


**THE THEORETICAL-METHODOLOGICAL CONCEPT OF THE SPECIAL TESTIMONY  
AND THE PROBLEM OF THE MARGINALITY OF CHILDREN'S VOICES**

**A CONCEPÇÃO TEÓRICO-METODOLÓGICA DO DEPOIMENTO ESPECIAL E O  
PROBLEMA DA MARGINALIDADE DAS VOZES INFANTIS**

**EL CONCEPTO TEÓRICO-METODOLÓGICO DEL TESTIMONIO ESPECIAL Y EL  
PROBLEMA DE LA MARGINALIDAD DE LAS VOCES INFANTILES**

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**ABSTRACT**

This article analyzes the theoretical-methodological conception of the “depoimento especial” (special testimony) in the Brazilian judicial system, critically examining the limits and contradictions of hearing children and adolescents who are victims or witnesses of violence. Drawing on Critical Legal Psychology, childhood epistemology and human-rights studies, it argues that the historical marginalization of children’s voices persists even within supposedly protective practices. The study frames the special testimony as a juridical device that emerged to protect children and adolescents, yet, from a Foucauldian perspective, reveals the rationalities and discourses that actually sustain the current institutional model and question the alleged centrality granted to children’s narratives. The analysis shows that, despite a protective rhetoric, an underlying structural marginalization remains—especially when punitive and technical interests prevail over a qualified, ethical listening attuned to the historical, social and affective singularities of each child. The article advocates for an approach to listening that transcends mere procedural technique, embracing children as historical subjects whose voices deserve full recognition and respect.

**Keywords:** Special Testimony. Children’s Voices. Critical Legal Psychology. Child Rights. Qualified Listening.

**RESUMO**

O presente artigo analisa a concepção teórico-metodológica do depoimento especial no sistema judiciário brasileiro, discutindo criticamente os limites e contradições da escuta de crianças e adolescentes vítimas ou testemunhas de violência. Com base em aportes teóricos críticos da Psicologia Jurídica, da epistemologia da infância e dos estudos sobre direitos humanos, discute-se como a marginalidade histórica das vozes infantis persiste, mesmo em práticas supostamente protetivas. Inicia-se analisando a concepção teórico-metodológica do depoimento especial no Brasil, situando sua emergência como dispositivo jurídico vinculado à proteção de crianças e adolescentes vítimas ou testemunhas de violência. E, em seguida, a partir de uma abordagem foucaultiana, busca-se compreender as racionalidades e os discursos que sustentam o modelo institucional vigente, problematizando a suposta

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centralidade das vozes infantis. Nesse sentido, propondo uma releitura da escuta qualificada, que vá além da técnica, considera-se central a discussão da concepção teórico-metodológica do depoimento especial visando enfatizar a singularidade do sujeito em sua dimensão histórica, social e afetiva. Conclui-se que, apesar do discurso protetivo, persiste uma marginalização estrutural das crianças nos processos judiciais, especialmente quando o interesse punitivo e técnico se sobrepõe à escuta qualificada e ética.

**Palavras-chave:** Depoimento Especial. Vozes Infantis. Psicologia Jurídica Crítica. Direitos da Criança. Escuta Qualificada.

## RESUMEN

Este artículo analiza la concepción teórica y metodológica del testimonio especial en el sistema judicial brasileño, discutiendo críticamente los límites y contradicciones de la escucha de niños, niñas y adolescentes víctimas o testigos de violencia. A partir de perspectivas teóricas críticas de la psicología forense, la epistemología de la infancia y los estudios de derechos humanos, el artículo analiza cómo persiste la marginación histórica de las voces infantiles, incluso en prácticas supuestamente protectoras. Comienza analizando la concepción teórica y metodológica del testimonio especial en Brasil, situando su surgimiento como un dispositivo legal vinculado a la protección de niños, niñas y adolescentes víctimas o testigos de violencia. Posteriormente, desde un enfoque foucaultiano, busca comprender las racionalidades y discursos que sustentan el modelo institucional actual, problematizando la supuesta centralidad de las voces infantiles. En este sentido, al proponer una reinterpretación de la escucha cualificada que trascienda la técnica, se considera central la discusión de la concepción teórica y metodológica del testimonio especial, con el objetivo de enfatizar la singularidad del sujeto en sus dimensiones históricas, sociales y afectivas. Se concluye que, a pesar del discurso protector, persiste una marginación estructural de los niños en los procesos judiciales, especialmente cuando los intereses punitivos y técnicos priman sobre la escucha calificada y ética.

**Palabras clave:** Testimonio Especial. Voces Infantiles. Psicología Jurídica Crítica. Derechos del Niño. Escucha Cualificada.

## 1 INTRODUCTION

The implementation of special testimony in Brazil, regulated by Law No. 13,431/2017, represented a significant advance in the recognition of the right of children and adolescents to be heard in a protected manner in the justice system. However, the technical-procedural nature of this listening, often linked to the logic of judicial evidence and neutrality, raises criticism as to the effective centrality of the child's voice in the process.

