



SELF-COMPOSITION IN THE CIVIL PROCEDURAL AREA AS A PLAUSIBLE TOOL FOR ENHANCED ACCESS TO JUSTICE

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ABSTRACT

Objective: The objective of this study is to analyze consensual mechanisms for conflict resolution, especially mediation and conciliation, as strategies for democratizing access to justice in Brazil. Furthermore, the impact of these practices on decongesting the judicial system and expanding inclusion and equity in access to justice is analyzed.

Theoretical Framework: These methods, based on the principles of self-composition, have proven to be effective alternatives to traditional litigation, which is notably marked by slowness and overload of the Judiciary. It is observed that the effectiveness of these methods is directly linked to the existence of public policies that institutionalize their application, as well as to overcoming structural challenges that restrict their dissemination throughout the country.

Method: The methodology adopted for this research comprises a qualitative, exploratory approach, and based on bibliographic and documentary research, examining the legal provisions that regulate consensual methods in the Brazilian legal system.

Results and Discussion: The results obtained show that mediation and conciliation play a decisive role in promoting faster, more economical and more appropriate solutions to the specificities of conflicts, enabling social pacification. Consensual mechanisms represent a significant advance in the transformation of the Brazilian justice system, making it more inclusive and efficient.

Research Implications: The practical and theoretical implications of this research are discussed, providing insights on how the results can be applied or influence practices in the field of self-composition. These implications may include: self-composition promotes a break with the predominant culture of litigation, by fostering the autonomy of the parties and the construction of dialogued solutions, aligned with the concrete needs of those involved.

Originality/Value: This study contributes to the literature due to the originality of the research. The relevance and value of this research make it necessary to intensify efforts for its consolidation, through actions that guarantee the technical training of mediators and conciliators and that expand access to these methods.

Keywords: Access to Justice, Self-composition, Code of Civil Procedure, Conciliation, Mediation.

A AUTOCOMPOSIÇÃO NA SEARA PROCESSUAL CIVIL COMO FERRAMENTA PLAUSÍVEL PARA O DESEMBARAÇO AO ACESSO À JUSTIÇA

RESUMO

Objetivo: O objetivo deste estudo é analisar os mecanismos consensuais de resolução de conflitos, em especial a mediação e a conciliação, como estratégias de democratização do acesso à justiça no Brasil. Ademais, analisa-se o impacto dessas práticas no descongestionamento do sistema judiciário e na ampliação da inclusão e equidade no acesso à justiça.

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Referencial Teórico: Tais métodos, alicerçados nos princípios da autocomposição, revelam-se alternativas eficazes à litigância tradicional, notadamente marcada pela morosidade e pela sobrecarga do Poder Judiciário. Observa-se que a efetividade desses métodos está diretamente vinculada à existência de políticas públicas que institucionalizem sua aplicação, bem como à superação de desafios estruturais que restringem sua disseminação no território nacional

Método: A metodologia adotada para esta pesquisa compreende em uma abordagem qualitativa, de caráter exploratório, e fundamentada em pesquisa bibliográfica e documental, examinam-se os dispositivos legais que regulamentam os métodos consensuais no ordenamento jurídico brasileiro.

Resultados e Discussão: Os resultados obtidos evidenciam que a mediação e a conciliação cumprem papel decisivo na promoção de soluções mais céleres, econômicas e adequadas às especificidades dos conflitos, possibilitando a pacificação social. Os mecanismos consensuais representam um avanço significativo para a transformação do sistema de justiça brasileiro, tornando-o mais inclusivo e eficiente.

Implicações da Pesquisa: As implicações práticas e teóricas desta pesquisa são discutidas, fornecendo insights sobre como os resultados podem ser aplicados ou influenciar práticas no campo da autocomposição. Essas implicações podem abranger a autocomposição promove uma ruptura com a cultura de litigância predominante, ao fomentar a autonomia das partes e a construção de soluções dialogadas, alinhadas às necessidades concretas dos envolvidos.

Originalidade/Valor: Este estudo contribui para a literatura ao pela originalidade da pesquisa. A relevância e o valor desta pesquisa faz-se necessário para intensificar esforços para sua consolidação, por meio de ações que garantam a capacitação técnica de mediadores e conciliadores e que ampliem o acesso a esses métodos.

