

Manual of Special Testimony of Children and Adolescents

**from traditional Peoples
and Communities**

ONU





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LIST OF ABBREVIATIONS AND ACRONYMS

CNJ	National Council of Justice
FONINJ	National Forum for Children and Youth
CONANDA	National Council for the Rights of Children and Adolescents
GT	Working Group
PCT	Traditional Peoples and Communities
DE	Special Testimony
FUNAI	National Indigenous Foundation
DSEI	Special Indigenous Health District
SESAI	Special Secretariat for Indigenous Health
CRAS	Social Assistance Reference Center
CREAS	Specialized Social Assistance Reference Center
UNDP	United Nations Development Programme
ILO	International Labor Organization
UN	United Nations
TJ	Court of Justice
TJMS	Court of Justice of Mato Grosso do Sul
TJAM	Court of Justice of Amazonas
TJBA	Court of Justice of Bahia
TJRR	Court of Justice of Roraima

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ANNEX - Operational Matrix for implementing the guidelines of the Practical Manual on the Special Testimony of Traditional Peoples and Communities under the scope of the Courts

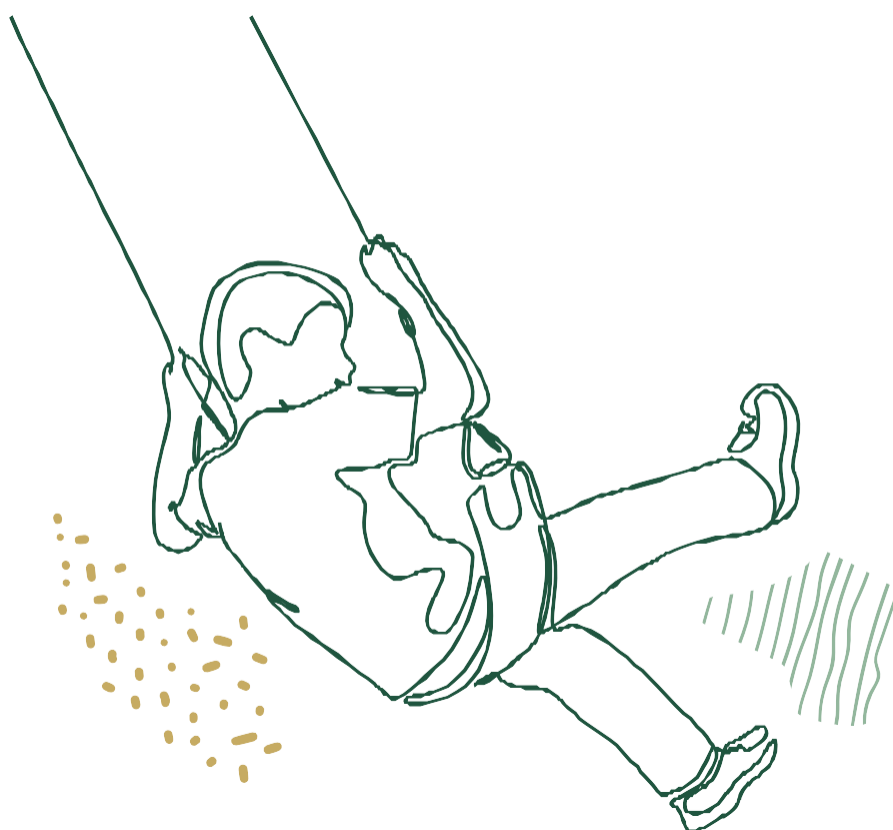


1. Presentation

The document **Manual of Special Testimony of Children and Adolescents from Traditional Peoples and Communities** is the fourth product stipulated by Contract BRA10-38678/2021, signed with the United Nations Development Programme, under the scope of Project BRA/19/007 - Project BRA/19/007. Project BRA/19/007 - Project to Strengthen the Management of Information on the Care of Children in Early Childhood in the Brazilian Justice System. This consultancy is located in Axis 2 - Strategy for strengthening judicial policies aimed at children of Project BRA/19/007 - Early Childhood - National Council of Justice (CNJ) axis.

This document, which contains parameters for the consolidation of a protocol of care and criteria for the making of special testimonies of children and adolescent victims of violence who come from traditional peoples and communities, constitutes the main object of this consulting service.

The Manual presents guidelines for the cultural adaptation of the procedures for special testimony of victims or witnesses of violence from these ethnic groups, in order to respect the sociocultural and linguistic specificities and the singularities of traditional subjects and to enforce their differentiated rights. With the delivery of the fourth product, the goal is to contribute to the strengthening of judicial policies aimed at the diversity of childhoods and youths existing in the Brazilian State.



2. Background

The CNJ Resolution No. 299, published on November 5, 2019, aims to regulate the system of guaranteeing the rights of the child and the adolescent victim or witness of violence addressed in Law No. 13,431, of April 4, 2017. This Resolution determines, in its article 3, that the state and federal courts must recognize, as an activity inherent to the judicial function, the participation of magistrates in the concretion of the local attendance flows of the referred system, observing the local peculiarities.

This Resolution includes recommendations for creating procedures to ensure that children and adolescents are able to share their stories in a safe, secure, and welcoming environment when giving special testimony. The Resolution offers recommendations to take into account the cultural backgrounds of children and adolescents from traditional communities, in order to ensure effective communication during testimony. These recommendations include for example, having an interpreter present during the hearing.

The National Forum for Children and Youth of the National Council of Justice (FONINJ/CNJ) has been charged with drafting a protocol for the care and special testimony of child and adolescent victims of violence from traditional communities and peoples, to be followed by state and federal courts.

In March 2020, the Office of Counselor Flávia Pessoa, responsible for FONINJ/CNJ, sent a circular letter to experts in the theme of traditional peoples and communities with questions that could subsidize the preparation of the protocol. In their answers, the experts were unanimous in affirming that traditional peoples and communities employ specific criteria to mark the passage of children to adulthood and particular ways of sexual initiation of their young people, clarifying that these criteria vary from people to people. In the same way, they alert to the fact that these people conceive violence, and particularly sexual violence, in a different way than in Western society. Finally, they emphasize the importance of respecting their own conflict resolution initiatives, and of building together with leaders and communities the best ways for Justice to act for the protection of children and adolescents.