This article discusses the theoretical-methodological conception that underlies the special testimony and problematizes the persistent marginalization of children's voices, even in spaces that propose to protect them. It is thus proposed to reflect on the ethical, political and epistemic challenges that involve listening to children in legal contexts, focusing on the construction of an approach committed to human rights and child and adolescent dignity.

Law No. 13,431/2017 establishes the system to guarantee the rights of children and adolescents who are victims or witnesses of violence and proposes differentiated procedures, such as special testimony, with the objective of avoiding revictimization. This measure seeks to align with international treaties, such as the Convention on the Rights of the Child (1989), which ensures the child has the right to be heard in all matters that concern him, taking into account his age and degree of maturity.

However, although the legislation represents a normative and symbolic advance in the recognition of the child as a subject of rights, its operationalization within the judiciary reveals important tensions. The practice of special testimony does not always break with the adult-centric and instrumentalizing paradigms that have historically silenced or disqualified children's voices.

According to Marinho-Araujo and Almeida (2014), there is still a tendency to objectify the child in the judicial process, especially when his speech is converted into technical evidence or material investigation, disregarding his symbolic forms of expression, his affections and the subjective dimension of the traumatic experience. "Listening often becomes a technical procedure aimed at extracting data and not an ethical practice of encounter with the other" (Marinho-Araujo; Almeida, 2014, p. 758).

This technician logic is enhanced by the use of structured protocols that standardize the way of listening, such as the Brazilian Forensic Interview Protocol (PBEF), generating the risk of reducing listening to the verification of narrative consistency. Zavattaro (2022) warns that, under the justification of procedural protection and transparency, a model of surveillance of children's speech is installed, whose ultimate objective is not to listen to the child in its

complexity, but to produce a legally valid truth. "The conduct of the interview is directly related to the credibility of the report, which transforms the interviewer into a key piece of the judicial machinery" (Zavattaro, 2022, p. 38).

On the other hand, the rationality that sustains the special testimony is permeated by discourses of control and normalization. Foucault (1984) observes that, in modern regimes of power, care and protection often operate as subtle forms of disciplining and surveillance. In this sense, the institutionalization of the ND can also be read as a device that manages children's voices, defining which statements are legitimate, which can be considered evidence, and under what conditions a report is "reliable".

Daltoé Cezar (2007), creator of the initial project of the Testimony Without Damage (DSD), explains this logic when he states that the method arises from the need to "avoid the contamination of children's testimony by the speeches of third parties and by inappropriate environments", ensuring greater procedural effectiveness and punitive efficiency. Even if one seeks to reduce the child's suffering, their speech is constantly measured, examined and filtered by institutional criteria that privilege proof to the detriment of lived experience.

Thus, even under the appearance of a civilizational advance, the special testimony reveals itself to be crossed by ambivalence: between listening and inquiry, between reception and surveillance, between protection and control. This ambivalence must be faced critically, so that truly ethical, dialogical listening practices can be built that are committed to the dignity of children and adolescents.

In view of the above, and from a Foucaultian approach, it seeks to understand the rationalities and discourses that sustain the current institutional model, problematizing the supposed centrality of children's voices. It is concluded that, despite the protective discourse, a structural marginalization of children in judicial proceedings persists, especially when the punitive and technical interest overrides qualified and ethical listening.

## **2 FOUNDATIONS OF THE SPECIAL TESTIMONY: BETWEEN PROTECTION AND CONTROL**

Law No. 13,431/2017 establishes the system to guarantee the rights of children and adolescents who are victims or witnesses of violence and proposes differentiated procedures, such as special testimony, with the objective of avoiding revictimization. This measure seeks to align with international treaties, such as the Convention on the Rights of the Child (1989), which guarantees children the right to be heard in all matters that concern them. By instituting

an integrated system to guarantee the rights of children and adolescents who are victims or witnesses of violence, it formally inaugurates in Brazil the figure of the special testimony (DE) as a mandatory procedure in the bodies of the Judiciary and public security. The declared motivation is to reduce the revictimization caused by the multiplicity of wiretaps, ensuring conditions of protection, speed and procedural effectiveness. However, as Potter (2010) and Ramos (2015) warn, the ED is born crossed by a structuring tension: on the one hand, the protective discourse that brings it closer to international human rights frameworks; on the other, the evidential logic that instrumentalizes children's speech in favor of the production of evidence.

Despite normative advances, the practice of special testimony does not always break with adult-centric and instrumentalizing paradigms. According to Marinho-Araujo and Almeida (2014), there is a tendency to treat the child as a mere object of investigation, from a technicist perspective that ignores its multiple forms of expression and the complexity of its ways of signifying the traumatic experience.

From Foucault's point of view, this double face is revealed in the very constitution of the device: a heterogeneous arrangement of knowledge, practices and technologies that articulates psychology, law, medicine, the media and international organizations around the management of childhood (Foucault, 1984). By moving the child from the courtroom to a "welcoming" space — equipped with cameras, microphones and standard protocols — the ND creates an environment of apparent care that, simultaneously, intensifies surveillance, records and archives images, makes the report perennial and auditable and reinforces the criminal accountability of the aggressor (Daltoé Cezar, 2007).