Palavras-chave: Acesso à Justiça, Autocomposição, Código de Processo Civil, Conciliação, Mediação.

LA AUTOCOMPOSICIÓN EN EL PROCESO CIVIL COMO HERRAMIENTA PLAUSIBLE PARA LA LIBERACIÓN DEL ACCESO A LA JUSTICIA

RESUMEN

Objetivo: El objetivo de este estudio es analizar los mecanismos consensuales de resolución de conflictos, en particular la mediación y la conciliación, como estrategias para democratizar el acceso a la justicia en Brasil. Además, se analiza el impacto de estas prácticas en la descongestión del sistema judicial y la ampliación de la inclusión y la equidad en el acceso a la justicia.

Marco teórico: Estos métodos, basados en los principios de la autocomposición, resultan ser alternativas eficaces a los litigios tradicionales, marcados notablemente por la lentitud y la sobrecarga del Poder Judicial. Se observa que la efectividad de estos métodos está directamente vinculada a la existencia de políticas públicas que institucionalicen su aplicación, así como a la superación de desafíos estructurales que restringen su difusión en todo el territorio nacional.

Método: La metodología adoptada para esta investigación comprende un enfoque cualitativo, de carácter exploratorio, basado en investigación bibliográfica y documental, examinando las disposiciones legales que regulan los métodos consensuales en el ordenamiento jurídico brasileño.

Resultados y Discusión: Los resultados obtenidos muestran que la mediación y la conciliación juegan un papel decisivo para promover soluciones más rápidas, económicas y adecuadas a las especificidades de los conflictos, permitiendo la pacificación social. Los mecanismos consensuales representan un avance significativo en la transformación del sistema de justicia brasileño, haciéndolo más inclusivo y eficiente.

Implicaciones de la investigación: Se discuten las implicaciones prácticas y teóricas de esta investigación, proporcionando información sobre cómo los resultados pueden aplicarse o influir en las prácticas en el campo de la autocomposición. Estas implicaciones pueden incluir la autocomposición, que promueve una ruptura con la cultura del litigio predominante, al promover la autonomía de las partes y la construcción de soluciones dialogadas, alineadas con las necesidades concretas de los involucrados.



Originalidad/Valor: Este estudio contribuye a la literatura a través de la originalidad de la investigación. La relevancia y valor de esta investigación hace necesario intensificar esfuerzos para consolidarla, a través de acciones que garanticen la formación técnica de mediadores y conciliadores y que amplíen el acceso a estos métodos.

Palabras clave: Acceso a la Justicia, Autocomposición, Código de Procedimiento Civil, Conciliación, Mediación.

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1 INTRODUCTION

In the contemporary legal construct, consensual dispute resolution mechanisms have been standing out as instruments of renewal in the Brazilian legal scenario. Such methods, based on the principles of self-composition, imply an alternative to traditional litigation, which is characterized by slowness and procedural complexity.

In particular, with the advent of the 2015 Civil Procedure Code, Brazilian legislation highlighted the importance of methods such as conciliation and mediation, outlining them as fundamental tools for promoting access to justice (Brazil, 2015).

Therefore, it is imperative to analyze the effectiveness of these consensual practices as viable strategies for democratization and facilitating access to the justice system in Brazil, a country that faces structural challenges in the functioning of its Judiciary.

The problem that permeates this discussion lies in the following question: to what extent can the self-composition mechanisms provided for in the CPC/2015 favor the ease of access to justice, considering the scenario of overload of the Brazilian Judiciary?

In response to this question, we hypothesize that self-composition, by encouraging dialogue and cooperation between the parties, not only reduces the judicialization of conflicts, but also ensures faster, more accessible solutions that are more appropriate to the needs of the parties involved. Additionally, another hypothesis is that the expansion of public policies aimed at institutionalizing these methods could consolidate their effectiveness, transforming the prevailing culture of litigation.