Other activities carried out by FONINJ in search of subsidies for the work with traditional peoples and communities were: consultation with members of national organizations representing traditional peoples and communities¹ on situations of violence, forms of native attendance, possibilities of dialogue with the Justice System, and adaptation of the special testimony, which took place in June 2020; and the elaboration of a proposal for a flow of differentiated attendance for the special testimony, developed during the second semester of 2020.

In December 2020, the CNJ published Ordinance No. 298, which established the inter-institutional working group (GT) with the participation of members of the rights assurance system, with the objective of implementing, on a pilot basis, flows and guidelines for the application of parameters for the special testimony of children and adolescents from traditional peoples and communities who are victims or witnesses of violence, safeguarding the norms that protect the social and cultural values of these groups.

In April 2021, the consultancy contracted by the United Nations Development Program (UNDP) began to accompany and assist the WG in the efforts to outline the roadmap for the implementation of the pilot project in the participating courts of justice, based on local experiences, and to elaborate parameters for taking special testimony from children and adolescents from communities and traditional peoples who are victims of violence.

1 Representatives of the following organizations participated in the consultation: Articulation of Indigenous Peoples of Brazil - APIB, National Coordination of Articulation of Quilombos - CONAQ, Maylê Sara Kalí International Association - AMSK and peoples of African matrix.

Four were the Courts of Justice that participated in the implementation of the pilot project of special testimony for children and adolescents from traditional peoples and communities: the Court of Justice of Mato Grosso do Sul, the Court of Justice of Amazonas, the Court of Justice of Roraima, and the Court of Justice of Bahia. It was up to the districts to indicate the districts that would host the pilot project and determine the peoples and communities that would be included in it.

The traditional peoples and communities served by the districts that participated in the pilot project to implement the special testimony are: indigenous peoples (31 peoples, speaking 22 different languages); gypsies (Rom and Calon ethnicities); quilombolas; and terreiro communities.

Chart 1 - Courts of Justice, districts and ethnicities contemplated by the pilot project for the special testimony of traditional peoples and communities

Court	Districts	Ethnicities
Mato Grosso do Sul	Dourados	Guarani, Kayowá, Terena
	Amambai	Guarani and Kayowá
	Mundo Novo	Guarani
Amazonas	Tabatinga	Tikuna, Kokama and Kanamari
	São Gabriel da Cachoeira	Tukano, Dessana, Kubeo, Wanano or Kotiria, Tuyaca, Piratapuia, Miriti Tapuia, Arapasso, Karapanã, Bará, Siriano, Makuna, Baniwa, Koripaco, Baré, Werekema, Tariano, Hupdah, Yuhupde, Daw, Nadob, Yanomami and Barassana
Roraima	Boa Vista	Macuxi and Wapixana
	Bonfim	Macuxi and Wapixana
Bahia	Cachoeira	Terreiro Community: Nagô, Keto, Jeje Mahin, Nagô Ijexá, Jeje Nagô Ijexá specifications.
	Santo Amaro	Remaining Quilombo Communities
	Eunápolis	Gypsies: Rom and Calon

Source: NATIONAL COUNCIL OF JUSTICE, 2022a. The activities developed by the Working Group on Special Testimony of Traditional Peoples and Communities of the CNJ and the experiences developed by the Courts of Justice during the implementation of pilot projects for the special testimony of children and adolescent victims or witnesses of violence from traditional peoples and communities formed the basis for the preparation of this Manual.



3. Introduction

The Brazilian State is home to a great ethnic, sociocultural, and linguistic diversity of traditional peoples and communities (PCT)²: indigenous peoples, quilombolas, traditional communities of African origin or of *terreiro*, extractivists, river dwellers, *caboclos*, artisanal fishermen, gypsies, etc. In Brazil alone, indigenous peoples contribute 305 ethnicities, speaking 274 languages (IBGE, 2012).

Each of these collectives has its own way of producing people and traditionally socializing and educating their members. The socio-cultural diversity of traditional peoples and communities corresponds to the diversity of childhoods and ways of being a child and experiencing youth. This diversity must be taken into account by policies and the judiciary in order to make effective the differentiated rights of these children and adolescents to full protection.

² According to the National Policy for the Sustainable Development of Traditional Peoples and Communities (PNPCT), traditional peoples and communities (TTP) constitute "culturally differentiated groups that recognize themselves as such, that have their own forms of social organization, that occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral, and economic reproduction, using knowledge, innovations, and practices generated and transmitted by tradition" (Brazil, 2007).

The Law of Protected Listening (Law No. 13.431/2017) - Decree No. 9.603/2018 and Resolution No. 299/2019, which form its legal basis -, by establishing the system to guarantee the rights of children and adolescents who are victims or witnesses of violence, recognizes the need to ensure adequate conditions for their care in order to realize their right to full protection and to not be re-victimized.

Special testimony is one of the services provided to children and adolescents from traditional peoples and communities who are victims or witnesses of violence. It must be culturally appropriate to take into account the peculiarities and characteristics of these individuals. It is a process in which victims or witnesses of violence are heard before a police or judicial authority to provide evidence as part of a police investigation or judicial proceedings. To avoid revictimization, the special testimony must be organized in such a way that the witness is protected, welcome, and private. However, this is only one of the services to which victims and witnesses of violence are exposed when they enter the system of securing justice ³. In order for it to fulfill its objective, as envisaged in the legislation, the different institutions that integrate it must act in an organized and coordinated manner, establishing cross-cultural care flows aimed at realizing the right to full protection and non-victimization of children and adolescents.

The adaptation of the special testimony to the cultural and sociolinguistic universe of traditional peoples and communities, guided by communicative norms and particular codes of conduct, is essential both to enable effective communication and to prevent further institutional violence from being perpetrated against these collectives. The child victim or witness of violence who testifies in court is doubly victimized for being part of peoples and communities that have been targets of prejudice, discrimination, and the precariousness of their way of life throughout the historical process of interethnic contact.

The notion of person in the legislation that establishes the rights of children and adolescents understands that both children and adolescents are developing. This is not necessarily the logic that informs the processes of body fabrication and person production present in these societies (CASTRO, SEEGER, DA MATTA, 1987; CASTRO, 1987).