In legal terms, the promise of protection in the special testimony is mainly based on three structuring axes. The first concerns the unification of the oral test, made possible by the audiovisual recording of the interview, which aims to prevent the child from having to "repeat the violence" in multiple stages of the process.

However, as Dobke (2013) warns, this technical resource also displaces the authority of the child's living word to an audiovisual support that will later be reinterpreted by experts, lawyers and judges. The second axis refers to the so-called deferred adversarial procedure, in which the defendant's lawyer can formulate questions at the end of the interview, which are mediated and transmitted by the judge to the interviewer. Despite the attempt to guarantee the contradictory, questions persist as to the full parity of arms, as the child gives

his testimony without the simultaneous presence of the defense, which compromises the immediacy of the confrontation (Zavattaro, 2022).

Finally, the third axis is based on the adoption of scripted protocols, such as the Brazilian Forensic Interview Protocol (PBEF), which establishes standardized steps to conduct the interview. Although this procedure has the merit of reducing suggestive questions and ensuring a certain methodological uniformity, it also imposes limitations on the child's narrative spontaneity and the plurality of their forms of expression, as Arantes (2008) observes.

These axes highlight the paradox of the ND: at the same time that it proclaims the centrality of the child's voice, it conditions it to parameters of coherence, linearity and verisimilitude typical of adult and legal rationality. As Marinho-Araujo and Almeida (2014, p. 758) point out, "the child is summoned to speak according to a script that identifies him as an object of investigation, not as a subject of experience". It is, therefore, a procedure that welcomes and controls, protects and regulates, giving continuity to adult-centric practices under a new veneer of care.

From the point of view of Critical Legal Psychology, the fundamental question is no longer just "how to obtain the best evidence" and becomes "how to ensure that the child is recognized as a historical subject in its plurality of meanings" (Guzzo & Lacerda Jr., 2014). This implies shifting the center of the process: from the verification of the evidence to the construction of dialogical spaces that respect silences, metaphors, games, their own temporalities and, above all, the gradual autonomy of the child as a function of their age, culture and social context.

Ultimately, the ND concretizes what Foucault (2003) called "truth politics": practices that, under the sign of protection, produce certain truths about childhood — reliable or not, coherent or not, legitimate victim or suspect — conditioning judicial decisions and penal policies. The contemporary challenge, therefore, is not simply to improve the protocol, but to critically review the rationality that sustains it, paving the way for forms of listening that are truly committed to the dignity and participation of children.

In legal terms, the promise of protection in special testimony is based on three central axes that, although they represent advances in relation to the traditional model of questioning, carry contradictions that deserve to be critically analyzed. (Dobke, 2013; Potter, 2010).

The first axis refers to the unification of the oral test, promoted by the audiovisual recording of the interview with the child or adolescent. This measure aims to prevent the

victim from having to repeat, at different times and institutions of the justice system, the reports about the episode of violence, reducing what is conventionally called "secondary revictimization" (Dobke, 2013; Potter, 2010). The recording seeks to preserve the memory of the original testimony, ensuring integrity and authenticity. However, this technology is not

Neutral: it transfers the authority of the child's speech to a technical support, which will later be interpreted by different agents — judges, prosecutors, defenders and experts

— whose readings will be crossed by legal, institutional and subjective filters. Thus, the risk is that children's speech loses its dimension of living and relational expression, becoming a decontextualized documentary artifact that is susceptible to fragmented and sometimes distorted interpretations (Ramos, 2015; Guzzo & Lacerda Jr., 2014).

The second axis deals with the deferred adversarial procedure, provided for to guarantee the right of defense of the accused without compromising the protection of the child. In this model, the defense's questions are formulated at the end of the interview and passed on to the interviewer through the judge. Although this strategy seeks to reconcile constitutional guarantees with the psychic integrity of the child, the fact is that the absence of the defense during the hearing compromises the parity of arms and weakens the adversarial process in its full form. As Zavattaro (2022) observes, the deferred adversarial procedure calls into question the immediacy of the confrontation and, at the same time, assigns to the judge the role of filter of the questions, which can generate a subjective and asymmetrical selection of the questions sent to the interviewer. Such dynamics show how much the procedure is still in a zone of tension between the guarantor criminal law and the protective logic of the child's right, without a fully satisfactory balance.

The third axis is based on the adoption of scripted protocols, especially the Brazilian Forensic Interview Protocol (PBEF), designed to offer greater standardization and quality control to the forensic interview. Composed of ten steps, the protocol seeks to create a minimally safe environment, guide the construction of empathy, avoid suggestive questions and establish ethical guidelines for conducting listening. However, as Arantes (2008) and Coimbra and Nascimento (2006) point out, the rigidity of the protocols can stifle the child's spontaneity, hinder the fluidity of the report and reduce listening to the logic of extracting information useful to the process. Young children, or those with profound traumas, may not fit into this narrative linearity, resulting in testimonies considered "unreliable" by the very structure that should protect them.