The choice of this topic is justified by its legal and social relevance, since access to justice is one of the focal pillars of the Democratic State of Law. In the academic field, the analysis of consensual mechanisms provides an in-depth reflection on the need to reevaluate traditional *standards* of conflict resolution and adopt practices that prioritize the active participation of citizens in the decision-making process. Thus, the study is relevant to understanding how the Brazilian justice system can become more inclusive and effective.



The general objective of this article is to understand the application of self-composition mechanisms as a strategy for democratizing access to justice in Brazil, with a focus on the normativity of the CPC/2015. The specific objectives are: (i) to examine the legal provisions that regulate consensual methods in Brazil, with special attention to the CPC/2015; (ii) to interpret the guidelines established by regulations and provisions of the National Council of Justice (CNJ) on self-composition; and (iii) to analyze the impact of mediation and conciliation on decongesting the judicial system and expanding access to justice.

2 THEORETICAL FRAMEWORK

2.1 THE PARADIGM OF ACCESS TO JUSTICE AMIDST THE OVERLOAD OF THE JUDICIARY IN BRAZIL

At the heart of any society that aims to be fair and democratic, access to the judicial apparatus is an essential and inalienable right, elevated to the status of a fundamental prerogative in a Democratic State of Law. This right, which transcends the mere formal possibility of entering into court, must guarantee the effective protection of the claims of those under jurisdiction, promoting the swift, equitable and satisfactory resolution of conflicts (Serpa, 2017).

However, according to Serpa (2017), the Brazilian judicial system faces structural and cultural challenges that greatly compromise this constitutional promise. In this scenario, a paradigm emerges in which slowness, procedural complexity and scarcity of institutional resources appear as recurring obstacles, imposing a kind of practical selectivity on the right of access to justice.

The perception of access to justice, in its broadest sense, is intrinsically linked to the full realization of rights and the strengthening of citizenship. However, the overload of the Judiciary, with its massive and growing litigation, has revealed a mismatch between social demand and the institutional capacity to meet the needs of those under its jurisdiction (Capelletti & Garth, 1998). This situation is aggravated by historical and structural factors, which include excessive bureaucracy, lack of investment and a legal culture still tainted by litigation as the primary strategy for conflict resolution.

In addition, the structural barriers existing in the Brazilian judicial system take on diverse approaches, ranging from socioeconomic inequality, which limits material access to



judicial services, to more subjective issues, such as misinformation and distrust in the effectiveness of the state apparatus (Serpa, 2017).

Such issues constitute an obstacle to the democratization of justice, extending to the credibility and legitimacy of the legal system as an apparatus for social pacification and the promotion of equity. In this sense, a critical examination of these aspects is essential to understand the role of the Judiciary and the challenges to the achievement of effective justice.

2.2 ACCESS TO JUSTICE IN A DEMOCRATIC STATE OF LAW

According to Urquiza and Correia (2018), the search for justice is inherent to the human condition and, in some way, whether in democratic or non-democratic contexts, to a greater or lesser extent, underpins the construction of any social organization. Although the concept of access to justice is much broader, it is often interpreted in a reductionist manner, being limited to the perspective of access to the Judiciary.

This reductionism becomes evident in the equivalence commonly made between the principle of access to justice and expressions such as access to the Judiciary or the right to action. Conceptualizing access to justice is a complex task, and the multiplicity of names attributed to the same principle reveals this difficulty. At the same time, the limited nature of some expressions, such as access to the Judiciary or the right to action, is evident (Urquiza; Correia, 2018).

Access to justice, elevated to the status of a fundamental principle in a society governed by a Democratic State of Law, constitutes one of the indispensable pillars for the realization of citizenship and the achievement of social justice. The 1988 Constitution, in its article 5, item XXXV, establishes that “the law shall not exclude from the assessment of the Judiciary any injury or threat to a right”, enshrining the right of all to judicial protection (Brazil, 1988).

This device is not limited to the formal aspect of access, but requires its effectiveness, understood as the guarantee that citizens can fully exercise their rights, without barriers of an economic, cultural or procedural nature making this prerogative unfeasible (Sardinha, 2021).

In the contemporary legal horizon, the Code of Civil Procedure, in turn, does not accept the above reasoning, providing in article 3, §2, that the State, and not exclusively the Judiciary, will facilitate, whenever admissible, the consensual resolution of conflicts.