In the same way, this legislation operates with a notion of family that does not match the empirical bases of the social organization and kinship system of traditional peoples and communities. This family is structured in other social units - domestic nuclei, extended family, kinship, clans and/or exogamous halves, etc.⁴.

³ In the case of traditional peoples and communities, the institutions responsible for indigenous policies - National Indigenous Foundation/Ministry of Justice and Special Indigenous Health Secretariat/Ministry of Health - and for public policies directed to these groups are also part of the system to guarantee the rights of children and adolescents from traditional peoples and communities.

In order for protected listening legislation to apply to traditional peoples and communities, the social and cultural organization of these collectives must be taken into account, as well as the kinship systems that govern the relationships between members.

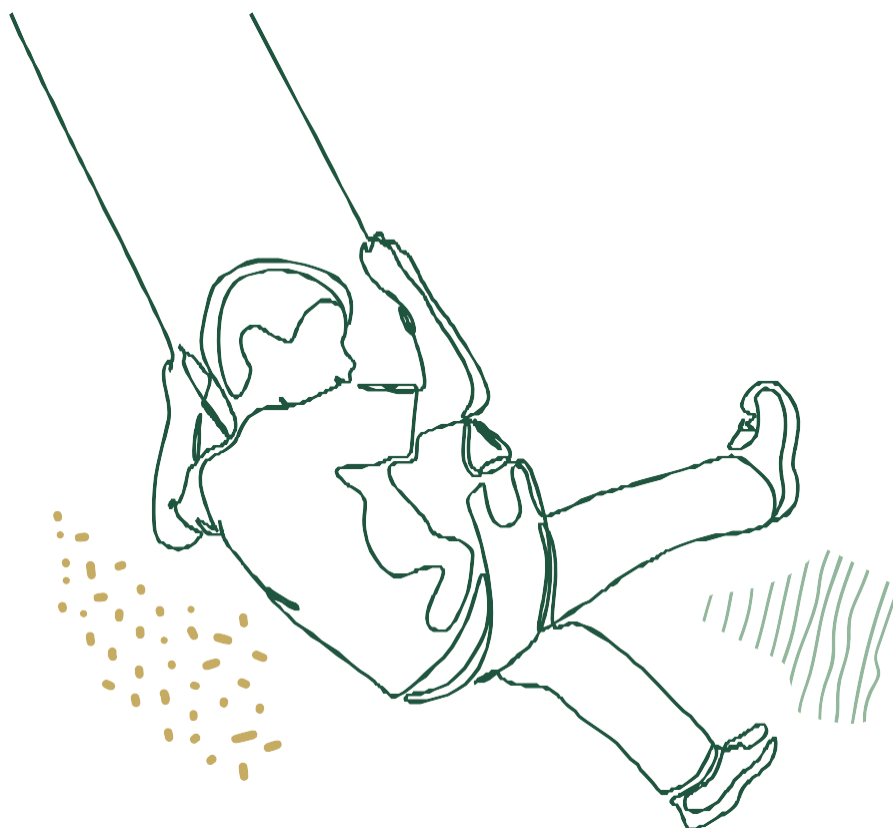
One of the objectives of this Manual is to make the Law of Protected Listening compatible with the differentiated rights of traditional peoples and communities established by national and international norms. To this end, it is necessary to establish a broad dialogue between the Judiciary and the leaders and representatives of the different social segments that make up traditional peoples and communities.

The **Manual for the Special Testimony of Children and Adolescents from Traditional Peoples and Communities** is based on special testimony in its strict sense to propose a cross-cultural adaptation of the flow of services provided by the rights assurance system, aiming to contribute to the realization of the right of children and adolescents from these groups to full protection and non-revictimization.

The guidelines for serving the target audience contemplated by this document are sensitive to the diversity of childhoods and youths existing within these ethnic and social groups and are attentive to the situations of vulnerability in which these people find themselves and the multiple forms that the phenomenon of violence takes in their territories. It also considers the particularities of the network that make up the rights assurance system in each of the locations in which it operates.

The Manual brings together a set of guidelines that orient the actions of the justice system for the intercultural adequacy of the special testimony procedure and its flows; on the other hand, it allows each Court of Justice to develop unique strategic action plans that take into account the specificities of the traditional peoples and communities it serves, and that are in line with the structural characteristics that the rights assurance system assumes in each locality of the Brazilian State.

4 For an approach to the social organization of traditional peoples and communities see: Melatti, 2007; Moonen, 2020; Leite, 2000; Flaksman, 2018.



4. Legal Landmarks

Law No. 13,431, of April 4, 2017, in establishing the system to guarantee the rights of children and adolescents who are victims or witnesses of violence, aims to create mechanisms to ensure the full protection of children and adolescents, both in terms of the prevention and containment of violence (article 1), and in terms of promoting opportunities for children and adolescents to live without violence, preserving their physical and mental health and their moral, intellectual, and social development (article 2).

Four are the forms of violence recognized by Law No. 13,431/2017: physical, psychological, sexual and institutional violence. While the first type of violence compromises the physical integrity and bodily health of the child or adolescent, psychological violence refers to any kind of discrimination, depreciation or disrespect towards the child or adolescent, or even the situation of witnessing situations of violence. Within the scope of sexual violence, there are situations of abuse, rape, sexual exploitation, and human trafficking; and, institutional violence refers to the actions of the State that can, among others, promote the re-victimization of children and adolescents within the scope of the services provided to these subjects.

One of the main objectives of the Law of Protected Listening is precisely to avoid the re-victimization of children and adolescents in the context of the services provided by the institutions that make up the system of rights assurance. To this end, the performance of the judiciary and the other institutions that make up the rights guarantee system - protection and security network - must be based on the principles of maximum protection and early, minimal, and urgent intervention in cases. Article 2 of Decree No. 9,603 of December 10, 2018, states that "the child and adolescent must receive early, minimal and urgent intervention from the competent authorities as soon as the situation of danger is known."

