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### **ABSTRACT**

This study aims to understand how consumerism affects consumer legal demands and analyze the importance of consumer law as a tool for protecting

consumer interests. The problematization lies in the need to understand how legal demands related to consumption have been treated by the legal system and how judicial decisions have impacted consumer relations. The justification for this study lies in the importance of the topic for contemporary society, as well as in the relevance of consumer law as a means of protecting consumer interests. The methodology adopted for this literature review will consist of an exploratory research of relevant bibliographic sources, with critical and reflexive analysis of the concepts and arguments presented by selected authors.

**Keywords:** Consumer Law, Consumerism, Judicialization.

## **1 INTRODUCTION**

Consumerism and consumerist lawsuits have been recurring themes in contemporary society. The increase in the purchasing power of consumers and the expansion of the market have driven the culture of consumption, making it a central element in social and economic relations. However, this culture of consumption also brings with it important issues related to consumer rights and the lawsuits that arise from conflicts between consumers and the suppliers of products and services.

In this sense, the objectives of this study are to understand how consumerism affects consumer lawsuits and to analyze the importance of consumer rights as a tool to protect consumers' interests. The problematization lies in the need to understand how the judicial demands related to consumption have been treated by the legal system and how judicial decisions have impacted consumer relations.

The justification for this study lies in the importance of the theme for contemporary society, as well as in the relevance of consumer law as a form of protection of consumer interests. The methodology adopted for this bibliographic review will consist of an exploratory research of relevant bibliographic sources, with critical and reflective analysis of the concepts and arguments presented by the selected authors.

The work is structured in two chapters, dealing with the first of the consumerist society, the second on the Consumer Protection Code and the consumerist lawsuits and also one of final considerations, where we discuss about the general historical aspects of the consumerist society, and more specifically, about the relationship between consumerism and lawsuits.

## 2 OF THE CONSUMER SOCIETY

Currently, the population is faced with a highly globalized and dynamic market, with strong calls for advertising campaigns offering a huge diversity of products, enabling different forms of payment, which increasingly motivates consumerism for the simple pleasure of having, as observed in the historical origins and in the evolution of consumer protection measures.

### 2.1 HISTORICAL ORIGINS OF THE CONSUMER SOCIETY

This study intends to address the formation of the consumerist society, as a presupposition for the analysis of consumer protection. In this sense, we sought the contribution of Sombart (2013), whose work *Luxury and Capitalism* portrays the social valuation of consumption, as a social status, seen from the perspective of hedonistic philosophy, to differentiate it from the consumer who consumes goods and services of utilitarian characters.

According to the dictionary of the Portuguese Language, the term hedonism comes from the Greek *hēdonē*, meaning 'pleasure' + ism. Therefore, it is a doctrine that considers that individual and immediate pleasure is the only possible good, beginning and end of the moral life (FERREIRA, 1999).

For the concept of luxury we have:

Luxury can be characterized in qualitative and quantitative terms. The quantitative sense is expressed in the ostensible waste and the qualitative in the consumption of goods of a better kind, refined, that is, made in a way superfluous to their purpose [...]. The high consumption of luxury can refer to multiple causes, such as ambition for power, ostentation, pride, social prominence, etc. (SOMBART, 2013, p. 94-95).

It is in this context of the pleasure of consuming goods, by the simple desire to meet the vanity of having is that the consumption of luxury arises in the private (domestic) domain, which was driven by the hedonistic lifestyle adopted in the modern courts (public spheres) of the European Late Middle Ages. Then, the emergence and growth of the bourgeois class influenced the constitution of the capitalist system and the formation of the great urban centers. From then on, the social valorization of private consumption was installed, which shaped an identity of disposable fads for modern man (SOMBART, 2013, p. 18).

