



Fast Fashion, Consumer Complicity, & Corporate Accountability

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About the Critical Corporate Theory Collection

The Critical Corporate Theory Collection is part of the *Systemic Justice Journal*, published by the Systemic Justice Project at Harvard Law School. The Collection is comprised of papers that analyze the role of corporate law in systemic injustices. The authors are Harvard Law students who were enrolled in Professor Jon Hanson's Corporations course in the spring of 2021.

The Collection addresses the premise that corporate law is a core underlying cause of most systemic injustices and social problems we face today. Each article explores how corporate law facilitates the creation and maintenance of institutions with tremendous wealth and power and provides those institutions a shared, single interest in capturing institutions, policies, lawmakers, and norms, which in turn further enhance that power and legitimates its unjust effects in producing systems of oppression and exploitation.

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Contents

PART 1: PROBLEM DESCRIPTION	1
PART 2: CURRENT DOMINANT NARRATIVE	2
A. The Corporation	2
B. The Consumer	4
PART 3: ANALYSIS OF THE ROLE OF CORPORATE POWER IN CREATING HARM THROUGH THE PROBLEM	7
A. Corporate Social Responsibility	7
B. Potential solutions by the corporation and their relationship to the corporate law problem.....	8
C. Potential solutions by the consumer and their relationship to the corporate law problem.....	9
CONCLUSION	11
ENDNOTES.....	11

ABSTRACT

Fast fashion is the rapid turn-over of low-cost clothing, which is the focus of business models of companies such as H&M, Zara, and Gap. Although the fast fashion industry generates billions of dollars every year, this industry has continued to generate alarming environmental effects and poor labor practices. Emissions from textile manufacturing are projected to skyrocket by 60% in the next ten years due to fast fashion's emphasis on more frequent production and manufacturing in order to keep up with high demand.¹ The high intensity production process behind fast fashion also relies on the labor of thousands of garment workers who are subject to inhumane working conditions every day. Workers are given high quota garments to fulfill daily, and failure to make quota often means forging pay as well as enduring gender-based violence and harassment as punishment.² Given all this, fast fashion corporations continue to be increasingly profitable. This paper will examine how corporations manipulate consumers to buy fast fashion using various tactics. Part II will look at fast fashion from the perspective of the corporation and then of the consumer. Part III will then discuss potential solutions to the problem of fast fashion. The paper concludes by placing the blame of the fast fashion problem onto corporations and suggests that a feasible solution lies within changing corporate power.

Fast Fashion, Consumer Complicity, and Corporate Accountability

PART 1: PROBLEM DESCRIPTION

*“Retailers colonize us due to cheap labor, exploit our youth, and disrespect the dignity of workers, especially women and girls . . . It was countries that used to colonize us, now it’s **large corporations**” – Nazma Akter, Executive Director of the Awaj Foundation in Bangladesh and former child garment worker*

Zara, Forever 21, H&M, Gap, Shein, Uniqlo, Fashion Nova, and ASOS are all stores known for selling the latest trends at a low cost. Yet, these stores are also known for the alarming effect they have on the environment as well as their unethical labor practices. Despite this, fast fashion brands continue to bring in billions of dollars a year. The question is, why?

Fast fashion refers to the rapid turnover of low-cost clothing, which is the focus of business models of companies such as H&M, Zara, and those listed prior. “Fast fashion” first appeared in the New York Times in the 1990s to describe Zara’s mission that it would take only fifteen days for a garment to go from a designer’s brain to being sold in store.³ Nowadays, that lead time is even shorter, with H&M and Missguided releasing thousands of new clothing items each week in response to the latest runway and celebrity trends.

Yet, behind the allure of trendy clothing at affordable prices are those that such an industry negatively affects, namely the environment and the workers who make the clothing. The fashion industry is the second largest consumer industry of water, and textile dying is the world’s second largest polluter of water.⁴ Emissions from textile manufacturing are projected to skyrocket by 60% in the next ten years, and fast fashion is to blame given its emphasis on more frequent production and manufacturing in order to keep up with high demand.⁵ The high intensity production process also relies on the labor of thousands of garment workers who are subject to inhumane working conditions. The majority of garment workers tend to be South and Southeast Asian women aged 18-24 who are given a very high quota of garments to fulfill per hour.⁶ Failure to make quota often means forging pay, which is typically less than \$3 a day, and many experience gender-based violence and harassment as punishment if they do not meet the quota.⁷

Given all this, fast fashion companies still continue to bring in billions of dollars each year. This paper will examine how corporations manipulate consumers to buy fast fashion via a toxic corporate narrative. Part II will look at fast fashion from the perspective of the corporation and then of the consumer. Part III will then discuss potential solutions to the problem of fast fashion and what both corporations and consumers can feasibly do to combat its ill effects. The paper concludes by placing the blame of the fast fashion problem onto corporations and suggests that a feasible solution lies within changing corporate power via regulation of the system.