Among the rights and guarantees of children and adolescents provided in Article 5 of Law 13.431/2017 are:

- 1) The right to be protected against discrimination of any kind, regardless of class, sex, race, ethnicity, income, culture, educational level, age, religion, nationality, regional origin, migratory status, disability, or any other condition of his or her parents or legal representatives;
- 2) The right to receive specialized qualified legal and psychosocial assistance, which facilitates their participation and protects them against inappropriate behavior adopted by the other bodies involved in the process;
- 3) The right to be protected from suffering, with the right to support, planning of participation to be carried out between the specialized professionals and the judge, and limitation of interventions;
- 4) The right to have the opportunity to be assisted by a trained professional and meet the professionals who participate in the specialized listening and special testimony procedures;
- 5) The right to live together as a family and in the community;
- 6) The right to provide statements in a format adapted to children and adolescents with disabilities or in a language other than Portuguese.

Article 4 of Decree No. 9,603 also determines that the "Brazilian or foreign child or adolescent who speaks other languages must be consulted about the language in which he or she prefers to speak, in any service, program, or public equipment of the rights guarantee system". Besides, in its Article 8, it foresees that conditions must be ensured for it to "express itself freely in an environment compatible with its needs, characteristics, and particularities.

The child and the adolescent must be heard about the situation of violence through the specialized listening and special testimony procedures. While the specialized listening is the interview procedure carried out by the protection network agency. The special testimony is the procedure for the hearing of a child victim or witness of violence before a police or judicial authority. Both the specialized listening and the special testimony must be carried out in an appropriate and welcoming place, respecting the privacy of the child or adolescent.

About the integrated attendance policies

Law No. 13,431/2017 also determines that the State shall develop integrated and coordinated policies aimed at ensuring the human rights of children and adolescents in the context of domestic, family, and social relationships, protecting them from all forms of neglect, discrimination, exploitation, violence, abuse, cruelty, and oppression. Article 14 provides that "the policies implemented in the justice, public safety, social assistance, education, and health systems must adopt articulated, coordinated, and effective actions aimed at welcoming and providing comprehensive care to victims of violence.

Article 3 of Decree No. 9,603/2018 determines that the rights guarantee system is responsible for intervening in situations of violence against children and adolescents in order to: I - map occurrences of the forms of violence and their particularities in the national territory; II - prevent acts of violence against children and adolescents; III - make the violence stop when it occurs; IV - prevent the reiteration of violence that has already occurred; V - promote the assistance of children and adolescents to minimize the sequelae of the violence suffered; and VI - promote the full reparation of the rights of children and adolescents.

According to this same decree, the intersectorial assistance provided to children and adolescents must be comprehensive and integral⁵, being carried out in an articulated manner in order to avoid overlapping tasks. In addition, it advocates cooperation among public agencies, services, programs, and equipment as a way to enforce rights and achieve results.

Resolution no. 299, of November 5, 2019, of the National Council of Justice, which also provides for the system to guarantee the rights of children and adolescent victims and witnesses of violence, determines in its Article 3 that state and federal courts must "recognize as an activity inherent to the judicial function, for productivity purposes, the participation of magistrates in the implementation of local flows of care for child and adolescent victims or witnesses, observing local peculiarities."

Special Testimony

The special testimony constitutes one of the procedures that integrate the attendance policies aimed at the integral protection of children and adolescents who are victims or witnesses of violence. In order for it to fulfill its purpose according to the legislation that instituted it, it is necessary that the system of rights assurance is operating in accordance with what is determined by the Law of Protected Listening.

5 The procedures that make up the intersectorial assistance are: welcoming or reception; specialized listening in the organs of the protection system; attendance to the health network and the social assistance network; communication to the Tutelage Council; communication to the police authority; communication to the Public Prosecutor's Office; special testimony before the police or judicial authority; application of protective measures by the Tutelage Council, if necessary.

The special testimony shall consist of the hearing of a child victim or witness of violence before a police or judicial authority for the purpose of giving evidence. It must take place in a reasonable and comfortable place that guarantees the privacy of the respondent. Both Decree No. 9,603/2017 and CNJ Resolution No. 299/2019 recommend that the hearing of the victim or witness of violence must take place in an appropriate space so that their narratives can be presented in a safe, secure and welcoming manner. The said decree further describes that the room should be "reserved, quiet, welcoming and simply decorated to avoid distractions."

The special testimony is governed by protocols⁶ and, whenever possible, should be carried out only once, in the early production of judicial evidence. While the precautionary rite of anticipation of evidence may be triggered whenever the child is less than seven (7) years old and in cases of sexual violence.

Article 12 of Law No. 13.431/2017 establishes the procedures to be followed for the implementation of the special testimony. The specialized professionals should plan the participation of the child or adolescent in the hearing for the special testimony. During the hearing, they must inform you about the procedure in which you will participate and create the conditions for you to freely report the situation of violence. In court proceedings, the special testimony must be broadcast in real time to the courtroom and recorded in audio and video.

The specialized professionals who act in the making of the special testimony may be employees of the Judiciary, those who have been administratively assigned to make up the staff of the Court, or those who have been hired as experts to make the special testimony. It is the responsibility of the courts to promote the training of these professionals.

The PCTs under the Law of Protected Listening

The Law of Protected Listening provides that children and adolescents from traditional peoples and communities who are victims or witnesses of violence should have their social and cultural identities respected, as well as their customs and traditions (Article 17 of Decree No. 9,603/2018). It establishes in the sole paragraph that the practices of traditional peoples and communities may be adopted for the care and protection of children and adolescents as a complement to institutional care measures.

To make effective the right to speak in the language of your choice (Article 4, Law No. 13.431/2017) the presence of an interpreter must be guaranteed, as defined by Article 19 of Resolution No. 299/2019 of the CNJ. The role of interpreters in the context of special testimony is fundamental to promote effective communication between forensic interviewers and children and adolescents from traditional peoples and communities who speak other languages. In addition, it is advisable that the technical team that will collect the special testimony be integrated by a professional with a background in anthropology (Resolution CNJ No. 299/2019).

6 The guidelines to be followed for conducting the Special Testimony are contained in the Brazilian Protocol for Forensic Interviews with Child or Adolescent Victims or Witnesses of Violence (2020).

