THE FORMATION OF CONSUMER SOCIETY IN THE POSTWAR PERIOD AND THE CONSOLIDATION OF LEGAL CONSUMER PROTECTION

A FORMAÇÃO DA SOCIEDADE DE CONSUMO NO PÓS-GUERRA E A CONSOLIDAÇÃO DA PROTEÇÃO JURÍDICA DO CONSUMIDOR

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Abstract : This article analyzes the relationship between the consolidation of consumer society in the post-World War II period and the development of legal consumer protection. It starts from the premise that the world conflict did not, in isolation, constitute the origin of consumer society, but represented an important factor in accelerating the industrial, technological, and economic transformations that, in the post-war period, favored the expansion of mass production and the consumer market. The expansion of the supply of goods and services, associated with advertising, credit, and the massification of contractual relations, contributed to the deepening of the existing asymmetry between suppliers and consumers. In this context, the article examines how consumer vulnerability came to justify state intervention in private relations, culminating in the consolidation of a specific legal system of protection. Through bibliographic and documentary research, the historical foundations of consumer society and its influence on the construction of Consumer Law are analyzed, with special attention to the Brazilian legal system, the 1988 Federal Constitution, and the Consumer Protection Code. It can be concluded that legal consumer protection should be understood as a response to the structural transformations brought about by consumer society, seeking to restore balance in market relations without compromising free enterprise and economic activity.

Keywords: Consumer society. Post-war. Consumer vulnerability. Consumer law. Consumer Protection Code.

Resumo: O presente artigo analisa a relação entre a consolidação da sociedade de consumo no período posterior à Segunda Guerra Mundial e o desenvolvimento da proteção jurídica do consumidor. Parte-se da premissa de que o conflito mundial não constituiu, isoladamente, a origem da sociedade de consumo, mas representou importante fator de aceleração das transformações industriais, tecnológicas e econômicas que favoreceram, no pós-guerra, a expansão da produção em massa e do mercado consumidor. A ampliação da oferta de bens e serviços, associada à publicidade, ao crédito e à massificação das relações contratuais, contribuiu para o aprofundamento da assimetria existente entre fornecedores e consumidores. Nesse contexto, o artigo examina como a vulnerabilidade do consumidor passou a justificar a intervenção do Estado nas relações privadas, culminando na consolidação de um sistema jurídico específico de proteção. Por meio de pesquisa bibliográfica e documental, são analisados os fundamentos históricos da sociedade de consumo e sua influência sobre a construção do Direito do Consumidor, com especial atenção ao ordenamento jurídico brasileiro, à Constituição Federal de 1988 e ao Código de Defesa do Consumidor. Conclui-se que a proteção jurídica do consumidor deve ser compreendida como resposta às transformações estruturais promovidas pela sociedade de consumo, buscando restabelecer o equilíbrio nas relações de mercado sem comprometer a livre iniciativa e a atividade econômica.

Palavras-chave: Sociedade de consumo. Pós-guerra. Vulnerabilidade do consumidor. Direito do Consumidor. Código de Defesa do Consumidor.

1 INTRODUCTION

Contemporary society is profoundly marked by consumption. The acquisition of goods and services has ceased to represent merely a way of satisfying material needs and has come to occupy a central position in economic and social organization. The development of markets, the expansion of product supply, and the sophistication of marketing strategies have transformed the relationships between consumers and suppliers, making them increasingly complex and asymmetrical.

Although the origins of consumer society can be identified in earlier historical processes, especially in industrialization and the expansion of mass production, the period following the Second World War represented an important moment in the consolidation of this model. The productive and technological capacity developed during the conflict was progressively directed towards the civilian market, favoring the expansion of goods production, the expansion of credit, and the strengthening of advertising as an instrument to stimulate consumption.

The massification of market relations, however, has not only produced economic benefits. The growth in the supply of products and services and the increasing specialization of suppliers have deepened the existing inequality between the parties in the consumer relationship. The consumer has come to occupy a disadvantaged position in the face of the economic, technical, and informational power of suppliers, a circumstance that has highlighted the inadequacy of traditional Civil Law instruments to ensure the balance of these relationships.

In this context, legal consumer protection came to be understood as a mechanism for correcting structural inequalities present in the market. Consumer vulnerability became a central foundation for state intervention, guiding the construction of norms aimed at protecting their interests and promoting more balanced consumer relations.