In this sense, Guerra (2010, p. 33) analyzes the formation of the consumerist society of luxury from capitalism:

Aiming at the distinctive and identitarian character that aristocratic consumption imputed, the multitude of buyers who inhabit the modern city would have come to seek in the imitation of this social class the way to distinguish themselves from less prosperous groups, which would lead indefinitely to the differentiation of demand between more or less favored social classes: the aristocracy – or the upper bourgeoisie – demanding distinctive products that at an increasingly shorter time became generalized and, generating a mass consumption, they indicated the need to create new products that distinguished social classes. Luxury – as well as the identity character that surrounds it and the act of consuming that is inherent to it – would

therefore be one of the vectors of development of capitalism, which brings consumption to the center of the explanations of the emergence of this mode of production (GUERRA, 2010, p. 23).

It is noted that the search for imitation of the consumption of the aristocracy and the upper bourgeoisie contributed to the creation of generalized products, which demanded the creation of new luxury products, to meet the demand of the aristocratic and bourgeois class.

Thus, the value of the social status aggregated by luxury consumer goods was privileged, which led to the distinction of social classes, of the most and the least favored, attributed to the need to consume, typical of capitalism.

In this context, the contemporary consumer society develops, which in the view of Guerra (2010, p. 36-40), the formation of the consumerist society is divided into three parts, defined by the author as the three eras of consumer capitalism:

The first era begins around 1880 and ends with World War II. The second corresponds approximately to the three decades after the Second World War and the third extends from 1980 to the present day, called hyperconsumption. Each of the periods has different characteristics, as can be seen.

The first era of consumer capitalism was marked by the growth of production and the emergence of mass marketing, for example, the installation of large national markets to replace small local markets. The second period of this consumption is established around 1950, called the society of abundance, when the society of mass consumption emerges. This moment was marked by great economic development, due to the growth of the sectors of production and productivity of labor, wages and purchasing power of social classes. (WAR, 2010, p. 37).

At the same time, there was the dissemination of the credit system, which enabled the classes of lower financial power the happiness of consuming, as it turns out:

[...] Between the 1940s and 1970s, related to the rise of the ephemeral, there is a decrease in the amount of ancient objects and the rise of the "disposable culture". Replacement of department stores by shopping malls, with a large number of cafes, restaurants and cinemas, as well as shop windows. Consumption was increasingly being considered a form of fun, a form of leisure and even an aesthetic activity [...] (WAR, 2010, p. 37).

Still, about consumption it is added:

In this new society that asserts itself, progress and happiness are increasingly associated with the improvement of living conditions and the acquisition of objects of consumption. A "society of desire" is inaugurated, in which coercion is replaced by seduction, duty by hedonism, saving by expenditure, solemnity by humor, repression by liberation, the promises of the future by the present (GUERRA, 2010, p. 37).

It is verified that this second period is proper to a hedonistic society, so much so that it was referred to as the society of desire, where abundance is accompanied by an inexhaustible desire to consume more, again and better, establishing the consumerist practice (GUERRA, 2010, p. 37).

In this scenario, the desire to buy is driven by emotional consumption, in which the dream of obtaining certain types of products and/or cultural goods promote pleasure and happiness. Therefore, the desire will already be more supplied, since they can be replaced by other dreams.

In this sense, the desire to consume more and more, where consumer goods lose their use value due to the social status it represents, is what inserts the third era of consumer capitalism, denominated as the era of hyperconsumption, in which the commodification of needs derives from a deinstitutionalized, subjective logic, emotional (GUERRA, 2010, p. 38).

In this way, consumption has been linked since the contemporary era, because it is a way to stimulate economic growth, as well as satisfy the desire of the consumer who seeks in an accelerated way to satisfy their needs and fulfill their desires.

Demonstrating the importance of consumption in contemporary times, Lacerda explains:

Consumption in contemporary times is still something that remains essential to human survival, since only through it the subject meets his vital needs, but such practice is increasingly instigated by capitalism that uses the media, especially by advertising and marketing that, with their techniques, skills and strategies, dictate and impose the current needs of the subject in the capitalist market, creating and imposing desires, transforming them into needs to be satisfied in an artificial and endless chain that seduces all who are part of it (LACERDA, 2016, p. 50).