PART 2: CURRENT DOMINANT NARRATIVE

A. The Corporation

The key components of a corporation’s fast fashion system include: a) quick response policy that reduces the lead time to match rapidly changing demand and supply, b) frequently changing product

assortment, c) short product lifecycle, and d) product design that fits the fashion trends and market needs.⁸ This model relies on “planned obsolescence,” which is a method of stimulating consumer demand by designing products that wear out or become old-fashioned after a short time. Planned obsolescence takes two forms. The first is perceived obsolescence, “whereby fast-changing trends render old styles obsolete, driving unnecessary consumption.”⁹ For example, Zara and H&M release 12 to 24 new collections every year, while the traditional retail calendar only consists of fall and spring collections, and the introduction of these collections causes styles from the old collections to be instantly out of fashion as consumers flock to purchase the newest collection’s clothes.¹⁰ The second is by producing poor quality items, such as a shirt with its seams falling after two wash cycles or a piece of jewelry that starts to tarnish after a week, thereby driving the consumer to dispose of the items and come back to the store to buy replacements, purchasing new items on the way.¹¹

In the store, the fast fashion business model operates similarly by sending messages to consumers of urgency, immediacy, and exclusivity. Signage like “as seen on the runway” and “limited time only” motivates the consumer to purchase the outfit by making the outfit more accessible yet limited.¹² Only a few pieces of clothing are placed on display racks in the center of the store or on mannequins, and new products are only available in limited quantities for a limited amount of time.¹³ Altogether, this environment creates a sense of exclusivity and urgency, causing the consumer to quickly snatch up the item in fear that this will be their last chance to buy it.¹⁴ Online, this “now or never” sense of urgency is replicated through a barrage of brightly colored ads, notifications such as “items in your cart are selling quick” and “20 people purchased this product in the last hour,” and constant time-ticking sales that all drive the consumer to quickly checkout their shopping cart full of trending pieces for a low price.

To keep up with this model of self-driven high demand, fast fashion corporations engage in irresponsible production and unethical labor practices.¹⁵ In textile production, fast fashion relies on cotton, synthetic fibers, and water. Cotton is the most pesticide-dependent crop in the world, using 25% of the world’s insecticides, and the average cotton T-shirt requires 1/3 pound of pesticide.¹⁶ Large water use is also plentiful during textile production, with the U.S. textile mills industry having used an estimated 135 billion gallons of water.¹⁷ Although all textiles create environmental issues during their production process, these issues are aggravated when it comes to creating synthetic fibers due to the use of hazardous chemicals and a large amount of water.¹⁸ Dyes and

chemicals are added to textiles in water baths, and then more water is used during the fabric preparation process.¹⁹ While the water used during this process eventually returns to the ecosystem, there is typically no attempt to remove the chemicals added during the production process, which results in polluted groundwater and thus major health risks for humans and other organisms who consume this water.²⁰

When it comes to the people involved in this mass production, fast fashion corporations rely on subcontracting and outsourcing, which lead to highly dangerous and unethical labor practices. Fast fashion corporations are not directly involved in production because they outsource production to Tier 1 companies, which are supplier firms in developing countries such as Bangladesh. Tier 1 companies then subcontract production to manufacturing companies that are not affiliated with or officially authorized by the fast fashion corporations themselves.²¹ Without authorization or affiliation, “fast fashion brands carry no legal obligation to ensure decent working conditions in the bottom tiers of their production network.”²² Further, “because unauthorized subcontractors are unregistered, they operate without government regulation and oversight, resulting in deteriorating work facilities where worker abuse runs rampant.”²³ For example, to sustain the quick design to production turnaround time, factories often impose high production targets that if not reached, workers may not receive any pay and may also be subject to physical, verbal, and sexual violence as punishments.²⁴ Additionally, factory workers are subject to forced overtime and little to no lunch breaks, bathroom breaks, or water breaks.²⁵

Yet, despite these dire environmental and exploitative work conditions, fast fashion corporations continue to maintain that engaging in fast fashion is the only way for these companies to stay alive in the constantly changing world of fashion. In the eyes of fast fashion corporations, the consumer is king, and the environment and workers are secondary.