These three axes, although they present legitimate proposals for improving child listening in the justice system, reveal a paradox: at the same time that the intention is to protect children, practices that tend to discipline, control and instrumentalize their speech are consolidated. Listening, in this way, runs the risk of becoming an exercise of evidentiary validation and not of subjective recognition. As Despret (2011) reminds us, listening to someone is not simply listening to them speak, but rather allowing oneself to be affected by what is said — which requires time, sensitivity and institutional availability, elements that are still scarce in the Brazilian judicial reality.

Thus, the special testimony, although it presents itself as a civilizational advance in the protection of childhood, remains crossed by a technical-evidential rationality that prioritizes the production of evidence over the reception of the experience, which requires critical review and the expansion of more dialogical, contextualized and humanized practices in dealing with children's voices. The creation and institutionalization of the special testimony in Brazil reflect an attempt to resignify the place of children and adolescents in the justice system, promoting a protected, ethically and legally valid listening for those who have experienced situations of violence.

Law No. 13,431/2017 represents a normative advance by establishing specific listening mechanisms that seek to avoid revictimization, through the unification of the report and the conduct of the interview by trained professionals, usually psychologists or social workers. This initiative seeks to harmonize Brazilian legislation with international instruments for the protection of children, such as the Convention on the Rights of the Child (1989), which guarantees children the right to be heard and to participate in all processes that affect them.

Despite this progressive legal framework, the special testimony also carries in its constitution deep tensions between the discourses of protection and control. At the same time that it proposes to guarantee the listening of the child as a subject of rights, the legal-institutional model of the special testimony operates as a power device, in the terms of Foucault (1987), which organizes, regulates and submits the children's report to an evidential, normative and institutional logic. What is presented as care can, paradoxically, become a subtle form of surveillance and discipline of childhood, as it puts into operation a series of technologies to control the child's body and speech: cameras, protocols, recordings, validations, mediations and technical evaluations.

As Ramos (2015) and Daltoé Cezar (2007) emphasize, the genesis of the model is related to the need to respond to the weaknesses of the judicial system in dealing with child



testimonies, especially in cases of sexual abuse. Historical distrust in relation to the child's speech, considered as fanciful or suggestible, it boosted the creation of a listening space that, while seeking to preserve the child, also aims to ensure the effectiveness of the production of evidence. As a result, listening is guided by a technical-judicial rationality that prioritizes reproducibility, narrative linearity and authenticity of information, thus operating under the imperatives of legal truth.

The promise of protection, in this context, is supported by three central pillars. The first is the audiovisual recording of the testimony, which aims to avoid the repetition of the report and, therefore, revictimization. However, as Dobke (2013) warns, this strategy shifts the focus from the experience lived by the child to the technical record of his speech, making it an object of consultation and evaluation by multiple professionals. The second pillar is the deferred adversarial procedure, which guarantees the defense the right to ask questions, even if not in person, during the hearing. As Zavattaro (2022) points out, this mediation weakens the full exercise of the defense, while transforming the judge into a filtering agent of the issues, which can compromise the neutrality and fairness of the process. The third pillar is the adoption of standardized protocols, such as the Brazilian Forensic Interview Protocol (PBEF), which seeks to standardize practice and minimize induction risks, but which also tends to standardize subjectivities and reduce the complexity of children's speech to the logic of expected narrative performance.

It is in this ambiguity between protecting and controlling that the main dilemma of special testimony lies. The child, when removed from the courtroom, is transferred to a "more welcoming" environment, but still deeply watched, monitored and structured by institutional rules. Instead of promoting a truly open and dialogical listening, what is often observed is the reproduction of disciplinary practices, in which the technical professional assumes the role of mediator of the test, and not of an interlocutor sensitive to the child's subjectivity.

Critical Legal Psychology, as highlighted by Guzzo and Lacerda Jr. (2014), denounces this instrumental use of listening and proposes an ethical reconfiguration of the performance of the professionals involved. The role of the psychologist, in this scenario, should not be that of extracting information, but that of facilitating a listening that recognizes the suffering, the symbolic language, the silences and the ambiguities of the child. For this to be possible, it is necessary to rethink the epistemological foundations that sustain the ND as a device: what is the place of childhood in the process? What is expected from the child's speech? To what extent does listening constitute a right and not as an instrument of verification?

Foucault (2003) reminds us that the devices of truth operate by producing subjects, knowledge and practices. In the case of special testimony, the subject of childhood is produced as someone who must be heard, but under control; protected, but surveilled; welcomed, but led. It is this structural ambivalence that challenges justice and psychology professionals to critically rethink their practices, moving from the logic of "useful truth" to ethical, sensitive and humanized listening.

It is concluded, therefore, that the foundations of the special testimony are crossed by a tension between care and surveillance, between the recognition of the child as a subject of rights and his submission to the demands of the penal system. Recognizing this tension is the first step to build practices that are more committed to the dignity of childhood, overcoming the technocracy of listening and investing in public policies, interdisciplinary training and critical reflections that really make listening an act of recognition, reparation and social transformation.