In hyperconsumption, consumers are motivated to buy not as a way to achieve a desired social status, but by personal satisfaction and the pleasure that brings them happiness, as Guerra teaches:

One passes into the universe of hyper-consumption when the taste for change spreads universally, when the desire for "fashion" spreads beyond the sphere of clothing, when the passion for renewal gains a kind of autonomy, relegating to the background the struggles of competition for status, mimetic rivalries and other conformist fevers. Unlike old-fashioned consumption, which made people's economic and social identity visible, the acts of purchase in our societies translate first of all differences in age, particular tastes, the cultural and singular identity of the actors, even if through the most trivialized products. I reveal, at least partially, who I am, as a singular individual, by what I buy, by the objects that populate my personal and familiar universe, by the signs that I combine "in my own way." At a time when traditions, religion, politics are less productive of central identity, consumption is increasingly in charge of a new identity function (GUERRA, 2010, p. 39).

It is in this period that the way of life represented by the objects of consumption become an important motivation in the decision of consumers who aim not only the use of the good they acquire, but also the happiness provided by them.

The excessive growth of consumption is currently a priority of social policies that seek, through laws and formal or informal information, to protect the interests of consumers. It is in this context of protection instituted by the evolution of protective standards until reaching the Consumer Protection Code that the focus of this work is situated.

## 2.2 EVOLUTION OF CONSUMER PROTECTION RULES

Historically, there are records in ancient civilizations of a set of norms aimed at the protection and interest of the society of the time.

One of the oldest known collections of laws in mankind is the Code of Manu, written between 200 years B.C. and 200 years A.D., formulated in India for Hindus. This instituted fine, punishment and compensation of damages for suppliers who, for example, practiced different prices for the same product or who adulterated the genres (FILOMENO, 2017, p. 2-3). To the said author:

Consumer protection is also found in the compilations of Hammurabi, written around 1500 years a.C. in Mesopotamia, known as the Code of Hammurabi, which already provided for some laws to protect the relations between supplier and consumer. Among them, there is the record of severe punishments, which can reach the death penalty, for example, for the builder of houses, if the death of the head of family or his son occurred, as a result of the collapse of the house due to poor construction (FILOMENO, 2017, p. 3).

In Greece, Aristotle expressed concern about the products that were marketed in Rome. To avoid sending products with defects and protect the consumer he proposed the creation of inspectors (FILOMENO, 2017, p. 3).

In Classical Roman Law, the Justinian period, it was provided that the responsibility for the sale of a product with vice was the seller, regardless of whether or not he had knowledge of the vice in the product or for acting in bad faith. Once the defect was detected, the seller was obliged to reimburse the damage, returning to the consumer twice the amount received (FILOMENO, 2017, p. 3-4).

For the master in Consumer Law, Nunes (2019, p. 3), it was expected that consumer relations would evolve and start to reflect on social, economic and legal relations, especially from the Industrial Revolution, because until then, many items of daily consumption were still produced at home.

After the Industrial Revolution in the eighteenth century, there was enormous population growth in urban centers. Due to this increase, industries saw the possibility of increasing the supply of products and services, since the demand for products increased in parallel with the growth of the population. Thus, the so-called serial production was created, the standardization of production, the homogenization of production (NUNES, 2019, p. 3).

This production model allowed to sell more products and more services to a greater number of people with reduced cost.

As previously demonstrated, from the First World War, one notices the development of industry and, consequently, the growth of production and the increase in the consumption of goods. However, it was from the end of the Second World War that we had the great transformation of the

economic structure of the capitalist countries with remarkable growth of the industry of mass consumer goods and the growing line of credit of the advertising activity.

All this thanks to the emergence of new technologies, especially information technology and telecommunications, which has fostered the exchange between all the peoples of the world generating globalization (NUNES, 2019, p. 3; MIRAGE, 2013, p. 38).

In this scenario, in the nineteenth century the mass society emerges, proper to the capitalist society that has as its model the United States of America, which, in the face of the growth of mass consumption, created in 1890 the Sherman Law aiming to protect the consumer. This Law reached its apogee from 1960, with the emergence of consumer associations. Currently, it is the country that dominates the world from the perspective of capitalism and, certainly, is the largest consumerist society (NUNES, 2019, p. 3-4).