It should also be mentioned that Decree No. 9.603/2018 determines, in its Article 18, that the National Indigenous Foundation (FUNAI) and the Special Indigenous Health District/Special Indigenous Health Care Secretariat (DSEI/SESAI) should be notified when indigenous children or adolescents are being cared for. Resolution No. 299/2019, in Article 21, further emphasizes that the federal indigenous agency be subpoenaed to designate a servant to accompany the special testimony.

The differentiated rights of traditional peoples and communities

The multicultural character of the Brazilian nation and the diversity of its ethnic groups were officially recognized with the adoption of the 1988 Federal Constitution⁷. Regarding traditional peoples and communities, the Federal Constitution takes into account the remnants of quilombos, recognizing the right of their communities to their lands (Article 68), and the indigenous peoples under the chapter VIII - Indigenous (Article 231 and Article 232).

The Magna Carta, by overcoming the tutelage over the indigenous person and recognizing the original peoples as full Brazilian citizens, instituted through Article 231 their differentiated rights: "Their social organization, customs, languages, beliefs and traditions, and the original rights over the lands they traditionally occupy are recognized to the indigenous people, the Union being responsible for demarcating them and protecting and enforcing respect for all their assets" (BRASIL, 1988).

In line with the provisions of Article 216 of the Federal Constitution of Brazil and aligned with the set of international norms that establish the rights of traditional peoples and communities, Decree No. 6040 of February 7, 2007, which establishes the National Policy for Sustainable Development of Traditional Peoples and Communities, and Decree No. 750 of May 9, 2016, which establishes the National Council of Traditional Peoples and Communities, are important milestones for the recognition of traditional peoples and communities as subjects of law at the national level.

7 In its article 216, it clarifies that "Brazilian cultural heritage is constituted by material and immaterial assets, taken individually or as a whole, which refer to the identity, action, and memory of the different groups that make up Brazilian society, including: I - the forms of expression; II - the ways of creating, doing and living; III - the scientific, artistic and technological creations; IV - the works, objects, documents, buildings and other spaces; V - urban groups and sites of historical, landscape, artistic, archaeological, paleontological, ecological, and scientific value."

Traditional peoples and communities are those who self-declare as

culturally differentiated groups that recognize themselves as such, that have their own forms of social organization, that occupy and use territories and natural resources as a condition for their cultural, social, religious, ancestral, and economic reproduction, using knowledge, innovations, and practices generated and transmitted by tradition (BRASIL, 2007).

Decree No. 8. 750/2016 mentions 28 traditional peoples and communities: indigenous peoples; quilombola communities; terreiro peoples and communities / peoples and communities of African matrix; gypsy peoples; artisanal fishermen; extractivists; coastal and marine extractivists; caiçaras; faxinalenses; benzedeiros; ilhéus; raizeiros; geraizeiros; caatingueiros; vazanteiros; veredeiros; pickers of everlasting flowers; pantaneiros; morroquianos; Pomeranian people; mangaba pickers; babaçu coconut breakers; retireiros of Araguaia; backcountry communities; riparians; cipozeiros; andirobeiros; caboclos (BRASIL, 2016).

Regarding the normatives that deal with the rights of traditional peoples and communities, Resolution No. 181, dated November 10, 2016, of the National Council of the Rights of Children and Adolescents, establishes a set of parameters for the interpretation of the rights and adequacies of the services for the care of children belonging to these collectives, respecting the different conceptions about the life cycles and the phases of childhood, adolescence, and adulthood. To this end, it recognizes the need to take into consideration the specific legislation of traditional peoples and communities in the formulation and application of measures aimed at ensuring differentiated rights and guaranteeing access to culturally appropriate care⁸.

International Rights

International Labor Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, June 27, 1989, applies to peoples who have been conquered and colonized but who have retained their own social, economic, cultural, and political institutions and are distinct from other segments of the national population (1989; 10). Among the innovations of the Convention are the right of peoples to self-identification and the right to be consulted and to participate in decisions and actions that affect their lives.

⁸ For the cultural adequacy of the services provided to children and adolescents from traditional peoples and communities, CONANDA Resolution No. 181/2016 of CONANDA recommends: the participation of these peoples in the planning, decision-making, and oversight of services; the insertion of professionals with knowledge about the traditions and customs of traditional peoples and communities in the technical teams of the rights guarantee system; the availability of information in culturally accessible language about the rights of children and adolescents; ongoing training of professionals; systemic operational flows of care that recognize traditional practices; improvement of data collection of the rights guarantee system, with the insertion of the ethnicity questionnaire.

In Article 2 of Convention No. 169, the OIT recommends that governments develop actions to protect the social, economic, and cultural rights of peoples, "while respecting their social and cultural identity, customs and traditions, and their institutions" (1989, 23). Governments have the role of making their rights and obligations known to peoples, and measures are taken to ensure that members of these peoples understand and make themselves understood in legal processes, providing them, if necessary, with interpreters or other effective means of communication.

Convention No. 169 recommends that states consider the customs, institutions and customary rights of these peoples when applying national laws and norms. Whenever there are impasses between the official legal frameworks and the traditional legal systems, one must resort to participative, joint construction of solutions to conflicts.

The United Nations Declaration on the Rights of Indigenous Peoples of September 13, 2007, in turn, recognizes the collective rights of indigenous peoples as indispensable to their existence, well-being, and integral development. Indigenous peoples have the right to free self-determination and autonomy to deal with issues related to internal and local affairs. In order to give effect to the rights advocated by the UN Declaration on Indigenous Rights, States must take measures to ensure that indigenous peoples understand and are understood in political, legal and administrative acts, through interpretation services or other appropriate means when necessary.

The UN Declaration recognizes indigenous peoples, in Article 13, the right to manifest, practice, and develop their traditions and to transmit to future generations their "histories, languages, oral traditions, philosophies, writing systems, and literatures, and to give names to their communities, places, and people and to maintain them. Article 7 provides for the collective right of these peoples "to live in freedom, peace and security, as distinct peoples, and shall not be subjected to any act of genocide or any other act of violence, including the forcible transfer of children from one group to another."

States must pay attention to the rights and special needs of indigenous youth and children (Article 21), adopting measures, in conjunction with the peoples, that ensure the full protection of women and children from all forms of violence and discrimination (Article 22). Indigenous families and communities have the right to share "responsibility for the formation, education, and well-being of their children in accordance with the rights of the child."