B. The Consumer

Unfortunately, many consumers already know just how bad these corporations are. Yet, millions of people still continue to support fast fashion companies. The question is, why? As someone who has admittedly purchased from such companies in the past year despite knowing to some extent just how damaging to society fast fashion

companies are, I offer several theories.

1) Consumers see themselves as balls, ie. moved by forces that are not under our control

First, we as the consumer see ourselves as balls, moved by forces that are not under our control. While we may be aware of the unethical labor practices and the severe environmental consequences that fast fashion results in, we see these repercussions as not the fault of our own spending dollars but rather as the fault of the fast fashion corporations themselves. We further justify our decision to support these fast fashion corporations by disassociating ourselves from both the people making our clothes and the harmful environmental effects that the process of making cheap and poor-quality clothes produce. This theory presupposes that changing where we choose to spend our hard-earned dollars will not make the effects of these mega conglomerates go away. Instead, we succumb to the fast fashion companies and see these companies as legitimate. In doing so, our guilt and dissonance about buying unethically sourced clothes is reduced.

2) Low cost option compared to high cost of original trending piece

A second compelling theory as to why consumers partake in fast fashion is the low cost of fast fashion compared to the original trending piece. As discussed earlier, part of the success of fast fashion companies is the ability of these companies to knock off designer trends from the runway in a matter of days and then sell these knock offs at very low prices. For example, in 2019, Kim Kardashian wore a black vintage Thierry Mugler dress, worth thousands of dollars, to a red-carpet event. Within a day, fast fashion retailer Fashion Nova had on their site a replica dress, the “Winning Beauty Cut Out Gown,” for just \$49.99 and it sold out shortly after.²⁶ Kardashian took to Twitter and accused Fashion Nova of profiting off designers: “It’s devastating to see these fashion companies rip off designs that have taken the blood, sweat and tears of true designers who have put their all into their own original ideas.”²⁷

However, to many consumers, this very ability of fast fashion companies to offer sought after runway looks for a fraction of the price in an eighth of the time is what drives consumers to support these companies. These companies cater to this consumer need to purchase the latest and greatest clothing pieces for the lowest price possible. Fashion Nova’s website includes references to celebrities and uses their photos to

promote their products, like when the company copied off the Stella McCartney gown that Meghan Markle wore to her wedding reception.²⁸ The dress is even named “The Royal Debut Dress” and the listing includes a photo of Markle in the McCartney gown at her reception.²⁹ Retailing much less than the \$157,000 price tag of the original McCartney dress, Fashion Nova’s knock off costs just \$49.99 and currently remains sold out.³⁰ This practice has over time altered the consumer’s perception of the affordability of the latest trends³¹ and has in some ways democratized access to trending clothing that would otherwise be unattainable to most consumers. But, at what environmental and societal costs has this apparent democracy been achieved?

3) Low cost option compared to high cost of slow fashion alternatives

Not only does the low cost of fast fashion give consumers a strong incentive to purchase fast fashion over the original trending piece, it also gives consumers a strong incentive to purchase fast fashion over more ethical and sustainable alternatives, which typically cost more. Similar to the second theory, a third theory as to why consumers still support fast fashion companies despite the poor social and environmental consequences is that the low cost of fast fashion compared to the higher cost of more ethical alternatives is more persuasive to the consumer. These more ethical brands, such as Patagonia, Reformation, Levi’s, and a number of smaller companies have been dubbed “slow fashion” companies and are dedicated to ethical and sustainable practices. These companies have made as part of their mission statements “to approach fashion in an ethical and transparent way that considers both people and the planet.”³²

Take Eileen Fisher, an industry leader in the slow fashion world. The company is one of the largest women’s fashion companies to achieve B Corp certification,³³ meaning that the company is part of a network of businesses that “meet the highest standards of verified social and environmental performance, public transparency, and legal accountability to balance profit and purpose.”³⁴ As part of its purpose, Eileen Fisher remains committed to designing clothing that creates minimal environmental and social harm, standing in direct opposition to the very nature of fast fashion companies.³⁵

The average, somewhat morally conscious consumer would be drawn to this mission. The theory of system justification reasons that people are

motivated to justify the systems that structure social outcomes.³⁶ The systems here are corporations like Eileen Fisher, and according to the just world hypothesis, we are motivated to see social outcomes, including minimal environmental and social harm, as just.³⁷ Further, as a seemingly good alternative to fast fashion companies based on their mission statements, slow fashion corporations like Eileen Fisher reduce consumer injustice dissonance that shopping at fast fashion companies produces. We strive to eliminate dissonance between our attitudes and behaviors, and switching our shopping habits from buying clothes from mainly fast fashion companies to more slow fashion companies brings our behavior in line with our presumably more moral attitudes and thereby reduces our dissonance.