In 1985, the United Nations (UN), through Resolution 39/248 of April 16 of the same year, established and regulated the protection of consumers, in the face of the imbalance of relations between suppliers and consumers, aiming, among others, at the following objectives:

- a) the protection of consumers against risks to their health and safety;
- b) the promotion and protection of the economic interests of consumers;
- c) consumer education about the repercussion on the environment, social and economic, etc. (MIRAGEM, 2013, p. 37).

In Brazil, the consumer relations of society were initially protected by the Civil Code of 1916, which lasted for long years until the Constitution of 1988, which, when taking care of the Fundamental Rights and Guarantees, established in item XXXII of article 5 the protection of the consumer in the form of the law (GRINOVER, 2017, p. 8).

Although Brazil had already expressed such concern and sought to protect the right of the consumer, already provided for in the Federal Constitution of 1988, the Civil Code and the National Council for Consumer Protection (CNDIC), only in 1990 was enacted Law No. 8,078 created with the purpose of protecting the consumer and making him aware of his duties and rights, as well as ensuring consumer relations (GRINOVER, 2017, p. 8).

Thus, currently, Brazil has a specific legislation to protect the interests and guarantees of the consumer (GRINOVER; 2017, p. 8-9). Therefore, it is relevant to examine the Consumer Protection Code, with regard to the relationship of consumer rights and the one that regulates the right to reverse the burden of proof, as an instrument of consumer protection.

### 3 THE BRAZILIAN CONSUMER PROTECTION CODE AND CONSUMER LAWSUITS

Consumer protection became extremely necessary from the twentieth century, when the consumer society exploded. According to this need, the CDC was instituted with a broad function of a general code, which would provide for consumption, the consumer society, instituting standards and principles for all market agents, which can assume the roles of either consumer or supplier (FILOMENO, 2017, p. 35).

The extraordinary development of commerce and, in parallel, the growth of the dissemination and offer of products through advertising campaigns have provoked significant changes in consumer relations. Consumer relations are dynamic, since, contingent by human existence itself, they are born, grow and evolve, representing, with precision, the historical moment in which they are situated (ALMEIDA, 2006, p. 2).

It is worth mentioning in this consumer relationship, the supplier of products or services in direct customer service. By the legal definition, the supplier is:

It is any individual or legal entity, public or private, national or foreign, as well as depersonalized entities, which develop activities of production, assembly, creation, construction, transformation, import, export, distribution or commercialization of products or provision of services (BRAZIL, 1990, art. 3 CDC).

The definition of supplier in the caput of article 3 of the CDC recognizes the supplier as the legal entity in a generic way and seeks to achieve any and all models, without exclusion. The individual is the one who develops any routine or eventual activity of selling products (NUNES, 2019, p. 86).

Still for Nunes (2019, p. 90) the term supplier is genus of species: manufacturer, producer, builder, importer and trader. This is explained by the fact that consumer law wants everyone to be obliged or held accountable when using the term supplier.

In order to clarify, in an objective and simple way, Almeida (2006, p. 41) teaches that the supplier is the one who produces, manufactures, markets, that is, sells products in the thousands and millions of points of sale spread throughout the territory. In this way as it is defined, the shopkeeper is a supplier and, therefore, responsible for the exchange of products that present vice or defect in accordance with art. 18 of the Consumer Protection Code.

Art. 18. Suppliers of durable or non-durable consumer products shall be jointly and severally liable for defects in quality or quantity which render them unsuitable or unsuitable for the consumption for which they are intended or which diminish their value, as well as for those resulting from the disparity, with the indications contained in the container, packaging, labelling or advertising message respecting the variations arising from their nature, the consumer may demand the replacement of the defective parts (BRAZIL, 1990).

Second, Nunes (2019, p. 73), the norm defines as consumer both those who effectively acquire (obtain) the product or service and those who, not having acquired it, use or consume it. The author

points out that the CDC regulates products and services placed on the consumer market so that anyone acquires them as a final recipient.

For Almeida (2006, p. 35), the concept of consumer, from the economic point of view, is every individual who becomes the recipient of the production of goods, whether he is an acquirer, and whether or not, in turn, also a producer of other goods. From this concept, the most comprehensive definition of consumer emerges, since it comprises one who acquires products for his own use, as well as one who is an intermediary to pass them on to other suppliers.