### **3 THE MARGINALITY OF CHILDREN'S VOICES: A HISTORICAL AND POLITICAL ISSUE**

The symbolic exclusion of children's voices is a historical phenomenon. Children were, for centuries, considered incapable of narrating truths about themselves (Sarmiento, 2005). In the legal field, this exclusion is based on assumptions about the lack of rationality or reliability of the child's testimony, naturalizing its disauthorization.

The perspective of Critical Legal Psychology (Guzzo & Lacerda Jr., 2014) allows us to denaturalize these conceptions and denounce how technical discourse can function as an instrument of silencing. Listening to a child requires recognizing their affective, cultural and social contexts, which implies shifting the focus from the "factual truth" to the "subjective truth" and relational. The marginalization of children's voices is not only a reflection of the absence of formal spaces for listening, but the result of a historical process of symbolic silencing of childhoods. For centuries, children have been conceived as incomplete subjects, devoid of reason, incapable of issuing valid or reliable judgments. This ingrained conception, as Sarmiento (2005) shows, has its origin in the modern Western tradition, in which childhood is seen as a stage of preparation for adult life, not as a full existence in itself.

In the legal field, this delegitimization translates into the idea that children's testimony would be contaminated by fantasies, suggestibility and lack of moral discernment, which would justify its subordination to technical and judicial filters. Even today, although the legal system recognizes the right of the child to be heard (Convention on the Rights of the Child,

1989; ECA, 1990; Law No. 13,431/2017), their voice continues to be frequently disallowed, mediated or reconfigured according to the criteria of adult rationality, thus reinforcing the adult-centric logic.

Critical Legal Psychology, as Guzzo and Lacerda Jr. (2014) argue, allows for the denaturalization of the discourses of neutrality and technique that permeate institutional procedures. Instead of treating the child as a source of data or an object of expertise, this approach proposes to recognize him as a subject of rights, a producer of meanings and a historical-social agent. This requires breaking with the idea that there is only one "objective truth" to be extracted from children's discourse, and assuming the complexity of subjective, relational, and situated truth, built on the intertwining of emotions, memory, language, and context.

In this sense, it is necessary to critically question the way in which listening procedures — including the most well-intentioned ones, such as special testimony — can end up reproducing power structures that have historically excluded or manipulated children's speeches. As Despret (2011) points out, the act of listening is neither passive nor innocent: it is a profoundly political practice, which defines who can speak, what can be said and under what conditions this saying will be recognized as legitimate.

In addition, as Rizzini (2009) points out, children's listening policies, when designed under a logic of tutelage and control, tend to reinforce stigmas and reduce the complexity of children's experiences to normative categories (such as "true victim", "reliable witness" or "manipulated child"). This process of normalization and categorization of childhood, according to the standards of the justice system, often excludes unconventional forms of narrative, such as pauses, silences, metaphorical expressions, and bodily ways of communicating trauma.

In addition, the sociology of childhood, represented by authors such as Corsaro (2002) and Sarmento (2005), contributes to the recognition of the child as an active social actor, with its own symbolic competences and unique forms of agency. From this perspective, listening to children in judicial proceedings needs to be thought of not as a favor or protective concession, but as a full political right, which implies the recognition of childhood as a relational, diverse, plural and historically situated category.

Qualified listening to children, therefore, requires more than protocols or recording technologies. It requires a profound review of the epistemologies that sustain the systematic distrust of childhood. It also requires a transformation in institutional practices, so that real

conditions of expression are created, where the child's word is understood in its affective and social density, and not only in its legal utility.

As Kramer et al. (2020) summarize, "the guarantee of the right to listen is not limited to the formal act of listening, but depends on the ethical-political commitment to the recognition of the child as a subject and to the openness to listening to differences" (p. 6). In this sense, breaking with the historical marginality of children's voices is, above all, a gesture of democratic reconstruction, capable of challenging traditional hierarchies of knowledge and power, and of promoting more just, humane and emancipatory practices within the justice system.

The exclusion of children's voices from instances of power, decision-making and self-enunciation is a historical, social and political phenomenon, sustained by a long adult-centric tradition that considers the child as a being in default — whether of reason, morality, or reliability. In Western modernity, as Sarmento (2005) points out, childhood was socially constructed as a transitory and subordinate stage of life, whose legitimacy depends on its adequacy to the standards and values of adult life. In this logic, children's speech is systematically placed under suspicion: it is either seen as fragile and fanciful, or as dangerous and manipulable.

In the legal field, this marginalization becomes even more acute. Institutions of justice, historically based on pillars of rationality, impartiality and objectivity, tend to treat children's testimony as unstable, emotionally contaminated and, therefore, insufficient as evidence. Even with the Convention on the Rights of the Child (1989) and with Brazilian legal provisions such as the ECA (1990) and Law No 13.431/2017, which recognize the child's right to participation and qualified listening, the paradigm of distrust still structures the way in which the child's voice is welcomed (or delegitimized) in the judicial process.

This marginalization is not limited to physical or formal exclusion from listening spaces. It manifests itself above all in the form of symbolic silencing, such as the reformulation of children's speech by adults, the invalidation of non-verbal or metaphorical modes of expression, and the filtering of meanings by technical-legal criteria of credibility. As Guzzo and Lacerda Jr. (2014) demonstrate, this process is crossed by power devices that operate both at the institutional and subjective levels, configuring listening practices that, under the appearance of protection, reproduce mechanisms of control and normalization.