This foresight stems from the search for democratic access to justice, overcoming the causes of the crisis in the Judiciary, such as the excessive number of cases and appeals, formalism, repetitive treatment of actions, infrastructure, doctrine and training offered to



Magistrates and operators. The inclusion of Article 3 in the Code of Civil Procedure was not accidental, but rather reflected the legislator's intention that all efforts should be directed towards the consensual resolution of conflicts (Didier Júnior; Peixoto, 2016).

From a doctrinal perspective, Cappelletti and Garth (1988), in their emblematic work on access to justice, emphasize that this should be analyzed not only from the perspective of formal entry into the judicial system, but as a set of conditions that enable the effective protection of rights.

For the authors, access to justice consists of a tool for the democratization of law, providing the most vulnerable with real mechanisms to defend their demands. In this sense, they highlight three "waves of renewal" that marked the evolution of the concept: the first linked to free legal assistance; the second, to the collective treatment of demands; and the third, to the search for alternative mechanisms that guarantee greater effectiveness to the justice system (Cappelletti & Garth, 1988).

In recent years, there has been a redefinition of the concept of access to justice, seeking to overcome the view that accessing the Judiciary is the same as accessing justice. However, this reductionist perspective is still deeply rooted in the current legal guardianship system (Urquiza & Correia, 2018).

In Brazil, however, although the regulatory framework is robust, significant challenges remain to the implementation of this principle. Excessive litigation, combined with procedural delays, compromises the speed and efficiency of judicial decisions, revealing a mismatch between the social demand for justice and the institutional capacity to respond. Added to this is social inequality, which makes access to the judicial apparatus disproportionately more onerous for the most disadvantaged groups, deepening disparities and marginalization (Serpa, 2017).

Furthermore, the judgment pertinent to access to justice must be interpreted in its dynamic and adaptive character, accompanying social transformations and the demands of a society that is increasingly plural. This understanding is reinforced by the need to go beyond mere conflict resolution, prioritizing social pacification and the promotion of more equitable justice (Sardinha, 2021).

In this context, the 2015 Civil Procedure Code brought relevant innovations by incorporating principles such as cooperation and the search for conciliation and mediation, reaffirming the importance of consensual methods for the democratization of the justice system (Didier Júnior & Peixoto, 2016).

Furthermore, for Sardinha (2021), access to justice in Brazil cannot be dissociated from the social function of the Judiciary, which must act as an instrument for realizing fundamental



rights and promoting human dignity. The universality of the principle requires overcoming structural and cultural barriers that historically hinder the full exercise of this right.

Therefore, it is imperative that public policies and strategies be implemented to expand the scope of justice, prioritizing the inclusion of those who are traditionally on the margins of the system. Thus, the analysis of access to justice in the Democratic State of Law reveals the complexity of ensuring the effectiveness of this right in a context marked by inequalities and structural inefficiencies.

For Capelletti and Garth (1988), the expression "access to justice" is widely recognized for its difficult definition, but it is used to outline two fundamental objectives of the legal system: firstly, to ensure that people have the possibility to claim their rights and resolve their conflicts with the support of the State; and, secondly, to ensure that this system is effectively accessible to all, producing results that are fair both individually and collectively.

However, this is an essential challenge for building a fairer society, which values equal opportunities and the full protection of the fundamental rights of all individuals.

Access to justice in Brazil, although constitutionally upheld as a fundamental right, is severely hampered by a series of structural barriers that permeate the current legal scenario. Such obstacles, broad in their genesis and impact, reveal the limitations of the judicial system in responding quickly and effectively to contemporary social demands, compromising the implementation of justice as an instrument of social pacification and guarantee of fundamental rights (Hill, 2020).

On the subject, Hill (2020, p. 381) states that "in fact, we have managed to unlock access to the Judiciary so much that, currently, we are seeing its congestion precisely due to the extremely high demand (hyperjudicialization)".

Thus, Urquiza and Correia (2018) point out that one of the most obvious difficulties lies in the overload of the Judiciary, which is present in alarming numbers. The excessive accumulation of cases, fueled by a culture of unbridled litigiousness, overburdens judges and courts, making it impossible to resolve conflicts quickly.