Further on, the CDC establishes that product is any good, movable or immovable, material or immaterial (CDC art. 3, 1st §).

For Nunes (2019, p. 90) the legislator defined the term product with great propriety, because by following the contemporary universal definition, which is intrinsically linked to the idea of the good, a result of production in the consumer market of contemporary capitalist societies, this concept considers the product as a good acquired by the consumer.

It also adds that service is any activity provided in the consumer market, through remuneration, including those of a banking, financial, credit and insurance nature, except those arising from labor relations (CDC, art. 3, 2nd §).

Nunes (2019, p. 95) corroborates this definition, presenting the concept of service in a very simple way as being any activity provided or, rather, provided in the consumer market, for example, credit banking, financial services, etc.

In fact, the Brazilian legislation sought to take care of the consumer by dictating rules to regulate the consumption of some product or service purchased, in the face of the vulnerability of the consumer, in the face of a large supply of products available in the market and the interests of suppliers.

The general principles of consumer law recognized by the Consumer Protection Code guide consumer legal relations, with the aim of helping to understand the legal system and application of its laws (MIRAGEM, 2013, p. 113).

Tartuce corroborates this understanding by adding:

The study of the principles enshrined in the Consumer Protection Code is one of the starting points for understanding the system adopted by the Consumer Law as a protective norm for vulnerable businesses. As is well known, Law 8,078/90 adopted an open system of protection, based on indeterminate legal concepts and vague constructions, which allow a better adaptation of the precepts to the circumstances of the concrete case (TARTUCE, 2013, p. 25).

These considerations show the importance of the principles that guide the application of Law No. 8,078/90, which established the Consumer Protection Code.

For his part, Nunes lectures on the relevance of the principles for the CDC:

The specific principled character in the CRC is only and only of concretization of the principles and constitutional guarantees in force since October 5, 1998 as stony clauses, and cannot, therefore, be changed. In effect, what the consumerist law does is to make explicit, for consumer relations, the constitutional commands. Among these are the Fundamental Principles of the Republic, which guide the entire constitutional regime and the fundamental rights and guarantees (...) The CDC did nothing more than concretize these constitutional principles and guarantees in an infraconstitutional norm. This is expressly provided for in Article 1 thereof. Respect for dignity, health, safety, the protection of economic interests, and the improvement of quality of life is also expressly provided for in Article 4, caput. (NUNES, 2019, p. 66-67).

In fact, the importance of the principles that govern the CRC is clearly stated, which originate from the fundamental basic principles of the Federal Constitution of 1988 that guide all fundamental human rights.

Thus, the CDC is an infraconstitutional rule with applicability of article 1 that establishes the constitutional principles: respect for dignity, health, safety, protection of economic interests, and improvement of quality of life expressly provided for in its article 4, caput, constituting the basic precepts of the Consumer Defense Code.

The principle of vulnerability is upheld in Article 4, I of the Consumer Protection Code. It is the basic principle that underlies the existence and application of consumer law, establishes among the informing principles of the National Policy of Consumer Relations (MIRAGEM, 2013, p. 113).

The situation of vulnerability of the consumer in the consumer market was what triggered the protection protection. The recognition that the consumer was unprotected in educational, informational, material and legislative terms determined greater attention to the problem and the appearance of protective legislation in several countries (ALMEIDA, 2006, p. 4).

This inequality led to the elaboration of constitutional norms of consumer protection, which were based, above all, on the justice of equality among all.

Thus, the principle of vulnerability is one that:

It establishes the absolute presumption of weakness or weakness of the consumer in the consumer market, in order to substantiate the existence of protection rules and guide their application in the consumer relationship. It may, however, vary as to how it presents itself in relation to each consumer, in view of their personal characteristics and their economic, social or intellectual conditions (MIRAGEM, 2013, p. 117).

It should be noted that the vulnerability may occur due to the economic factor of the consumer before the suppliers of goods and services, as well as the lack of knowledge of the product to be purchased by the consumer, as provided for in item III of article 6 of the CDC that draws attention to the characteristics, composition, quality and risks, as well as on the taxes levied on the price of the products that must be observed by consumers (MIRAGEM, 2013, p. 193).