In Brazil, this movement gained particular relevance with the 1988 Federal Constitution, which elevated consumer protection to the status of a fundamental right and a principle of the economic order, and with the enactment of Law No. 8,078/1990, the Consumer Protection Code, responsible for systematizing a legal microsystem aimed at protecting consumer relations.

Given this panorama of profound asymmetry and complexity in commercial relations from the second half of the 20th century onwards, the following research problem emerges: how did the consolidation of consumer society in the period following the Second World War contribute to the deepening of consumer vulnerability and to the development of specific legal protections aimed at balancing market relations?

As a provisional answer to this question, it is hypothesized that the transition to mass production and the consequent massification of consumption in the post-war period substantially widened the technical, economic, and informational inequalities between suppliers and consumers, rendering the classic instruments of Civil Law insufficient. As a consequence, consumer vulnerability has become a guiding legal precept for state intervention, demanding the creation of a specific legal microsystem of protection capable of restoring contractual balance.

To address this problem and test the hypothesis put forward, this article establishes as its general objective to analyze how the consolidation of consumer society in the period following the Second World War contributed to the deepening of consumer vulnerability and to the development of specific legal protection aimed at balancing market relations.

In order to operationalize the investigation and achieve the overall goal outlined, the following specific objectives are defined: a) to present, in a concise manner, the economic, technological and industrial transformations that occurred in the post-war period; b) to examine the consolidation of the consumer society and the consequent increase in the vulnerability (technical, economic and informational) of the consumer in the contemporary market; c) to analyze the constitutional and legal foundations of consumer protection in the Brazilian legal system, focusing on the Federal Constitution of 1988 and Law No. 8,078/1990.

From a procedural standpoint, the methodology employed to conduct the study is based on a qualitative approach of a theoretical-explanatory nature, guided by the hypothetical-deductive method. The research is strictly bibliographic and documentary, structured from the survey and examination of specialized national and foreign legal doctrine, historical data on the evolution of the market, and applicable national legislation.

Finally, for organizational purposes and to improve reader comprehension, the text is structured into three main sections in addition to this introduction and the concluding remarks. Initially, the post-war economic and industrial transformations will be addressed. Next, the consolidation of the consumer society will be examined from the perspective of consumer vulnerability. Finally, the constitutional and legal foundations that structure consumer protection in contemporary Brazil will be analyzed.

2. The Consolidation of Consumer Society in the Post-War Period

The period following World War II was marked by profound technological, industrial, and demographic transformations that reconfigured the foundations of global socioeconomic organization. The transition to a new urban and industrial reality culminated in the structuring of what has become known as the consumer society. This emerging economic model demanded not only a reorganization of the forces of production and circulation of wealth, but also a profound revision of traditional legal institutions, which proved insufficient to mediate the new and asymmetrical relationships established between market agents and individuals.

2.1 The expansion of production and the consumer market

The genesis of modern consumer society is intrinsically linked to a dual movement: the technological and industrial advancements of the post-war period, which enabled large-scale production, and an unprecedented demographic restructuring driven by accelerated urbanization.

In mid-1945, most of the world's population still lived in rural areas, characterized by a subsistence model in which families produced much of what they consumed, such as food, clothing, and utensils, maintaining a limited dependence on the market. However, the intense industrial development seen in the post-war period drastically accelerated the rural exodus, attracting large populations to expanding urban centers.

This demographic transition has profoundly altered the individual's relationship with consumption. In the urban environment, citizens lose the ability to self-provide for their most basic needs: they do not grow their own food, make their own clothes, or generate their own energy or water. Consequently, survival in the city becomes entirely dependent on the market for the acquisition of essential items such as food, housing, basic sanitation, electricity, medicine, and transportation. From this new perspective, the act of consuming ceases to be a voluntary choice and becomes a structural, inevitable, and continuous necessity for the very existence of the urban dweller.

This unavoidable dependence on the market places the consumer in a position of extreme vulnerability vis-à-vis those who own the means of production and distribution, since the individual does not have the prerogative to simply abstain from consumption if they disagree with the imposed conditions. This structural fragility was aptly summarized by the industrialist Henry Ford when he stated that the consumer represents the weakest link in the economy, warning that no chain can be stronger than its weakest link. From Ford's perspective, the sustainability of the entire economic chain depends directly on the consumer's ability to remain active; if the consumer collapses financially, the entire productive system collapses along with it.

