental and non-governmental organizations, and other relevant definitions and topics regarding fashion law. Critics may oppose the idea of establishing a separate field of "fashion law" as it is still an emerging area of law and has not yet been recognized as a distinct branch. However, the subject matter of fashion law connects different areas of law in a cohesive manner, making it a logical and practical area of interest. The Fashion Law Institute at Fordham University in New York, which is the leading authority on fashion law, defines it as follows: "Fashion law" refers to the legal issues that may arise throughout a garment's lifespan, from its inception by the designer to its purchase by the consumer.¹

But I digress. One of the major, and perhaps the only organization that is committed to furthering the cause of the Indian fashion industry is the Fashion Design Council of India or the FDCI. The Fashion Design Council of India is a non-profit organization that promotes and nurtures the business of fashion in India, ensuring its sustainable growth. It represents more than 400 members, including fashion and accessory designers, educational institutions, and corporations, who are the best in Indian fashion. The FDCI hosts three major events annually, including the bi-annual India Fashion Week for Autumn-Winter in March and Spring-Summer in October. Additionally, it organizes India Couture Week, the most exclusive and premier fashion event in the country, every July. All three events are held in New Delhi. The Council works with the Textile Ministry, the Commerce & Industry Ministry, the Government of India, and other countries and organizations to host fashion- and textile-related events and initiatives, creating opportunities for FDCI members in India and abroad.²

In addition to existing organizations, there are emerging ones such as the Fashion Foundation of India (FFI) and the Apparels Export Promotion Council (APEC) that aim to protect the fashion industry. The FFI, formed by leading Indian designers, has a mission to safeguard intellectual property rights from arbitrary copying, referencing, and inspiration.

To add on, because the imminent field of fashion law is pretty broad in its scope, it becomes crucial to ascertain what statutes and acts constitute this area of law. Intellectual property, for instance, is another necessary element of fashion law. Article 27 of the Universal Declaration of Rights refers to intellectual property rights and defines it as follows "Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author."³ It is often referred to as "Apparel Law" because it protects every stage of a garment's life, from manufacturing to brand protection. India provides intellectual property protection through three acts namely, the Design Act of 2000, the Copyright Act of 1957, and the Geographical Indications of Goods Act of 1999.

Another aspect would be trademarks, which are, unfortunately, expressly excluded from the definition of "design" in Section 2(d) of the Designs Act of 2000.⁴ A trademark is a distinctive symbol, phrase, word, or symbol that is used to identify a particular product and distinguish it legally from all other products of its kind. A trademark is used to identify a product as belonging only to a specific company and recognizes that the company owns the brand. A landmark case in this aspect would be the Christian Louboutin vs. Mr. Pawan Kumar & Ors⁵ case wherein it was held by the Delhi High Court that Christian Louboutin was a well-known mark and the court ordered the defendants to pay Rs. 10.7 lakhs as compensation to Christian Louboutin and prohibited them from selling counterfeit goods.

¹ What Is Fashion Law?, FASHION L. INST., <http://fashionlawinstitute.com/faqs#1> [<https://perma.cc/5CU7-6BDW>].

² Fashion Design Council of India <https://www.fdc.org/about-us.html>

³ Human Rights Declaration <https://www.ohchr.org/en/press-releases/2018/12/universal-declaration-human-rights-70-30-articles-30-articles-article-27>

⁴ Designs Act, 2000, § section 2(d), Acts of Parliament, 2000 (India)

⁵ Christian Louboutin vs. Mr. Pawan Kumar & Ors <https://indiankanoon.org/doc/173930630/>

From Haute Couture to Fast Fashion: The Fashion Industry and its Implications in the Realm of Law

The transition from Haute Couture to Fast Fashion

Whilst the above provisions and sources are pertinent to the field of fashion law, confining the field to the boundaries of just these legal frameworks would be a grave error. Fashion law, as reiterated earlier, is one such field that comprises discernible issues that need to be critically analyzed in order to bring forth a solution for the same.

However, to achieve that goal, understanding the somewhat mortifying shift of the industry from haute couture to fast fashion is necessary. Haute couture is originally a French term, that combines the elegance of “Haute” (meaning “high” or “elegant”) with the craftsmanship of “Couture” (which means “sewing” or “dressmaking”). “Haute couture” is a term used for designing and creating custom-fitted high-end fashion pieces that are exclusive and unique. However, the boon of industrialization and the factory system made quick, mass production available which led to the rise of a horrific trend of overconsumption, now popularly known as fast fashion. The term fast fashion refers to the production of inexpensive clothing items that mimic the current fashion trends and are rapidly pushed through stores. Fast fashion got its name due to the very fact that clothing retailers can quickly design, produce, distribute, and market a wide variety of products, which allows consumers to obtain greater product differentiation at a lower price point. The term came into existence when Zara landed in New York at the beginning of the 1990s. It was coined by the New York Times to describe how Zara took only 15 days for a piece of clothing to go from the design stage to shops across New York.