This procedural slowness, combined with legal bureaucracy that often discourages the legal subject, consolidates a situation in which the right to effective access to justice is often denied or postponed. This context is aggravated by the lack of human and material resources, which limits the capacity of the judicial system to perform its primary function of resolving conflicts in an agile and efficient manner (Urquiza & Correia, 2018).

However, socioeconomic inequalities also play a decisive role in maintaining structural barriers to access to justice. Poverty and social exclusion make it difficult for a significant



portion of the population to afford the costs of legal proceedings, legal fees and court fees (Zaganelli, 2016).

Procedural obstacles involve “slow processes, overloaded judicial systems, excessive formalism, and a lack of judges and management, which hinder effective conflict resolution” (Zaganelli, 2016, p. 187). Although free legal assistance provided by the Public Defender’s Office is an important mechanism for inclusion, the lack of professionals and resources allocated to this institution limits its ability to adequately serve all those in need.

Sardinha (2021), the complexity of the Brazilian regulatory system itself is worth highlighting . The legal framework, characterized by a multitude of laws, regulations and standards, creates a scenario of uncertainty and legal insecurity for the common citizen, who often finds himself disoriented in the face of the intricate legal requirements.

Structural barriers, however, are not limited to merely procedural or material aspects. They also manifest themselves on a subjective level, in the form of widespread distrust in the justice system. The perception that the Judiciary is inefficient, elitist and distant from the real needs of the population discourages the search for legal protection, reinforcing the cycle of exclusion and marginalization (Mancuso, 2020).

Finally, it is essential that addressing these barriers be treated as a priority within the scope of public policies, with the implementation of reforms that prioritize efficiency, inclusion and modernization of the justice system.

Overcoming structural difficulties must be aligned with the strengthening of instruments that enable more equal and comprehensive access to justice, allowing it to fulfill its essential role in strengthening democracy and promoting human dignity (Mancuso, 2020).

According to Igreja and Rampin (2021), re-opening the discussion on access to justice is a highly relevant task, especially in view of the constant changes in sociocultural and political-economic contexts, which directly affect the very concept of justice, of what is fair and what is unfair. It is essential to consider the current scenario, characterized by globalization, in which we observe an intensification of interactions between nations, the consolidation of a globalized economic system and a wider circulation of ideas and people, among other phenomena.

In this context, the proposal is to renew justice systems, both nationally and internationally, seeking efficiency, speed and the ability to ensure rights, especially through the modernization and digitalization of their procedures. However, these initiatives face persistent challenges, such as inequality at the global and national levels, regional disparities, as well as demands for recognition from different groups. This not only affects access to justice, but also



challenges the very definition of what is fair or unfair, questioning the role of the judiciary as a guarantor of inclusive justice (Igreja & Rampin , 2021).

2.3 SELF-COMPOSITION: CONSENSUAL MECHANISMS FOR CONFLICT RESOLUTION AS STRATEGIES FOR DEMOCRATIZING JUSTICE

The dynamics of conflict resolution in the national legal context have undergone transformations of broad dimensions in recent decades, driven by the need to adapt the judicial system to the demands of an exponentially more plural and complex society, towards dejudicialization (Mancuso, 2020).

Considering the scenario described, consensual dispute resolution mechanisms emerge as an effective and promising alternative to promote social pacification, democratize access to justice, and overcome obstacles historically associated with the excessive judicialization of disputes. These instruments, which include mediation and conciliation, were widely incorporated into Brazilian procedural law with the advent of the 2015 Code of Civil Procedure (Sardinha, 2021).

The legislator, aware of the shortcomings of the traditional adversarial model, structured a regulation that recognizes the strategic role of self-composition in promoting quick, less costly solutions that are more suited to the peculiarities of each dispute (Didier Júnior & Peixoto, 2016).

In the same vein, Tartuce (2020) clarifies that self-composition refers to the resolution of the conflict established based on the autonomy of the will of the parties involved. The modalities of this solution include: conciliation and mediation (of an indirect nature) and negotiation (of a direct nature).