2.2 The massification of consumption

If urbanization and industrial expansion created the need for consumption, its massification and elevation to unprecedented levels were driven by the conjunction of three determining factors: mass production, easier access to credit, and the professionalization of advertising.

Advertising, which already existed previously, underwent a conceptual and methodological revolution in the post-war period. It ceased to be a merely informative activity about the existence of products and became a highly organized professional discipline, based on studies of consumer behavior and psychological strategies developed by specialists. The central objective of this modern advertising transcended mere information: it began to focus on the active creation of desires and needs, and on the subjective association of the product with happiness, social acceptance, and personal advancement.

This new advertising mechanism, consolidated from the 1950s onwards, generated direct tension on the foundations of classical contract law, based on the principle of *pacta sunt servanda* (agreements must be kept). The traditional legal system was based on the theoretical assumption that contracting parties were free, rational subjects endowed with material and informational equality, making any agreement legitimate as it stemmed from the autonomy of their wills. However, for the autonomy of the will to be effective and the choice to be genuinely free, access to complete and reliable information about the object of the contract is indispensable.

Modern advertising has disrupted this balance by acting in a predominantly persuasive and one-sided manner. By its very nature, the advertising message highlights only the qualities and benefits of the product, omitting its limitations, associated risks, potential defects, or hidden costs. Although it does not necessarily operate through deliberate falsehood, advertising narrates only a convenient portion of reality, using highly refined techniques to influence consumer consent.

The association of this persuasive communication with easy access to credit generated severe social and legal repercussions that the law could not ignore. Among the main consequences of this massification dynamic, the following points stand out:

- **Over-indebtedness:** the ease of installment purchases combined with the appeal of consumption has led individuals to accumulate financial obligations incompatible with their ability to pay, generating serious social exclusion;
- **Socio-environmental impact:** the encouragement of rampant consumption of disposable products has generated an alarming increase in waste disposal and the exploitation of natural resources;
- **Disagreements about consumer expectations:** advertising often created expectations of quality and utility that the actual products, of inferior quality, failed to meet.

Given this scenario, the obsolescence of the classic legal model of formal equality became evident. Consumers, when confronted with large corporations possessing economic, technical, and informational superiority, find themselves at a clear disadvantage. Recognizing that consumer relations are intrinsically unequal, global legal systems have begun to structure specific micro-systems of protection, designed to safeguard consumer vulnerability, curb abusive practices, and restore contractual balance.

3. The Consumer Society and Consumer Vulnerability

Contemporary consumer society has reconfigured existential and legal relationships by inserting the individual into a complex web of artificially manufactured desires. From a sociological perspective, the transition to a consumer society has made consumption the central activity of modern life (Bauman, 2008 apud Lima, 2011).

As the doctrine warns, this dynamic generates a structural weakening of the individual who, although sustaining the economic machinery through their purchasing power, has no control whatsoever over the production chain (Donato, 1993 apud Lima, 2011). This scenario is severely aggravated by the accelerated urbanization after 1945, which consolidated an absolute dependence of populations on the market for the supply of basic and vital needs, such as water, energy, housing, and food. In cities, consuming ceased to be a voluntary act of choice and became an unavoidable biological and social imposition for urban survival.

Given this factual inequality, the 1988 Federal Constitution established consumer protection as a fundamental right (Article 5, XXXII) and a principle of the economic order (Article 170) (Lima, 2011). The Consumer Protection Code (CDC) embodies this guideline by adopting the recognition of consumer vulnerability as a pillar of support and legitimacy for the entire microsystem (Article 4, I) (Lima, 2011; Rosa; Bizelli; Félix, 2017). National doctrine asserts that vulnerability constitutes the premise of substantive law that justifies differentiated protective treatment, recognizing the intrinsic weakness of the individual in the face of the technical and economic power of businesses (Bitencourt, 2004 apud Silva et al., 2021).