However, where companies like Eileen Fisher may lose the average fast fashion consumer (who is typically a millennial woman that is fashion conscious but income scarce) is the cost. A basic white t-shirt from Eileen Fisher costs \$118,³⁸ whereas a similar looking t-shirt from H&M costs \$5.99.³⁹ Eileen Fisher does fall on the higher end of more ethical brands—on their list of 35 ethical and sustainable alternatives to fast fashion, The Good Trade listed Eileen Fisher price range as four dollar signs (\$\$\$\$), denoting that pieces are typically \$150 more.⁴⁰ Pact and Kotn are two B-corp brands listed in the same article at one dollar sign (\$), signifying that pieces are typically under \$50. Kotn lists a basic white t-shirt at \$30,⁴¹ and Pact lists a similar style at \$35.⁴² The question for the corporation then becomes, just how much is the average consumer willing to sacrifice price for more ethical labor and environmental practices?

This difference in pricing between fast and slow fashion further illustrates why consumers are balls. Capitalist America has made it so that we first need designer clothes for social status, while at the same time capitalism has resulted in great income inequality. In other words, capitalism makes us need nice clothes while at the same time makes us unable to afford them from non-fast fashion sources.

PART 3: ANALYSIS OF THE ROLE OF CORPORATE POWER IN CREATING HARM THROUGH THE PROBLEM

A. Corporate Social Responsibility

Given all of the harmful environmental and social effects of the fast

fashion industry, do fast fashion corporations have a responsibility to counter these effects? Are fast fashion corporations, whose business models are at the very essence unsustainable, required to be sustainable? Legally, fast fashion corporations are *not* required to be sustainable. However, there is a self-regulating business model called corporate social responsibility (CSR) that holds a corporation socially accountable to itself, its stakeholders, and the public.⁴³ CSR relies on the triple bottom line—people, profit, planet. More specifically, it depends on “the alignment of alignment of environmental consciousness and long-term firm reputation with shareholder value, the consciences of corporate managers and directors, and the goodwill of consumers and investors toward a planet and people-friendly vision.”⁴⁴ CSR initiatives combat environmental issues such as sustainability, pollution, and carbon footprints as well as social issues such as human and animal welfare, gender gaps, and unfair labor practices. Although many corporations choose to employ some measure of CSR due to consumer expectations that in recent years have increasingly prioritized social and environmental accountability, CSR is not required by any U.S. statutes or regulations.⁴⁵

Despite no legal obligation to engage in CSR practices, there is plenty of economic incentive for corporations to do so. While CSR is important to consumers who are becoming more “woke,” CSR is also important to investors. When assessing the valuation of a target, investors may look at CSR as an intangible metric that can significantly impact a brand’s value and the target’s overall valuation.⁴⁶ A study by McKinsey revealed that in some instances CSR can add 11% to shareholder value.⁴⁷ On the contrary, negative perception of a brand’s CSR, such as exposure of unfair labor practices, can result in the loss of investment dollars, damage to a portfolio brand’s value, and divestment by private equity firms to avoid damage to their reputations.⁴⁸

B. Potential solutions by the corporation and their relationship to the corporate law problem

CSR then becomes a viable option for fast fashion corporations themselves to combat the social and environmental consequences of their industry. Indeed, some fast fashion companies have engaged in CSR initiatives. For example, in August 2019, 23 fashion brands, including fast fashion giants Gap and H&M as well as Adidas, Burberry and Chanel, pledged to reduce their environmental impact.⁴⁹ Called “The Fashion Pact,” the pledge states that the companies would “take action to curb emissions while also harness the industry’s global reach

and influence to help tackle climate change, restore biodiversity, and better protect the oceans.”⁵⁰ In a more prominent example, H&M launched several sustainable apparel lines called the “Conscious Collection” and the “Conscious Exclusive Collection” in 2019. The company also introduced a “garment collection” initiative where customers can donate their old clothing in exchange for a discount off their next purchase.