Inspired by Foucault (2003), it can be said that children's listening is regulated by regimes of truth that determine who can speak, under what conditions, with what

consequences and with what epistemic value. Children, in these regimes, are often positioned as objects of intervention – and not as subjects who produce meanings about their experiences. This position implies, therefore, a form of infantile epistemicide: a historical refusal to recognize childhood as a legitimate source of knowledge, memory, and narrative.

In this context, institutionalized child listening — as occurs in the special testimony — needs to be problematized not only in terms of its technical format, but also in terms of its political structure. Listening to the child is not just applying standardized protocols or offering a welcoming environment: it is recognizing him as an interlocutor, as someone who has something to say and whose saying does not need to be validated by its adequacy to the adult discourse. This means abandoning the search for a "pure truth" and accepting listening as an ethical encounter with the other, as Despret (2011) proposes.

The sociology of childhood, especially in authors such as Corsaro (2002) and Sarmiento (2005), contributes in a fundamental way to this debate by highlighting childhood as an active, relational, plural and situated social category. Children are not just "future adults", but historical subjects with their own cultures, unique ways of signifying reality and resisting the impositions of the adult world. In this sense, the refusal to listen to the child as he is – and not as we would like him to be – reveals not only a flaw but a form of structural oppression legitimized by scientific knowledge and legal practices.

It is necessary, therefore, to denounce that the marginality of children's voices does not result from a natural "deficit" of expression, but from a political project of childhood control, which manifests itself in the ways in which institutions organize listening, frame discourses, edit reports and classify speeches as valid or invalid. As Rizzini (2009) observes, the history of childhood in Brazil is marked by policies of silencing, especially of poor, black, indigenous or institutionalized children, whose experiences do not fit into the dominant models of protected and "innocent" childhood.

Overcoming this marginalization requires more than good intentions or procedural improvements. It implies building a truly political and intersectional listening, which takes into account the crossings of class, race, gender, territory and disability, and which recognizes childhoods in their diversity and complexity. To listen to a child, in this horizon, is to listen to his history, his context, his subjectivity, his pauses, his fears and his metaphors — without reducing it to an evidential data or a technical protocol.

As Kramer, Nunes and Pena (2020) summarize, "the guarantee of listening is not limited to the creation of institutional channels, but requires a profound transformation in the

power relations that have historically silenced children's voices". This transformation is, at the same time, legal, ethical, and epistemological — and should guide any proposal that intends, in fact, to recognize childhood as a subject of rights and of speech.

#### **4 LISTENING AS A POLITICAL ACT: FOR A DIALOGICAL AND HUMANIZED APPROACH**

In view of the persistence of the marginality of children's voices, it becomes urgent to rethink the epistemological foundations of listening in the special testimony. As Rizzini (2009) points out, it is necessary to replace the conception of the child as a subject "to be protected" with that of a subject "of rights", capable of agency, even in situations of suffering.

This implies understanding listening as a political and relational act, which requires sensitivity, ethics and commitment to otherness from the professional. The historical-cultural approach, inspired by Vygotsky (2007), contributes to this perspective by emphasizing that the development and expression of the child are intrinsically linked to the social environment and the symbolic relationships it establishes.

Listening to children and adolescents in contexts of violence cannot be understood as a simple technical procedure, but must be recognized as a political and ethical act. The way in which the child is listened to, the conditions under which his speech is validated, welcomed or disregarded, reveal the conceptions of childhood that permeate legal practice and the institutional logic of the justice system itself. Listening, in this context, is to position oneself in the face of power relations that cross the subjects and their narratives.

In Foucault's perspective, knowledge and power are intrinsically articulated. What is considered a "true" or "valid" account is always the product of a regime of truth that operates through discursive practices and control devices (Foucault, 1987; 2003). Thus, institutionalized listening, when regulated by rigid protocols and guided exclusively by the evidentiary purpose, runs the risk of reiterating the marginalization of children's voices, reducing them to elements of evidence, and not to legitimate expressions of subjects of rights.

According to Arantes (2008), listening should be understood as a space for meeting the other, where otherness is respected and valued. It is about recognizing the child as an ethical and political subject, whose experiences and meanings cannot be captured solely by forensic procedures. Listening, therefore, is a gesture that involves willingness, sensitivity and responsibility.

Rizzini (2009) adds that the construction of humanized listening requires a break with adult-centric and tutelary models, which have historically disregarded childhood's own ways

of narrating and understanding the world. Humanized listening implies accepting the child in his complexity, with his silences, pauses, gestures, metaphors and affections. It is not about extracting absolute truths, but about offering conditions for the child to feel safe and respected in his uniqueness.

From the point of view of Critical Legal Psychology, as Guzzo and Lacerda Jr. (2014) point out, it is necessary to shift the focus from listening as data collection to listening as a relationship. Listening is relational, contextual and situated. Listening to a child is also listening to the network that surrounds him: the family, the school, the community, the social, gender, race and class crossings.