The Organization of American States' (OEA) American Declaration on the Rights of Indigenous Peoples, approved on June 15, 2016, also constitutes an important international legal framework for guaranteeing the rights of traditional peoples and communities. The Declaration reiterates the rights of indigenous peoples already recognized by other international norms — self-identification, pluricultural and multilingual nature of peoples, free determination, etc. — recognizes and respects the right of indigenous peoples to their legal, social, political and economic systems and institutions, as well as to their own culture (Article 6), providing for their participation in decision-making processes in matters that affect their rights and that are related to the elaboration and execution of laws (Article 23).

It also reinforces that indigenous peoples have the right to their cultural identity, without being subjected to external intentions of assimilation. "States shall not develop, adopt, support, or favor any policy of assimilation of indigenous peoples or destruction of their cultures" (Article 8). This article is closely related to Article 17, which recognizes the right of indigenous peoples to preserve, maintain and promote their own family systems, as well as their forms of marriage union, filiation, descent and family name. With regard to indigenous children it clarifies:

In matters relating to custody, adoption, family breakdown, and similar matters, the best interests of the child will be considered paramount. In determining the best interests of the child, courts and other relevant institutions shall bear in mind the right of every indigenous child, in common with members of his or her people, to enjoy his or her own culture, to profess and practice their own religion or to speak their own language, and in this regard, the indigenous right of the people will be considered (2016, p. 19).

The International Convention on the Rights of the Child draws attention to the *importance* of the traditions and cultural values of each people for the protection and harmonious development of the child. In its Article 30, it recognizes the right of children belonging to ethnic, religious, or linguistic minorities or to indigenous populations to have their own culture and to use their own language in community. Mention should also be made of Article 16, which states that "no child shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.

In line with these legal and conceptual frameworks, the work with traditional peoples and communities must prioritize the collective search for solutions and respect for autonomy as ways to build the good life and to fully protect children and youth.



5. The phenomenon of violence against children and adolescents from traditional peoples and communities

The violent process of conquest and colonization to which traditional peoples and communities have been subjected throughout history has generated profound impacts on their sociocultural organizations and on their own modes of production of people and social identities (CASTRO, SEEGER, DA MATTA, 1987; CASTRO, 1987).

The historical effects of colonial violence still resonate today in the context of contemporary communities and traditional peoples. They assume a structural character in that they place them in a subordinated social and economic position, linked to a series of stereotypes, stigma, discrimination, racism, and prejudice still present in the imagination of national society - the symbolic or psychological dimension of violence.

The phenomenon of violence against children and adolescents from traditional peoples and communities is complex and determined by multiple factors. In each locality where it erupts, it assumes particular contours, because, in order to deal with it, the people or the community will trigger their own ways of conceiving and intervening in the situations of violence faced in their community contexts. In the face of the advancing violence that erupts within communities, children and young people are the most vulnerable population segments.

There are two faces that the phenomenon of violence assumes with traditional peoples and communities today: the various forms of violence exercised by national society on these peoples and the violence that occurs within the communities - the intra-community violence.

Among the contemporary violence exercised by national society against traditional peoples and communities is institutional violence, which is expressed, among other things, in the fact that their territorial rights have not yet been enforced and in the absence of culturally appropriate public policies that promote the emancipation, sustainability, and autonomy of the communities.

Institutional violence also occurs when the agents responsible for implementing public policies operate with stereotypical images about these groups and guide their actions based on prejudiced, discriminatory, and stigmatizing premises.

With regard to intra-community violence, that is, those that arise internally within communities, women and children are the most vulnerable social segments (FERREIRA *et al.*, 2021). Despite taking particular contours in each traditional people and community in Brazil, the harmful use of alcohol and other drugs constitutes one of the social determinants of domestic, family, and intracommunity violence (FIOCRUZ *et al.*, 2021; NATIONAL COUNCIL OF JUSTICE, 2022c). The community that experiences a situation of violence against its women and children is generally exposed to multiple social pressures and to intense processes of alcoholization instituted by interethnic contact.

The individualized cases of violence against children and adolescents from traditional peoples and communities that reach the Brazilian Judiciary are the product of the long history of violations to which these peoples and communities have been subjected. Generally, they occur in contexts of extreme precariousness in which these people live - food insecurity, territorial conflicts, depleted natural environments, lack of access to drinking water and decent housing, difficulty in accessing differentiated public policies (education, health, social assistance, etc.), intense alcoholization processes, and high suicide rates.

To overcome the institutional violence that makes the life world of these peoples and communities precarious and that erupts in their community contexts affecting children and adolescents, it is necessary to develop intersectoral actions aimed at intervening on the social determinants that converge to configure these situations, as well as to recover and strengthen the traditional values that sustain the family organization and the kinship system and that are the foundation of traditional knowledge and practices used in the protection of children and youth.



6. Guidelines for serving children and adolescents from traditional peoples and communities

The special testimony constitutes one of the procedures that integrate the system that guarantees the rights of children and adolescents who are victims of violence.

To avoid revictimization of children and adolescents from traditional peoples and communities, it is necessary that the flow of services provided by the rights assurance system acquire intercultural contours in order to contemplate linguistic and sociocultural specificities. The effectiveness of the right to full protection for children and adolescents depends on the systemic and coordinated action among the institutions that integrate it - the judiciary, security, and protection network.

Children and adolescents from traditional peoples and communities belong to societies that organize themselves based on other sociocultural premises. In traditional contexts, the knowledge and practices employed by families and kinship networks in the processes of constructing people (CASTRO, SEEGER, DA MATTA, 1997) are responsible for forging the subjectivities and social identities of their members. The conceptions associated with these phases of life and the care taken to protect children and young people conform a diversity of ways of experiencing childhood and different ways of becoming an adult.

Most of the children and adolescents in PCT who experience violence are unable to share their stories. It is necessary to find with each people and traditional community a culturally adequate way to approach them and to create conditions and spaces to listen to them. The specialized listening and special testimony procedures can become important spaces for listening to children and adolescents from traditional peoples and communities, as long as they are designed as intercultural communication events that guarantee the conditions for the free expression of children and adolescents, allowing them to express themselves in their own terms and in their mother tongue.