This perspective inaugurates a paradigm that privileges dialogue and the autonomy of the parties, to the detriment of a solution imposed vertically by the State-judge. At the same time, the impacts of consensual methods go beyond the individual sphere of the litigants, directly impacting the functionality of the judicial system as a whole (Tartuce, 2020).

The doctrine already admits that, in consensual methods of conflict resolution, such as mediation and conciliation, jurisdiction is provided. Grinover (2018) explicitly argues that jurisdiction encompasses both state justice and arbitration and consensual justice. To substantiate this statement, the author clarifies that the main indicator of the new understanding of jurisdiction is the guarantee of access to justice, whether or not by the state, and its objective, which is to encourage peacemaking with justice.



In view of this, the adoption of self-composition both fulfills an instrumental role and presupposes a cultural change, whether in legal practice or in the social perception of justice, which makes evident the commitment to building a system of greater accessibility and humanization, and which is consistent with the democratic pillars that guide the Brazilian legal order (Mancuso, 2020).

2.4 MEDIATION AND CONCILIATION IN THE 2015 CODE OF CIVIL PROCEDURE

Self-composition, as an expression of the parties' autonomy in resolving disputes, is a relevant and innovative alternative in the contemporary legal context. This model prioritizes consensus and dialogue as instruments for resolving conflicts, in contrast to the traditional model, which relies on the imposing decision of the State-judge (Mancuso, 2020).

For Tartuce (2020), in an environment of constant judicialization, this approach emerges as an efficient strategy to achieve social pacification, reaffirming values such as cooperation and mutual accountability among litigants.

Among the consensual mechanisms for conflict resolution, mediation and conciliation assume a prominent position in the Brazilian legal system, especially after their systematic regulation by the 2015 Code of Civil Procedure (Sardinha, 2021).

The 2015 Code of Civil Procedure consolidated mediation and conciliation as pillars of national judicial policy, elevating them to the status of indispensable instruments for the administration of justice (Tartuce, 2020).

Mediation, under the terms of art. 165 of the CPC, seeks to promote dialogue between the parties, with the aim of rebuilding communication and facilitating the identification of mutually satisfactory solutions.

Mediation finds its regulatory framework in Law No. 13,140/2015, whose article 1 defines it as a technical activity performed by an impartial third party, without decision-making power, who, chosen or accepted by the parties, has the function of assisting and encouraging the development of a solution to the conflict (Brazil, 2015).

Cahali (2020) argues, mediation has become established and remains the main mechanism for resolving disputes on a global scale. The author describes mediation as a self-compositional and voluntary peacemaking instrument, in which a third party, endowed with impartiality, acts actively or more discreetly as a facilitator in reestablishing dialogue between the parties, whether before or after the emergence of the controversy.



Any person with the competence and trust of the parties may act as an extrajudicial mediator, provided that he or she is qualified to carry out mediation, in accordance with the following article, art. 9. This provision allows individuals outside of specific councils, entities or associations to play the role of mediator, expanding access to alternative methods of conflict resolution.

For Sardinha (2021), the mediator, in this case, assumes a facilitating role, without proposing solutions, but guiding the parties so that they can construct them themselves. Conciliation, as outlined in the same provision, is characterized by being a more directive procedure, in which the conciliator can suggest proposals for resolving the dispute, especially in conflicts of a less complex nature.

Conciliation, of a more practical nature, is aimed especially at relationships in which there is no prior relationship between the parties, as provided for in article 165, §2, of the Code of Civil Procedure. In this context, the main purpose is to reach an agreement, and it is up to the conciliator to present his or her view on the most equitable solution to the dispute (Calmon, 2019).

Characterized by being a less complex technique and more focused on the specific controversy, conciliation is generally faster than mediation. The conciliator takes an active stance, proposing solutions and suggesting alternatives that, until then, may not have been considered by the parties involved. Unlike the mediator, whose performance is marked by neutrality and impartiality in conducting the dialogue, the conciliator participates more directly in the consensual resolution process, being able to express his/her opinion on the most appropriate and fair outcome for the conflict (Hill, 2020).