Zavattaro (2022), in turn, highlights the importance of listening practices that consider the effects of the interviewer in conducting the interview, emphasizing that neutrality is an illusion that can obscure the ethical responsibility of the professionals involved. For the author, listening is also "suspending the trial to offer a space for effective listening, which goes beyond the usefulness of the report for the process" (Zavattaro, 2022, p. 39).

A dialogical approach to listening requires that the special testimony goes beyond a technical protocol and is configured as a practice of care and respect for the dignity of the child. This implies investing in the ethical and critical training of professionals, in the construction of welcoming spaces, and above all, in the revision of the institutional logics that subordinate children's discourse to the logic of the test.

In short, listening is a political act because it involves choices: who listens, how to listen, why listens and what is done with what has been heard. The construction of humanized listening requires that the justice system and the professionals inserted in it assume the commitment to recognize children not only as victims or witnesses, but as historical subjects, producers of meaning and deserving of respect in their entirety. Listening to children and adolescents in judicial contexts cannot be reduced to a technical, neutral or merely instrumental act. It is a practice marked by symbolic disputes and power relations, and which, therefore, demands to be understood as a political act, with ethical, epistemological and institutional implications. When we talk about listening, we are also talking about recognition, legitimacy and visibility of historically subordinated subjects: children.

Inspired by the Foucauldian notion of device, the special testimony is constituted as an arrangement of knowledge, practices and institutions that intends to order and manage children's speech in contexts of justice. It articulates legal, psychological, medical, pedagogical and social discourses, configuring itself as a technology of control and

production of truth (Foucault, 1984). Listening, in this context, is not free—it is regulated, choreographed, induced by protocols, pre-established questions, and the expectation of "getting the truth."

However, as Despret (2011) warns, listening is more than listening to what the other says: it is also being available to transform oneself through what one hears. Dialogic listening it requires presence, empathy and openness to recognize the child's radical otherness. This implies abandoning the adultcentric and performative logic, which validates only coherent, linear discourses compatible with the standards of legal rationality. As Kramer, Nunes and Pena (2020) state, "listening to the child must be committed to the ethics of care, and not to the productivity of testimony".

The dialogical approach, as proposed by Bakhtin (2006), values the relational dimension of language and understands that every utterance is a response to other utterances. Applied to children's listening, this means recognizing that the child's speech is constituted in relation to the other, in intersubjective and affective contexts. Listening, therefore, cannot be separated from its concrete situation, nor be transformed into a "raw datum" to be analyzed outside its social fabric.

In addition, humanized listening must consider the multiple childhoods that coexist in our society. Childhood is not a universal and homogeneous category, but a historical and social construction, crossed by markers such as class, race, gender and territory (Sarmiento, 2005). Thus, sensitive listening needs to be intersectional, attentive to the ways in which exclusion and silencing are articulated from these markers.

As Coimbra and Nascimento (2006) point out, the policy of institutionalized listening often empties the political power of children's speech by reducing it to a technical resource for managing the process. "The listening that matters is the one that serves the criminal process, that is reliable, coherent, adequate – and not that which expresses suffering, doubt, fear or confusion," the authors denounce. In other words, what escapes the discursive norm of what is considered "true" or "useful" for criminal prosecution tends to be discarded.

In this sense, listening as a political act should not be confused with mere empathetic acceptance. It is a critical posture that recognizes that listening to children is also disputing meanings about what childhood is, about who can speak and what can be said. It is a form of resistance to the colonization of children's senses by adult and judicial logics.

As Zavattaro (2022) summarizes, listening to children requires "suspending the desire to control the story, to open up to what it can reveal that is unpredictable, contradictory, and



non-codible". It is about creating conditions for the child's speech to be recognized as legitimate, even if it does not meet institutional expectations of clarity, coherence or linearity.

Finally, building a dialogical and humanized listening implies questioning the place that the justice system assigns to children: as victims to be protected or as subjects to be heard? Of objects of evidence or of interlocutors? The answer to these questions is not just technical or legal — it is political. And only a listening that recognizes itself as such can contribute to truly emancipatory and protective practices.

Listening to children and adolescents in the context of justice is not just a technical procedure or a formal compliance with legal norms — it is, above all, a political act, loaded with ethical, epistemological and institutional implications. Listening is recognizing the other as a subject of rights, as someone who has something to say and whose word deserves to be welcomed, respected and considered in decision-making processes. In this sense, listening is part of a deeply relational dimension, and its effectiveness depends on the attitude of openness, respect and accountability on the part of those who conduct it.

From the perspective of Critical Legal Psychology, listening is to break with the instrumental logic of information extraction and move to a logic of recognition of otherness. As Guzzo and Lacerda Jr. (2014) argue, listening should not be guided exclusively by the imperatives of legal evidence, but by the needs of the subject in suffering, whose narrative is not only a means of verification, but an expression of subjectivity, memory and resistance. Listening is, therefore, assuming a commitment to human dignity, to care and to the construction of institutional practices that value the uniqueness of childhood.