While risk denotes statistical factors of potential exposure to market harm, vulnerability is a material, intrinsic, and perennial condition of the consumer, operating continuously in the weaker position of the legal relationship (Rosa; Bizelli; Félix, 2017). Similarly, a precise distinction must be made between “vulnerability” and “lack of resources” (Lima, 2011; Rosa;

Bizelli; Félix, 2017). Vulnerability is a concept of substantive law, universal and of absolute presumption (iure et de iure) applicable to all consumers simply by virtue of being in this condition (Marques, 2011 apud Lima, 2011; Rosa; Bizelli; Félix, 2017).

In contrast, the concept of "hypo-sufficiency" is a strictly procedural and relative (iuris tantum) concept, linked to the concrete difficulty or impossibility of producing evidence in court in the face of the supplier's technical apparatus, authorizing the magistrate to determine the facilitation of their defense by reversing the burden of proof (art. 6, VIII, of the CDC) (Lima, 2011; Rosa; Bizelli; Félix, 2017).

This material fragility reaches its peak in the category of "existential contracts" proposed by Antônio Junqueira de Azevedo, characterized by having as their object goods of life indispensable to dignified subsistence, in opposition to classic profit contracts (Azevedo, 2005 apud Rosa; Bizelli; Félix, 2017). According to Teresa Negreiros' paradigm of essentiality, the more vital and existential the contracted good (such as health, housing, sanitation, and energy), the greater the protective intervention of the State should be to limit the abuse of private autonomy and unilateral clauses (Negreiros, 2002 apud Rosa; Bizelli; Félix, 2017). Therefore, the constitutional principle of maximum effectiveness requires the judge to interpret vulnerability and lack of resources in an amplified way in strictly existential contracts, safeguarding the psychophysical integrity of the consumer in the face of the supplier's relentless pursuit of profitability (Rosa; Bizelli; Félix, 2017).

3.1 Asymmetry in consumer relations

The contemporary dialogue between Law and Economic Analysis of Law (EAL) reveals that the model of perfect competition in classical economics constitutes a factual idealism far removed from market reality (Carvalho; Godoy; Alonso, 2024). Real markets are characterized by severe structural flaws, with informational asymmetry standing out as one of the main causes of contractual imbalance (Carvalho; Godoy; Alonso, 2024). This is the scenario in which the supplier retains absolute technical and informational control over the conception, production, risks, and distribution of products and services, leaving the consumer with limited rationality in making consumption decisions (Carvalho; Godoy; Alonso, 2024).

From an economic perspective, this pre- and post-contractual asymmetry unfolds into two serious contractual dysfunctions: adverse selection and moral hazard (Carvalho; Godoy; Alonso, 2024). Adverse selection, according to the classic theory of George Akerlof ("The Market for Lemons"), consists of a pre-contractual asymmetry in which one party conceals crucial information about the real quality of the object, inducing the other to make inefficient and disadvantageous choices (Akerlof, 1970 apud Carvalho; Godoy; Alonso, 2024). In turn, moral hazard constitutes a post-contractual failure, in which an agent opportunistically alters their behavior after the agreement because they are protected by contractual safeguards (Carvalho; Godoy; Alonso, 2024). Although suppliers accuse purchasers of opportunistic behavior, corporations massively use their technical and economic power to track consumer data and behavior, deepening the original informational gap (Carvalho; Godoy; Alonso, 2024).

This informational disparity is substantially aggravated in modern times by persuasive advertising and the advent of neuromarketing (Carvalho; Godoy; Alonso, 2024). By using neuroscience to monitor physiological reactions and subconscious impulses of potential customers, the supplier can map emotional triggers with mathematical precision (Carvalho; Godoy; Alonso, 2024). Based on the behavioral theory of consumption, it is recognized that purchasing decisions often stem from unconscious desires aimed at satisfying psychosocial frustrations, escaping the purely rational control of the buyer (Mendonça; Kozicki; Coelho apud Carvalho; Godoy; Alonso, 2024).

Added to this are tactics such as sensory branding, which stimulate aromas, sounds, and colors to generate an organic and immediate imposition of consumption (Carvalho; Godoy; Alonso, 2024). By uncovering and manipulating the consumer's subconscious, corporations exercise a true "cognitive monopoly" (Carvalho; Godoy; Alonso, 2024). Without effective psychological or biological defenses against manipulation techniques of such magnitude, the consumer is relegated to a position of existential passivity, demonstrating that contemporary informational asymmetry undermines the very foundations of their free expression of will (Carvalho; Godoy; Alonso, 2024).