The institutions, equipment, and services that are part of the rights assurance system must consider not only the ethnic, sociocultural, and linguistic diversity of traditional peoples and communities, but also the precarious living conditions instituted by the historical colonization process and the consequent vulnerability of their groups. In this way, it will contribute to enforce the differentiated rights of traditional peoples and communities through the delineation of care flows that are culturally adequate and articulated with the traditional ways of protecting and caring for children and youth.

Aiming to make the principles of the Law of Protected Listening and the differentiated rights of traditional peoples and communities compatible, the **Manual for Special Testimony of Children and Adolescents Belonging to Traditional Peoples and Communities** presents a set of guidelines. They are:

- 1) diversities of traditional peoples and communities: childhoods, modes of protection and legal pluralism;
- 2) consultation and participation of traditional peoples and communities;
- 3) ethnic identification and language of the child or adolescent victim or witness of violence from traditional peoples and communities;
- 4) location for the collection of special testimony from traditional peoples and communities;
- 5) planning the special testimony hearing of traditional peoples and communities;
- 6) forensic interviewers;
- 7) forensic interpreters and cultural mediators;
- 8) adequacy of the Brazilian Protocol for Forensic Interviews of Child and Adolescent Victims or Witnesses of Violence from Traditional Peoples and Communities;
- 9) anthropological expertise;

- 10) internal organization of the judiciary for taking special testimony;
- 11) articulation of the judiciary with the rights assurance system;
- 12) permanent formation;
- 13) isolated and recently contacted indigenous peoples;
- 14) planning, monitoring and evaluation.

6.1. Diversities of traditional peoples and communities: childhoods, ways of protecting children and adolescents, and conflict resolution systems

Childhood and adolescence are socially constructed categories and are culturally experienced in a particular way by different societies and at different times in history (PINHEIRO; FROTA *apud* FIOCRUZ *et al.*, 2021). The meanings and roles attributed to them are social and cultural constructs and must be understood in the light of the ethnic, linguistic, and sociocultural specificities of the various human collectives. The category adolescent, situated in the discursive horizon of Western society, is not universal.

Traditional peoples and communities have their own ways of understanding and marking the passage from childhood to adulthood, as well as particular ways of sexual initiation for young people. In these community contexts, life cycles are conceived and organized by particular symbolic constellations that structure their social organizations. The kinship system constitutes an important dimension on which traditional societies are organized, defining social positions and establishing norms that govern the conduct, relationships, and communicative interactions between relatives.

It is the practices employed in the production of persons in the context of kinship relations that both define gender positions and mark the transition of subjects between the different stages of life, usually through rites of passage. In traditional societies, age stages are equivalent to well-defined positions and demarcate the functions and social roles to be played by subjects. "Upon completing the ritual cycle, the child will be an adult, ready to marry, procreate, and perform social reproduction" (RANGEL *apud* FIOCRUZ *et al.*, 2021).

The actions for the integral protection of children and adolescents from traditional peoples and communities must consider the subjects in their singularities, as subjects inserted in the relational contexts of kinship. It is necessary that the institutions, equipment, and services consider the traditional knowledge and practices used in the care and protection of children and young people, and develop, together with the people and communities, intercultural strategies to assist children and adolescents who are victims of violence.

Intervention in the phenomenon of violence against children and adolescents of traditional peoples and communities must combine the resources of traditional legal systems and traditional ways of caring for and protecting children and youth - their knowledge, practices, and practitioners - to the ways of acting within the system of rights guarantees, instituting an intercultural flow of care for victims and adolescents. The articulation with the knowledge, practices, modes of conflict resolution, kinship networks, and traditional caregivers who collaborate in the protection of children and youth constitutes the epistemological foundation from which the guidelines presented in this Manual must be materialized.

Traditional peoples and communities have distinct conceptions about the issue of violence and their own means of resolving the conflicts that erupt in their community contexts. Some of these conflicts are resolved internally and do not come to the attention of the institutions that make up the rights assurance system; while in others, the leaders or community members themselves trigger the rights assurance system to intervene in certain situations.

By referring cases of violence against children and adolescents to the rights assurance system, community members are operating from their own legal sensitivities (GEERTZ, 1998) and promoting articulation between traditional conflict resolution systems and the institutions of the rights assurance system. In this case, the assistance flows for victims and witnesses of violence are established within the community contexts themselves (NATIONAL COUNCIL OF JUSTICE, 2022c).

Recognizing the right of these peoples and communities to decide which cases to refer to the legal security system, consistent with the principles of self-determination and autonomy, is an important measure to consider.

Traditional peoples and communities are legitimate interlocutors, fully capable of understanding, deciding, and creating their own responses to the problems that beset them today. Traditional knowledge and practices are valid and effective resources that must be articulated so that the differentiated rights of your children and adolescents are put into effect.

In order to achieve the expected results and to avoid institutional violence, it is necessary that the best ways for justice to protect children and adolescents are built together with leaders, representatives, and communities, taking on intercultural contours. The social dynamics and the way each community is organized must be understood in order to act with expertise in cases that require mediation between different legal systems and the construction of assistance strategies based on the articulation of knowledge. It is fundamental that intercultural flows of care be agreed upon in each territory in order to contemplate the specificities of each people and community. The ways out must be thought of collectively based on dialogue and the broad participation of all concerned.

In order to intervene in problems and/or conflicts involving children and adolescents, it is important that the agents of the intervention, together with the leaders, seek the resources and potentials of the community itself in order to activate them in the development of culturally appropriate conflict resolution strategies. Intercultural dialog between the different entities that make up the system for securing rights and traditional peoples and communities is the way to reach agreements on the direction to take in conflict situations.

Operationalization: recommendations

In order for the diverse ways of being and living childhood and youth, the diverse traditional knowledge and practices used to holistically protect children and adolescents, and legal pluralism/traditional conflict resolution systems to be recognized, valued, and taken into account by the judiciary-both in the various procedural acts and in the implementation of decisions made by the court during judicial proceedings - the Courts of Justice need to know which traditional peoples and communities reside within their jurisdiction.

The Courts of Justice will have the task of mapping the different traditional peoples and communities attached to their territories and establishing intercultural dialogues that allow the joint construction of strategies to confront violence against children and adolescents from these groups.