It is important to emphasize that the principle of vulnerability is universally recognized, so Brazil could not disregard it, since it excels in the protection of consumers against the abuses of competition and market competitiveness, which result from the sophisticated operations of buying and selling products and services.

Vulnerability is the backbone of the movement, its central inspiration, the basis of its entire conception, because, if, contrary to the sense, it is admitted that the consumer is aware of his rights and duties, informed and educated for consumption, acting as an equal in relation to the supplier, then the protection would not be justified (ALMEIDA, 2006, p. 19).

Later, the said doctrinaire adds:

Consumers must be treated by the CDC and by legislation in general, in order to achieve real equality under the terms of article 5 of the Federal Constitution, all are equal before the law, understanding that the unequal should be treated unequally in the exact measure of their inequalities (ALMEIDA, 2006, p. 19).

It is observed that the legislator of the CDC consecrated the principle of equality (isonomy) as the guiding axis of the principle of vulnerability, in defense of the rights of equality of the consumer as provided for in the Constitution of the Republic of 1988.

In this sense, the vulnerability of the consumer (article 4, 1st paragraph of the CDC) is constituted in the scope of the special protection of the consumer, based on the Principle of Isonomy (article 5 of the CF/88), which justifies that the consumer is the weakest, most vulnerable part of the consumption relationship, where the producer holds control of the market (BRASIL, 1988).

The principle of harmonization of the interests of consumers and suppliers aims at consumer protection, always with a view to economic development and the quality of life of consumers.

The principle of harmony of consumer relations is provided for in article 4, III, of the CDC, when referring to the harmonization of the interests of the participants of the consumer relationship, in this case the consumer and the supplier (MIRAGEM, 2013, p. 133).

The CDC conceives the principle of harmony based on the equality of the parties, because to the extent that it protects the consumer it also aims to guarantee the protection of the supplier. Therefore, the interests of consumers and suppliers cannot be opposed. It is noteworthy, in this sense, that the CDC protects the interest of the consumer in good faith and not the one who hides behind its rules to obtain undue advantages (MIRAGEM, 2013, p. 133).

From this exception, it can be inferred that in this case the CDC indirectly protects the supplier from the traps of the consumer, who may misuse the rules to benefit himself.

For Cavalieri Filho, the vulnerability can be:

For lexicons, it is the quality or state of the vulnerable that, in turn, means what can be violated, hurt, harmed, offended; what is fragile, which can be attacked or injured. (Aurélio Eletrônico Dictionary - XXI Century, version 3.0, nov. 1990). In consumer relations, the subject who exhibits the aforementioned qualities is, unequivocally, the consumer, since not, holding the mechanisms of control of the productive process (production, distribution, marketing), and participating in it only in its last stage. (consumption), can be offended, injured, injured, in their physical, economic, psychological or moral integrity (CAVALIERI FILHO, 2018, p. 38).

Thus, it can be emphasized that the principle of vulnerability in consumer relations is essential in the field of all those who place themselves in the position of consumer, because vulnerability, as demonstrated, is the principle in which the Brazilian legal system recognizes the quality of the weakest agent in the consumption relationship, regardless of their social condition, cultural or economic.

The principle of good faith is provided for in article 4, III of the CDC, first chapter of the National Consumer Relations Policy, referring to the search for a harmonious balance between supplier and consumer, as it follows:

[...] This principle, inscribed in the caput of article 4, requires that the parties to the consumer relationship act with strict good faith, that is, with sincerity, seriousness, truthfulness, loyalty and transparency, without poorly disguised objectives of cleverness, easy profit and imposition of harm to the other. That is why consumer legislation contains several legal presumptions, absolute or relative, to ensure balance between the parties and contain the surreptitious and insidious forms of abuse and fraud engendered by economic power to circumvent the purpose of protecting the legislator. The Consumer Protection Code is full of these presumptions, such as the one that provides for the strict liability of the supplier for the fact of the product and service (CDC, art. 12) and that authorizes the reversal of the burden of proof in favor of the consumer in civil proceedings (art. 6, VIII). Chapter VI, relating to contractual protection, is, however, the most propitious field for provisions of this jaez (ALMEIDA, 2006, p. 46).