In the same sense, Paulo Freire (2005) already denounced that there is no neutrality in listening. Listening implies positioning, dialogue and acceptance. It is not about "passive listening", but about committing to what is said and who says it. In dialogic listening, the child is not a source of data to be purified, but a person who constructs meanings from his or her history, context and language. This requires from the listening professional not only technically, but also sensitivity, active listening, affective disposition and ethics of presence.

Qualified listening also implies decolonizing institutional knowledge. As Despret (2011) observes, to truly listen to someone is to let oneself be affected by this listening, recognizing that the encounter with the other transforms our own way of knowing.

Like this the professional who listens must be willing to review their certainties, suspend their judgments and abandon the search for absolute truths, making room for multiple narratives, silences, hesitations and unconventional forms of expression —

especially in the case of children, who also communicate with their bodies, gestures, games, and silence.

Humanized listening must, therefore, consider the subject in its totality and context, and not just its usefulness in the process. This means creating environmental, institutional and relational conditions that allow the child to speak in his or her own time, with his or her own narrative logic. As Marinho-Araujo and Almeida (2014) warn, reducing children's listening to the rigid application of technical protocols disregards the affective and social aspects of communication, and can silence experiences precisely at the moment when they most need to be named, welcomed and resignified.

The proposal of a dialogical and humanized listening also requires facing the structural inequalities that cross the experiences of children in Brazil. Black, poor, indigenous, disabled or institutionalized children are often listened to in a selective or conditioned way, when not totally silenced by institutions. Listening, in this context, also needs to be intersectional, attentive to the marks of social exclusion, racism, ableism and gender inequality, recognizing that the word of certain childhoods is historically delegitimized.

Treating listening as a political act means, therefore, assuming that it is inscribed in power relations and that it can be used both to emancipate and to subjugate. In the words of Foucault (2003), all knowledge is linked to a regime of power. In this case, listening can function as an instrument of control and discipline, or as a practice of care, reparation and justice. The ethical challenge that is imposed on professionals and institutions is to choose which side they want to be on: on the side of technical neutrality or on the side of the recognition of the other as a subject of rights and history.

Thus, a listening that is truly committed to the rights of children is not limited to ensuring that the child is heard – but that he or she is listened to with meaning, with bonding and with ethical-political commitment. It presupposes breaking with extractive practices, valuing the uniqueness of children's voices, and creating institutional spaces that cultivate listening as a living, sensitive, and transformative practice.

## **5 FINAL CONSIDERATIONS**

The special testimony represents an attempt to correct historical injustices in the treatment of children and adolescents who are victims of violence. However, its effectiveness depends on the way it is operationalized. When guided exclusively by technical and judicial

criteria, there is a risk of perpetuating the invisibility and dehumanization of the child in the process.

It is necessary to advance in the ethical and critical training of professionals who work in listening, so that the special testimony is no longer just a procedure and becomes a practice truly committed to qualified listening, welcoming and recognition of childhoods in their plurality and power.

The special testimony represents a legal and political milestone in the effort to confront violence against children and adolescents, by recognizing their condition as subjects of rights and proposing a model of listening that aims to protect them from revictimization. Law No. 13,431/2017 and its technical developments, such as the standardization of interview protocols, signal an important paradigm shift in relation to previous practices, which often exposed the child to multiple, fragmented and invasive inquiries throughout the judicial process.

However, as demonstrated throughout this work, the simple institutionalization of the procedure does not guarantee, by itself, the full recognition of childhood as a political, ethical and historical subject. When operationalized exclusively under the criteria of technical-legal rationality — centered on the production of evidence, the reduction of testimony to evidence, and the conduction of children's discourse through standardized scripts — special testimony runs the risk of reproducing the symbolic exclusion of children's voices, albeit under a new protective guise.

The historical marginality of childhood is not solved only with listening technologies, but with the deep recognition of childhood as a legitimate otherness, endowed with its own modes of language, time, emotion and meaning. This requires shifting the focus of listening from the search for "factual truths" to the valorization of subjective, relational and contextual truths, welcoming children's experiences in their complexity, without reducing them to the institutionally expected format.

For the special testimony to become an emancipatory practice, it is essential to invest in ethical, critical and interdisciplinary training of the professionals involved – psychologists, social workers, pedagogues, legal operators – training them not only in interview techniques, but above all in sensitive listening, respect for otherness, commitment to human rights and understanding of childhood as a political category.

In addition, it is necessary to rethink the very ways in which the justice system works, which still operates mostly under punitive, adult-centric, and productivist logics, in which the

child is seen as an instrument for holding the aggressor accountable, and not as a subject of care, listening, and reparation. The implementation of the principle of the best interest of the child necessarily involves a broader institutional reform, which includes the strengthening of the protection network, the creation of truly welcoming spaces and the appreciation of practices based on dialogue and humanization.

Therefore, listening to children and adolescents should not be understood as a mere procedural step, but as a political act of recognition and institutional accountability, which challenges systems of power to rethink their practices and ethical commitments. Only in this way will it be possible to build a model of justice that truly values and protects childhoods in their plurality, power and dignity.

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