According to Hill (2020), the establishment of the National Council of Justice, through Constitutional Amendment No. 45 of 2004, also played an important role in the advancement of dejudicialization, since, in several situations, this process developed through the issuance of normative acts originating from this control body, as highlighted in the introductory section of this study.

The provisions of the National Council of Justice (CNJ) corroborate the relevance of these consensual methods. Provision No. 125/2010, which institutes the National Policy for the Appropriate Treatment of Conflicts of Interest within the Judiciary, establishes guidelines to promote mediation and conciliation, highlighting their essential role in promoting swift and effective justice. This policy is reinforced by the Judicial Centers for Conflict Resolution and Citizenship (CEJUSCs), created to expand access to these methods throughout the national territory (Brazil, National Council of Justice, 2010).



Resolution 125/2010 of the National Council of Justice (CNJ) establishes access to justice by encouraging dialogue and the resolution of disputes through self-composition. The document stated, among other matters, that mediation and conciliation institutions are effective mechanisms for social pacification, resolution and prevention of disputes, fulfilling an important mission in the dejudicialization of conflicts of interest (Brazil, National Council of Justice, 2010).

The Resolution, which remains in force, aims to establish permanent public policies within the Judiciary aimed at encouraging consensual methods for resolving disputes. As Lemos (2022) points out, this regulation implicitly recognizes that certain disputes can be better resolved through alternative instruments, thus providing options for social pacification that are different from the traditional judicial process.

Above all, the 2015 CPC brought significant procedural innovations, such as the mandatory conciliation or mediation hearing, provided for in art. 334. This hearing, which must be held before the contestation phase, encourages the parties to explore possibilities for consensus, even before the dispute takes on more serious proportions.

The adoption of this procedure reflects an attempt to humanize justice, valuing the protagonism of those involved and reducing litigation. In practical terms, mediation and conciliation have shown significant results in reducing judicial overload, demonstrating their transformative potential (Dalla & Mazzola, 2019).

Studies indicate that, when well structured and conducted, these methods result in more satisfactory and lasting agreements, reducing the recurrence of disputes. Such efficiency is aligned with the constitutional objectives of access to justice and reasonable duration of the process, contributing to the realization of a more equitable legal order (Lemos, 2022).

Therefore, mediation and conciliation, supported by legislation and CNJ provisions, have proven to be instruments with high potential for the democratization of justice and the confrontation of the structural crisis of the Judiciary. Their application requires institutional adjustments, conditioned by a change in cultural paradigm, which prioritizes dialogue and co-responsibility as central values in conflict resolution (Dalla & Mazzola, 2019).

2.5 IMPACTS OF CONSENSUAL METHODS ON JUDICIAL DECONGESTATION

The growing judicialization of social demands in Brazil, associated with a judicial infrastructure incapable of keeping up with the exponential increase in cases, has imposed an



overload on the Judiciary that compromises the speed and efficiency of jurisdictional provision (Zaganelli, 2016; Sardinha, 2021).

In this context, consensual methods of conflict resolution, such as mediation and conciliation, emerge as paradigmatic solutions for the decommissioning of judicial agendas and the humanization of justice. The impact of these instruments goes beyond the mere reduction of litigation; it resides in the restructuring of the ways of dealing with conflicts, promoting a culture of social pacification and collaborative resolution (Sousa, 2019).

According to data from the 2024 *Justice in Numbers report (Brazil, National Council of Justice, 2024)*, the *Judicial Centers for Conflict Resolution and Citizenship (CEJUSCs)*, established by Provision No. 125/2010 of the CNJ, were responsible for a significant increase in the number of approved agreements, consequently reducing the number of lawsuits that proceed to the litigious phases. These figures illustrate the potential of consensual methods not only to speed up the processing of cases, but also to prevent excessive judicialization, encouraging extrajudicial solutions from the early stages of the conflict.

For Hill (2020), by facilitating an environment of dialogue in which the litigants themselves reach satisfactory solutions, mediation and conciliation create conditions for lasting agreements and a significant reduction in the recurrence of disputes. Thus, such methods become not only an instrument of administrative efficiency, but also of material justice, by more fully meeting the interests of the parties.