For all of the thrill created around fast fashion, the excitement of ever-changing trends is fleeting. Some estimates state that fast fashion consumers are quick to throw clothes away; they dispose of the lowest-priced garments after wearing them only about seven times, treating them as something that is disposable.

The aspect of overconsumption is inextricably linked to the concept of fast fashion. Overconsumption is a major sustainability challenge in the fashion industry.⁶ The exorbitant waste that is created as a result of consumers discarding clothes is concerning. It is often an effect of how clothes are considered disposable in wealthy countries. It is also a result of how well supply chains are misunderstood by consumers. Oversupply and overconsumption are two sides of the same coin.

Fast Fashion Dumping Sites

The magnificent Atacama desert in Northern Chile has now earned the distinction of being the world’s fastest-growing fast-fashion dumping site, all thanks to oversupply and overconsumption. The UN called it a social and environmental emergency. Experts estimate that three-fifths of all clothing eventually ends up in dumping sites or in incinerators. Another landfill near Accra, which is Ghana’s capital, is said to be sixty percent clothes and is said to be about 65 feet high.

Chile tried to take action by enforcing the Extended Producer Responsibility (EPR) law. Extended Producer Responsibility (EPR) is a policy approach that requires manufacturers to take greater responsibility for managing the products they introduce to the market. This means that companies are obligated to ensure that their products are properly and effectively recovered, treated, recycled, or disposed of after they have been used by consumers. In other words, manufacturers must take active steps to minimize the environmental impact of their products throughout their entire lifecycle. However, due to the lack of resources, controlling illegal dump sites becomes impossible.

The environmental impact of the fashion industry

The oversupply and the dumping sites lead us to an unimaginable amount of environmental impact that has been caused due to the fashion industry. According to the United Nations Environmental Programme (UNEP), the fashion industry is responsible for 10% of global carbon emissions and is the second-biggest consumer of water, more than all international flights and maritime shipping combined, and the industry is also the second-biggest polluter in the world. To combat this very problem, the United Nations Framework Convention on Climate Change (UNFCCC) and the fashion industry collectively launched the Fashion Industry Charter for Climate Action in the year 2018.⁷ It aims to achieve two things, namely to reduce 30% of greenhouse gas emissions by 2030 and to attain net zero emissions by 2050 as estimates show that every year, out of every five garments produced, three are either thrown into a landfill or incinerated. Additionally, the textile industry produces 1.2 billion tons of greenhouse gas emissions annually, which is more than the total emissions produced by all international flights and maritime ships combined.

According to the Quantis International 2018 report⁸, the three primary causes of global pollution in the industry are dyeing and finishing (36%), yarn preparation (28%), and fiber production (15%). The report also highlights that fiber production has the most significant impact on freshwater withdrawal (i.e. water diverted or withdrawn from surface water or groundwater). Moreover, due to cotton cultivation, ecosystem quality is impacted. The dyeing and finishing, yarn preparation, and fiber production stages have the highest impact on resource depletion due to energy-intensive processes based on fossil fuel energy. The United Nations Framework Convention on Climate Change also stated that, according to projections, the emissions resulting from textile manufacturing alone are expected to increase by 60% by the year 2030.

⁶ Armstrong, C.M., Niinimäki, K., Kujala, S., Karell, E. and Lang, C., 2015. Sustainable product-service systems for clothing: exploring consumer perceptions of consumption alternatives in Finland. *Journal of Cleaner production*, 97, pp.30-39.

⁷ UNFCCC https://unfccc.int/sites/default/files/resource/Fashion%20Industry%20Carter%20for%20Climate%20Action_2021.pdf

⁸ The Quantis International Report, 2018

https://quantis.com/wp-content/uploads/2018/03/measuringfashion_globalimpactstudy_full-report_quantis_cwf_2018a.pdf

From Haute Couture to Fast Fashion: The Fashion Industry and its Implications in the Realm of Law

The 2015 documentary, *The True Cost*, has illustrated the fact that the world consumes 400% more than it consumed eighty years ago, or in other words, the world consumes about eighty billion pieces of clothing every year. This alarming issue coupled with the fact that fashion production accounts for 10% of global carbon emissions, equivalent to the emissions of the entire European Union, are probable causes to advocate for a uniform law or at the very least rules and regulations to govern not just the production process but also address the negative environmental impact and the labor-related issues. In order to accelerate change across the fashion industry, bringing forth legislation would be the apt solution.

However, A new piece of legislation called *The Fashion Act* has been proposed by the New Standard Institute in New York.⁹ The goal of this act is to address environmental concerns by mandating that brands disclose their greenhouse gas emissions, as well as their energy, water, material, and plastic usage, and chemical management. In addition, the act requires brands to establish and achieve Science-based Targets that align with the Paris Agreement's objective of limiting global warming to 1.5C. Lastly, the act demands brands to implement mandatory due diligence across their supply chain, including reporting on wages.