However, while these initiatives may seem sustainable and within the CSR model, in actuality these practices, particularly donation initiatives and so-called “environmentally sustainable” apparel lines, further exacerbate the harm that the corporations themselves cause. Take H&M’s sustainable apparel line and garment collection as an example. The company attaches words such as *eco-friendly*, *sustainable*, *organic*, *green*, and *recycled* to its products, yet the line fails to mention the specific environmental benefit of each product, including the amount of recycled material for each garment.⁵¹ A piece of clothing from the line could be made with 60% of recycled material or just 5%, and this lack of a specific number can mislead the consumer.⁵² With its donation initiative, the company makes it seem like the clothes that consumers drop off will be made into new clothes. However, this is likely to happen with less than 1% of the clothes collected.⁵³

Both initiatives are examples of greenwashing, which is abound in fast fashion sustainable apparel lines. Greenwashing occurs “when a corporation increases its sales or boosts its brand image through environmental rhetoric or advertising, but in reality does not make good on these environmental claims.”⁵⁴ In the apparel industry, words such as *eco-friendly*, *sustainable*, *organic*, and *green* have no legal definition or criteria, so the brands use these misleading labels and create ambiguity for consumers while selling them the idea that they are being responsible.⁵⁵ Greenwashing allows corporations such as H&M to promise consumers “eco-friendly” products but then deliver goods cheaply regardless of the environmental impact.⁵⁶

C. Potential solutions by the consumer and their relationship to the corporate law problem

Is it then up to the consumer to engage in a solution to this problem? Corporations and many articles on fast fashion⁵⁷ seem to think so—if fast fashion companies are so bad, then consumers should simply stop supporting such companies and instead support more sustainable alternatives, such as donating clothes so that others can buy them

secondhand, thereby reducing the need to buy new apparel. However, charity stores like Goodwill are forced to spend thousands of dollars sorting and disposing of soiled, torn, or otherwise unsuitable textiles, and 25% of these textiles goes directly to landfill while another 40-50% is exported into the global secondhand clothing trade or burned, damaging the environment.⁵⁸ Other consumer solutions that many articles on fast fashion advocate for is renting clothing,⁵⁹ or buying secondhand clothing via platforms such as Poshmark, ThredUp, or DePop where people can place ads for individual pieces of clothing and others can bet on or buy the piece directly.⁶⁰

However, all these solutions ask the consumer to change their complicit behavior. But, can all consumers do so? While many consumers are complicit in purchasing fast fashion despite knowing its ill effects, many consumers are also low-income and cannot afford to pay \$35 for a white t-shirt, let alone over \$100. Isn't it then a sign of economic privilege to be able to change behavior? Are we asking low-income people to sacrifice social capital and status for the sake of the environment, when it is high-income corporate executives that are ruining it? McDonald's blames consumers for eating too much of their unhealthy food, even though low-income consumers don't have much choice but to eat junk food due to the high price of healthy alternatives. Is it then McDonald's fault for making unhealthy food, or is it the consumer's fault for buying it with the full knowledge that it is unhealthy? Is it Jeep's fault for polluting the environment by producing cars with some of the highest emissions,⁶¹ or is it the consumer's fault for still buying Jeeps while knowing of the company's poor carbon footprint? Finally, is it H&M's fault for polluting the environment and enforcing harmful labor practices by selling unsustainable fashion, or is the consumer's fault for still buying clothing from H&M while knowing that their clothing is unethically made?

Despite what corporations and articles on fast fashion want us to think—ie. that consumers are to blame—in actuality corporations are the problem. Corporations such as H&M, Jeep, and McDonald's spend an inordinate amount of time and money situating themselves in subversive positions and, when the ill effects of their actions become known, then place the blame on consumers. In other words, these corporations are sticks working with toxic capitalism to manipulate consumers that are balls. H&M and Zara only engage in CSR initiatives to pad their bottom line and these initiatives only serve to create yet another misleading tactic to further ignite the rapid consumer culture that lets these corporations prosper. These corporations manipulate consumers into buying fast, and then when hit with criticism, these same corporations are quick to lay blame on consumers for buying fast

in the first place.

CONCLUSION

As discussed in Part III, while the corporate narrative wants us to believe that consumers are the problem, in actuality, the fast fashion corporations themselves are to blame. Yet, generating both feasible and morally right solutions to ending this historical manipulation of consumers by corporations and the larger problem of fast fashion itself is more difficult. Solutions by consumers, such as supporting alternative fashion brands or renting clothing, may be feasible for those who can afford slower fashion. However, because the underlying cause of the fast fashion problem is corporate power, it seems then that a feasible solution should lie within corporate law itself. There is no accountability for corporations when they choose to pursue profit without regard for the consequences of their product on the environment. Change then has to come in part from a change in the laws or at least meaningful regulation of this industry. Corporations have a profound effect on shaping consumers' interests, preferences, and behavior. New laws and/or regulations can reduce this effect fast fashion corporations have and thereby take the first step in eliminating the problem of fast fashion without placing the blame on the consumer.

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