3.2 Vulnerability as a structural characteristic of the consumer

Far from being a temporary or correctable market dysfunction, vulnerability is a structural, permanent, and inherent characteristic of the very architecture of the contemporary economic system (Lima, 2011; Rosa; Bizelli; Félix, 2017). For the purposes of targeted legal protection, the classic doctrine of Cláudia Lima Marques divides vulnerability into four fundamental aspects, widely endorsed by the Superior Court of Justice (STJ) (Lima, 2011; Rosa; Bizelli; Félix, 2017):

- **Technical Vulnerability:** arises from the lack of specific knowledge of the lay consumer about the physical, chemical, engineering or safety properties of the product or service purchased, subjecting them to the productive and scientific monopoly of the supplier (Marques, 2010 apud Rosa; Bizelli; Félix, 2017).
- **Legal (or Scientific) Vulnerability:** characterized by the absence of legal, accounting, or economic knowledge to assess the real scope of clauses unilaterally stipulated in adhesion contracts and general terms and conditions of contracting (GTCs) (Lima, 2011; Rosa; Bizelli; Félix, 2017).
- **Factual (or Socioeconomic) Vulnerability:** This refers to the disparity in financial power, productive resources, and market size that exists between individuals and large corporations, becoming particularly pronounced when it involves the provision of essential and monopolized urban survival services (Lima, 2011; Rosa; Bizelli; Félix, 2017).
- **Informational Vulnerability:** manifests itself in the deficit or chaotic, fragmented, and manipulated bombardment of information that characterizes the digital age. The

excess of advertising on social networks hinders critical discernment, preventing the consumer from obtaining clear and transparent data about the real uses of the product (Lima, 2011; Rosa; Bizelli; Félix, 2017).

Modern doctrine has expanded this list and identified new categories of vulnerability (Rosa; Bizelli; Félix, 2017). Financial vulnerability stands out, characterized by the irresponsible facilitation of credit, illusory interest rates, and complex payroll loans that push the masses into subsistence-level over-indebtedness, compromising their minimum subsistence level (Martins; Pacheco, 2015 apud Rosa; Bizelli; Félix, 2017).

Political or legislative vulnerability is also identified, stemming from massive corporate lobbying in legislative spheres to approve regulations favorable to suppliers, in opposition to the political disarticulation of consumers (Moraes, 2009 apud Rosa; Bizelli; Félix, 2017). Finally, biological (or psychological) vulnerabilities are noted, translated into volitional passivity in the face of subliminal marketing techniques (Pinheiro, 2010 apud Rosa; Bizelli; Félix, 2017), and environmental vulnerabilities, referring to the systematic concealment of the ecological and climatic impacts of the mass chain (Moraes, 2009 apud Rosa; Bizelli; Félix, 2017).

The conceptual maturation of Consumer Law has also consolidated the concept of hypervulnerability (Alves; Ortolan, 2020; Carvalho; Godoy; Alonso, 2024; Rosa; Bizelli; Félix, 2017). This refers to the severe and qualified aggravation of the general vulnerability of the Consumer Protection Code (CDC) due to age, social, cognitive, biological, or health characteristics (as occurs with children, the elderly, illiterate individuals, the sick, and marginalized minorities) (Marques; Miragem, 2014 apud Rosa; Bizelli; Félix, 2017).

These individuals, who have less capacity to understand or resist commercial appeals, become preferred targets of exploitative market practices (Rosa; Bizelli; Félix, 2017). The recognition of this situation demands intensified protective action from the Judiciary and regulatory policies, otherwise material equality and human dignity will be completely undermined (Rosa; Bizelli; Félix, 2017).

4. The Legal Protection of the Consumer as a Response to the Consumer Society

The consolidation of consumer society in the period following World War II brought about profound transformations in economic and social relations. The expansion of mass production, technological development, increased access to credit, and the growth of advertising contributed to the formation of a market characterized by the growing supply and large-scale consumption of goods and services. In this scenario, the relationships between suppliers and consumers became more complex and, consequently, highlighted the need for legal mechanisms capable of protecting the most vulnerable party in the relationship.