The legislator by inserting the principle of good faith in the CDC sought to bring the necessary ethical values to every relationship that values and exercises values such as those mentioned – sincerity, truthfulness, loyalty and transparency.

These values known as ethical are so important for the consumer relationship, as they restrain any subjective interest in favor of a respectful consumer relationship in which supplier and consumer are favored, as provided for in the CDC:

Objective good faith, which is what is present in the CRC, can be defined, roughly, as a rule of conduct, that is, the duty of the parties to act according to certain parameters of honesty and loyalty, in order to establish balance in consumer relations [...]. Objective good faith, then, functions as a model, a standard, which does not depend in any way on the verification of the subjective bad faith of the supplier or even of the consumer. Thus, when one speaks of objective good faith, one thinks of faithful, loyal behavior. In the performance of each of the contracting parties in order to ensure respect for the other (NUNES, 2019, p. 65).

It is thus inferred that the principle of objective good faith evidences the requirement of values, such as loyalty, sincerity and respect, indispensable for the relationship between consumers and suppliers, which implies due concern of the legislator to protect both parties, supplier and consumer

as long as they act with loyalty and respect, which discards the intention of one to take advantage of the other.

In this context, it inserts these values as an ethical requirement of the consumer and supplier, necessary both for the business relationship, between supplier / consumer, and to ensure the rights of consumers.

According to Cavalieri Filho:

With the advent of the Consumer Protection Code, the term good faith began to be used with a new and modern meaning, to indicate ethical values that are the basis of organized society and perform the function of systematization of the legal order. It is called objective good faith that, detached from the intimate intentions of the subject, indicates the behavior objectively appropriate to the standards of ethics, loyalty, honesty and collaboration required in consumer relations (CAVALIERI FILHO, 2018, p. 31).

To seek to apply well the concept of objective good faith, Cavaliere teaches that this principle is nothing more than the representation of ethical values, loyalty, honesty and collaboration, which permeate every organized society and are indispensable in the consumer relationship.

For Tartuce, the principle of objective good faith translates:

Vital regulation of the Consumer Protection Code, representing its heart, is the principle of objective good faith, contained in the long wording of its article 4 item III, enunciates such command that constitutes one of the principles of the National Policy, Consumer Relations, harmonization of the interests of the participants of consumer relations and compatibility of consumer protection with the need for economic and technological development. In order to enable the principles on which the economic order is founded the relations between consumers and suppliers (TARTUCE, 2013, p. 35-36).

As can be seen from the excerpts, the principle of good faith was introduced in the CDC with the aim of bringing harmony between the supplier/consumer parties to the consumer relationship. This harmony is responsible for balancing the interests of the participants in consumer relations.

In the legal system, the principles and substantive rights aim to correspond to the procedural guarantees that are indispensable to the effectiveness at the procedural level. Thus, it is observed that without such procedural guarantees the substantive law would become simple programmatic norms having no connection with the reality of the citizen, not enough to guarantee the protection of the consumer at the material level, but, moreover, it is necessary to guarantee it at the procedural level.

The current Code of Civil Procedure, provides in art. 333, the right to the adversarial and the ample defense. Therefore, the process is considered as an equality for both parties to the dispute. Being for both an equality of power and rights. Thus, free legal aid is guaranteed to all those who cannot afford the costs of the proceedings.

However, the main equal treatment of the parties is through the adversarial and the ample defense, and therefore the need to hear the person before whom the decision will be delivered

guarantees him the right of defense and to pronounce during the course of the proceedings, and there can be no privilege for any of the parties.