Unethical labor practices happening in this day and age in the fashion industry

The fashion industry has been plagued by unethical labor practices, which include the exploitation of workers, poor working conditions, long working hours, and low wages. These practices have been prevalent in many parts of the world, particularly in developing countries where labor laws are not well enforced. The use of child labor, forced labor, and human trafficking are also serious concerns in the fashion industry. Such practices not only violate human rights but also contribute to environmental degradation and economic inequality.

Many fast-fashion brands are highly successful in producing a large number of collections throughout the year. This business model generates enormous profits. However, it is almost impossible to meet such a high demand for garment production while fully respecting workers' rights. Critics argue that some apparel companies engage in unethical practices to support the production of cheap clothing as there wouldn't be enough labour otherwise.

Human Rights Watch (HRW) has reported that in many countries around the world, factories of apparel brands indulge in practices of forced labor wherein physical abuse and threats are hurled at the workers. Moreover, factory owners and managers do not allow workers to join or form unions and force them to do overtime work. Many fast fashion companies operate under the belief that the higher and faster the demand for clothes, the harder the workers need to work. This approach has led to dire working conditions in factories, where the workforce is predominantly made up of children and forced laborers. The excessive consumer demand also creates a disadvantage for the most vulnerable members of society. This is supported by the fact that 97% of fast fashion is produced in developing countries with poor labor and human rights protections, where in-factory abuse and negligence are often hidden.

The fast fashion industry is notorious for exploiting local and underserved communities by employing them in sweatshops to produce cheap garments. While the industry employs over 300 million people across the globe, it fails to provide them with living wages. The industry is characterized by poorly paid employees and dangerous working environments. In order to increase their profit margins and meet customer demand, fast fashion brands and retailers push for lower production costs. However, this results in unlivable wages and terrible working conditions for the manufacturers. It is worth noting that the majority of fast fashion production occurs in overseas countries with poor labor laws and human rights protections. Consequently, many farmers and garment factory workers in low-income countries are forced to work for shockingly low wages.

Children are highly vulnerable in the garment and footwear supply chain, just like in many other sectors. Child labor and exploitation of young workers are major concerns, particularly in the deeper tiers of the supply chain. Additionally, many countries producing garments and footwear lack appropriate support systems for working parents, especially mothers. This results in inadequate working conditions for the parents, which ultimately affects the well-being of their children. Around 160 million children are employed across the globe. Approximately 79 million of them partake in child labor, which the International Labour Organisation seeks to eliminate. The International Labour Organization aims to eliminate the worst forms of child labor, as defined in Article 3 of ILO Convention No. 182 – “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children ("hazardous child labor").”¹⁰

Fast fashion creates unsafe work conditions, imposing low pay, extra overtime, long working hours, and most importantly unrealistic production goals. It puts extreme pressure on manufacturers to keep the labor cheap resulting in a myriad of issues concerning ethics and law.

SUGGESTIONS AND CONCLUSIONS

The fashion industry, although severely undermined, is convoluted with a multiplicity of issues that need to be solved. In order to reduce the negative impact on the environment caused by fast fashion brands like Shein, policymakers should focus on implementing sustainable practices and encouraging the development of eco-friendly materials and production methods. This could involve

⁹ The Fashion Act <https://www.newstandardinstitute.org/>

¹⁰ Article 3 of ILO Convention No. 182

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182

From Haute Couture to Fast Fashion: The Fashion Industry and its Implications in the Realm of Law

providing tax incentives for sustainable fashion initiatives, requiring environmental impact assessments for fashion companies, and promoting partnerships between industry players and environmental organizations.

Additionally, to address the grave issue of unethical labor practices, a collaboration between governments and industry stakeholders is necessary to enforce regulations that protect fair labor practices in the fashion supply chain. This could involve incentivizing compliance, conducting regular audits, and empowering workers through collective bargaining and representation.

There is a glaring need for comprehensive consumer education campaigns that can raise awareness about the social, environmental, and ethical implications of fashion consumption—concepts such as slow fashion need to be taken into account. The concept of slow fashion centers on sustainability, but emphasizes a slower pace of production and consumption. It is much more than the antithesis of fast fashion as it tries to reimagine what the clothing industry could be.

Perhaps, a more uniform law for regulation and law enforcement would be the apt solution. Uniform labor regulations could be established to ensure the fair treatment of workers and incorporate environmental standards aimed at reducing the fashion industry's ecological footprint. The fashion industry would benefit greatly from a uniform law that standardizes practices and promotes ethics. Due to the diverse and ever-changing nature of the fashion industry, any legislation regulating it should be adaptable to accommodate new trends, technologies, and business models.

The fashion industry faces challenges of balancing tradition and innovation, luxury and accessibility, and profit and sustainability. Legal frameworks must adapt to address these challenges, and collaborative efforts are necessary to bring about meaningful change. Law can promote ethical practices, uphold workers' rights, and protect the environment to ensure that fashion remains a symbol of style and expression while contributing to positive social and environmental impact.

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