The massification of consumer relations has even modified the contractual structure itself. The use of adhesion contracts, for example, has allowed suppliers to pre-establish the terms of the deal, significantly reducing the possibility of individual negotiation of its clauses.

In this sense, consumer vulnerability has become a central element justifying state intervention in market relations. Consumers, as a rule, do not possess the same level of information, technical knowledge, or economic power as suppliers, a circumstance that can compromise their ability to make fully informed decisions.

Legal protection, therefore, arises not as an arbitrary limitation on economic activity, but as an instrument for balancing market relations. The objective is to reduce existing inequalities between consumers and suppliers, guaranteeing fairer conditions for contracting and for exercising the rights arising from the consumer relationship.

Thus, the evolution of consumer society has directly contributed to the need for a specific legal response. The more complex and widespread market relations have become, the greater the need to protect those who occupy a structurally more vulnerable position.

Consumer Law, in this context, represents an adaptation of the legal system to the economic and social transformations produced by consumer society, seeking to reconcile market dynamics with the protection of the dignity, freedom of choice, and interests of the consumer.

4.1 The need for state intervention in consumer relations

The expansion of consumer society and the massification of contractual relations have highlighted a structural inequality between consumers and suppliers. Large-scale production, adhesion contracts, advertising, and the development of credit have expanded the market, but have also reduced the possibility of individual negotiation and increased consumer dependence on information provided by the supplier. Faced with this asymmetry, state intervention has become necessary to ensure balance in market relations.

State intervention, in this sense, does not represent opposition to economic activity, but rather a mechanism for correcting existing inequalities in the market. The State establishes rights, duties, and limits on the actions of suppliers, seeking to guarantee security, transparency, and balance in consumer relations.

4.2 Consumer protection in the Federal Constitution

In Brazil, consumer protection acquired explicit constitutional protection with the Federal Constitution of 1988. Article 5, XXXII, states that “the State shall promote, in accordance with the law, the protection of the consumer,” conferring on the subject the nature of a fundamental right.

Consumer protection was also included among the principles of the economic order, in Article 170, V, of the Constitution, alongside free enterprise and the valorization of human labor. The Constitution, therefore, establishes a balance between economic freedom and consumer protection, recognizing that the functioning of the market must observe limits aimed at preserving rights.

4.3 The Consumer Protection Code and the recognition of vulnerability

The Consumer Protection Code, established by Law No. 8,078/1990, implemented the constitutional mandate and created a specific system for protecting consumer relations. Its central foundation lies in the recognition that the consumer occupies a vulnerable position in the market.

Article 4, I, of the Brazilian Consumer Protection Code (CDC) expressly establishes the “recognition of the consumer’s vulnerability in the consumer market” as a principle of the National Consumer Relations Policy. This vulnerability stems, among other factors, from inequality of information, technical knowledge, economic power, and the very structure of contractual relationships.

In light of this, the CDC guarantees rights such as adequate and clear information, protection against abusive practices, and compensation for damages, especially as outlined in its Article 6.

Thus, the recognition of vulnerability forms the basis of Brazilian consumer protection. The Consumer Protection Code (CDC) does not seek to eliminate economic activity, but to establish conditions for the market to function in a more balanced way, reconciling the interests of suppliers with the protection of the structurally weaker party in the consumer relationship.

5 CONCLUSION

The analysis revealed that the consolidation of consumer society in the post-World War II period was directly related to industrial, technological, and economic transformations that expanded mass production, credit, and advertising. While this process contributed to economic development and increased access to goods and services, it also intensified inequality between consumers and suppliers, especially given the differences in economic, technical, and informational power.

In this context, consumer vulnerability revealed the inadequacy of traditional legal instruments to ensure the balance of market relations, making state intervention necessary. In the Brazilian legal system, this protection was constitutionally recognized by the 1988 Federal Constitution and implemented by the Consumer Protection Code, which established a specific system of protection based on consumer vulnerability.

It can be concluded, therefore, that Consumer Law constitutes a legal response to the transformations produced by consumer society, seeking to correct its structural inequalities and ensure greater balance in market relations. Consumer protection, therefore, does not represent an impediment to free enterprise, but a necessary instrument to reconcile economic activity with dignity, information, freedom of choice, and the effective protection of consumers.

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