On the principle of the contradictory, Theodoro Júnior teaches:

Although the procedural principles may admit exceptions, that of the adversarial is absolute, and must always be observed, under penalty of nullity of the process. Both the parties and the judge himself submit to it, who will have to respect it even in those cases in which he proceeds to examine and deliberation of his own motion on certain issues involving matters of public policy. It is understood, in the modern conception of the process ensured by the Democratic State of Law, that the adversarial is more than the bilateral hearing of the parties, it is the guarantee of the participation and effective influence of the parties on the formation of the judicial provision. Hence the judge cannot fail to hear them, cannot fail to take into account issues that raise nor can he decide without responding in the mandatory reasoning of the judge, to the allegations properly accused (CF, art. 93, IX) (THEODORO JÚNIOR, 2011, p. 36).

In this sense, the principles will result in several consequences for the process, such as the duty to inform the disputing parties of the duties and obligations that they attach, as well as the consequence that may arise from this process, and also the respect for the deadlines and stage of the procedure. It is in this area that the rights of consumers provided for in the Consumer Protection Code are installed.

Consumer lawsuits refer to lawsuits that involve conflicts between consumers and suppliers of products or services. According to data from the National Council of Justice (CNJ), the number of lawsuits related to consumer rights grew 7.2% between 2019 and 2020, totaling about 1.4 million new actions last year.

According to the author José Geraldo Brito Filomeno (2021), the increase in consumer lawsuits can be explained by the greater awareness of consumers about their rights, in addition to the greater supervision of consumer protection agencies.

However, it is also important to note that many companies still disrespect consumer rights, which contributes to the increase in the number of lawsuits. According to the Procon-SP Foundation (2020), the main consumer complaints in 2020 were related to problems with products or services, such as delays in delivery, defects and failures in the provision of the service.

In addition, the COVID-19 pandemic has also contributed to the increase in consumer lawsuits, due to cancellations of trips, events, and hotel reservations, among other situations. According to the lawyer Alexandre Atheniense, in an interview with the newspaper *Estadão*, "there has been a very large increase in actions in which the consumer seeks reimbursement of amounts paid and not received, due to cancellations of services or products."

Therefore, it is necessary for companies to respect the rights of consumers and offer quality products and services in order to reduce the number of lawsuits and ensure customer satisfaction.

#### **4 FINAL CONSIDERATIONS**

Consumerism and consumerist lawsuits are intrinsically linked phenomena in contemporary society. The increase in the purchasing power of consumers and the expansion of the market have driven the culture of consumption, making it a central element in social and economic relations. However, this culture of consumption also brings with it important issues related to consumer rights and the lawsuits that arise from conflicts between consumers and the suppliers of products and services.

From the literature review carried out, we can see that authors such as Jean Baudrillard and Zygmunt Bauman highlight the importance of consumption as a social and cultural phenomenon that permeates several spheres of life. According to them, consumption is a form of expression and social differentiation, as well as being one of the main drivers of the contemporary economy. On the other hand, authors such as Maria Celina Bodin de Moraes and Cláudia Lima Marques address the importance of consumer rights as a way to protect the interests of consumers and ensure the quality of the products and services offered.

Consumer culture, however, brings with it some challenges, especially in relation to consumer rights. Once consumers are exposed to a variety of products and services, often without clear and accurate information about them, conflicts can occur between consumers and suppliers. In this sense, consumer law becomes an essential tool to ensure the protection of consumers' interests and the quality of the products and services offered.

The literature review also highlights the importance of the legal system in the treatment of lawsuits related to consumption. Court decisions can have a significant impact on consumer relationships, affecting how suppliers offer their products and services and how consumers interact with them. Thus, the legal system must be sensitive to the demands and needs of consumers, seeking to ensure justice and equity in consumer relations.

However, despite the importance of consumer law and the legal system in handling lawsuits, much remains to be done to ensure the protection of consumers' interests. The literature review carried out evidences that there are still many suppliers who do not comply with their legal obligations towards consumers, as well as many consumers who are unaware of their rights. In this sense, it is essential that society as a whole mobilizes to ensure the protection of consumers' interests and the quality of the products and services offered.

Finally, it is important to highlight that the study of consumerism and consumerist lawsuits is a relevant and current theme in contemporary society. From the literature review carried out, we can perceive the complexity and importance of these themes, as well as the need to seek effective solutions to ensure the protection of consumers' interests and justice in consumer relations.

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