Another relevant factor is the paradigm shift that these methods encourage. Unlike the prevailing adversarial culture, which often fuels animosity, mediation and conciliation promote a cooperative model, based on the co-responsibility of the parties and the appreciation of dialogue. This transformation, when consolidated, contributes to relieving the Judiciary and promoting a more equitable and accessible vision of the justice system (Dalla & Mazzola, 2019).

As Sousa (2019) points out, the right of access to justice has a significant scope and high complexity, but is nevertheless essential for the proper functioning of democracy in the context of the Democratic State of Law. This guarantee goes beyond the simple provision of courts and legal services, requiring the development and implementation of public policies that promote accessibility, equity and efficiency of the legal system for all segments of society.

It should be added that, for Mancuso (2020), consensual methods play a significant preventive role, especially in areas such as consumer relations, family and neighborhood, where conflicts, by their nature, are more likely to recur. Through the proactive intervention of these mechanisms, the justice system can not only respond more quickly and efficiently to existing



demands, but also prevent the emergence of new disputes, playing an essential role in building a more functional and accessible legal system.

3 METHODOLOGY

The methodology used is predominantly qualitative, exploratory in nature, with a bibliographic and documentary focus, including the analysis of legal doctrines, legislation and administrative provisions of the CNJ. At the end of this project, it is expected to reveal that consensual mechanisms imply progress in access to justice, being capable of promoting a significant transformation of Brazilian legal culture, promoting greater efficiency, equity and inclusion in the justice system.

4 RESULTS AND DISCUSSIONS

Studies indicate that self-composition has shown positive results in several areas, reducing the duration of proceedings and promoting greater satisfaction among litigants. However, its application still lacks uniformity and greater investment in training and qualification of mediators.

The qualitative analysis of cases resolved through mediation demonstrates that effective communication between the parties is a determining factor for the success of the agreement. Therefore, strengthening this skill in mediators and conciliators should be a priority.

Self-composition in the civil procedural sphere is a viable and promising tool to improve access to justice. Despite the existing challenges, its consolidation depends on the engagement of all actors in the judicial system, as well as on continued investment in public policies that foster a culture of consensual conflict resolution.

5 CONCLUSION

The reflections of this study reaffirm the relevance of consensual dispute resolution mechanisms as instruments for the democratization of access to justice in Brazil. In line with the proposed general objective, the article demonstrated how the application of methods such as mediation and conciliation, as regulated by the 2015 Code of Civil Procedure, is an effective strategy for building a faster, more equitable and accessible legal system.



The analysis undertaken throughout the text allowed us to verify that self-compositional methods, by prioritizing dialogue, cooperation and autonomy of the parties, offer fruitful alternatives to traditional litigation, whose slowness and formalism compromise the achievement of social pacification.

The initial hypothesis was therefore found to be valid, that such mechanisms reduce the judicialization of conflicts and promote solutions that are more appropriate to the needs of the parties and the complexity of the disputes. The second hypothesis, concerning the relevance of public policies aimed at consolidating these methods, also proved to be valid, since the institutionalization of these practices is essential for the transformation of Brazilian legal culture, which is still deeply rooted in litigiousness.

The analysis of the normative provisions of the CPC/2015, assigned to the study of guidelines and provisions of the National Council of Justice, revealed the importance of initiatives that encourage mediation and conciliation as permanent and widespread practices throughout the national territory. The effectiveness of these mechanisms was corroborated by observing their capacity to decongest the Judiciary, expanding the reach of justice to traditionally marginalized groups and strengthening the idea of inclusive justice.

In conclusion, this study indicates that consensual dispute resolution mechanisms, by combining efficiency and accessibility, represent a significant evolution in the Brazilian legal landscape. However, structural challenges persist that require continued attention, such as the need for technical training of conciliators and mediators and overcoming regional inequalities in access to these methods.

As a suggestion for addressing these issues, we propose strengthening public policies that encourage the expansion and qualification of self-composition practices, in addition to encouraging awareness campaigns on the importance of these tools for citizenship. Finally, we suggest that future studies deepen the investigation into the impact of these mechanisms in regional contexts and in more complex conflicts, aiming to consolidate a truly accessible, effective and democratic justice model.

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