This mapping should produce information about: ethnic, sociocultural, and linguistic diversity; demographic aspects; socio-spatial dynamics; political forms and representation of the people or the community and the different social segments that constitute them (leaders, representatives, organizations, and social movements, etc.); traditional modes of decision making and conflict resolution; conceptions of childhood, transition to adulthood, and sexuality; knowledge, practices, and traditional practitioners involved in the community.); traditional modes of decision making and conflict resolution; conceptions of childhood, transition to adulthood, and sexuality; traditional knowledge, practices, and practitioners involved in the care and comprehensive protection of children and adolescents; the best ways to consult and mobilize the people or community to participate in the process of implementing the guidelines of this Manual.

Some of the strategies that can be employed by the Courts of Justice to operationalize the mapping of traditional peoples and communities attached to their territories are:

- 1) Insertion of the professional anthropologist in the multidisciplinary teams of the Judiciary in order to produce the necessary knowledge to support the process of implementing the guidelines of this manual;
- 2) Enter into agreements with public, state and federal universities, public and private, for the mapping of traditional peoples and communities attached to the territory served by the Courts of Justice;
- 3) Activate the collaboration of governmental bodies responsible for policies directed to traditional peoples and communities. In the case of indigenous peoples, those responsible for indigenous policies: The National Indigenous Foundation and the Special Secretariat for Indigenous Health Care/Ministry of Health.
- 4) Establish cooperation terms with indigenous and indigenist organizations that allow the production of knowledge and the delineation of consultation strategies, guiding the Courts of Justice on how to proceed in each case.

Mapping the traditional peoples and communities living in the areas where the tribunals operate is fundamental to determining the method to be used in consulting with these groups about legislation, judicial policies, and legal security system services that affect their way of life. It is also an appropriate time to invite leadership and representation to actively participate in the development and application of the guidelines in this Manual.

6.2. On the consultation and participation of traditional peoples and communities

There is no way a child or an adolescent can be heard if his people are not. (NATIONAL COUNCIL OF JUSTICE, 2022c).

Traditional peoples and communities have the right to know and understand the legislation on protected listening for children and adolescents who are victims or witnesses of violence and to reflect on how it can best be implemented in their territories. Article 6 of Convention No. 169 (Indigenous and Tribal Peoples Convention of the International Labor Organization) recognizes the right of traditional peoples and communities to be consulted on policies that affect their lives and to determine their own development priorities.

The leaders, the representatives of the different social segments that constitute them, and the organizations of the traditional peoples and communities must participate in the implementation of the guidelines established by this Manual. It is the participation of members of traditional peoples and communities in the planning and execution process of this judicial policy that will make possible, through intercultural dialogue, the intercultural adaptation of the flows, protocols, and procedures adopted, among them the special testimony procedure.

The consultation with traditional peoples and communities regarding the implementation of the special testimony of children and adolescents who are victims or witnesses of violence should address the different aspects:

- 1º) Applicability of the Law of Protected Listening (and associated criminal legislation) to the community contexts of traditional peoples and communities and the conduct of their members;
- 2º) Validation of the Practical Manual for Special Testimony of Children and Adolescents belonging to Traditional Peoples and Communities;
- 3º) Agreeing on the best practices to be adopted for carrying out the special testimony procedure;
- 4º) Conducting the approaches and decisions taken in the context of concrete legal proceedings, with regard to measures for the protection of children and adolescents;
- 5º) Identification of traditional conflict resolution mechanisms and the nature of conflicts resolved through these mechanisms, particularly those involving violence, children, and adolescents.

On the applicability of the Law of Protected Listening to the community contexts of traditional peoples and communities and the conduct of its members

It is necessary for the Judiciary create mechanisms to make traditional peoples and communities aware of the rights guaranteed to children and adolescent victims or witnesses of violence, as well as the criminal justice framework applied to charge, try, and hold accountable indigenous people accused of criminal/criminal acts. Peoples and communities have the right to know the criminal legislation of the Brazilian State and to be consulted about its application to their socio-cultural universe and the behavior of its members. In addition, they must know the right of their children to full protection and non-victimization.

The best context for this consultation on the applicability of the Law of Protected Listening and associated criminal legislation to be carried out with traditional peoples and communities are those that favor intercultural dialogue, allowing the interaction between the Judiciary agents - magistrates, specialized professionals, and other servants concerned - the operators of the law, and the leaders and representatives of the traditional peoples and communities to take on the character of an encounter of knowledge and exchange of experiences.

In the encounter of legal knowledge and exchange of experiences, the Judiciary agents present to the traditional peoples and communities the laws of the Brazilian State and their ways of enforcement and listen to their leaders, representatives, and wise men about the traditional ways of doing justice, of classifying and punishing/correcting criminal/inappropriate conduct, of solving conflicts and facing contemporary problems that erupt in their communities, as well as their impressions about the official legislation and its ways of enforcement.

Categories such as crime, punishment, penalty, protection, childhood, adolescence, rights, subpoena, testimony, hearing, sexuality, integral protection, revictimization, etc. must be brought into dialogue so that alignments and consensus may be established to allow mutual understanding among those involved in the services provided to victims and witnesses of violence. The mutual understanding built from the dialog between the subjects involved in the process of implementing this judicial policy constitutes the basis on which to agree on intercultural service flows for children and adolescents from traditional peoples and communities.

Communities and traditional peoples will not always have ready-made devices to solve the contemporary problems and conflicts that erupt in their community contexts. Through dialogue with the Judiciary and other actors in the rights assurance system, intercultural forms of child care can emerge, combining the ways of knowing/doing of traditional peoples and communities with the devices with which the justice system operates.

In this case, the consultation with traditional peoples and communities becomes a privileged opportunity to establish a dialogic process of negotiation on the best ways to realize the differentiated rights of indigenous children and adolescents to full protection and non-revictimization, and to do justice to these groups and their members.

Validation of the Practical Manual for Special Testimony of Children and Adolescents by Traditional Peoples and Communities

As soon as the conditions for intercultural dialogue between the Judiciary and traditional peoples and communities are in place, the "Manual for Special Testimony of Children and Adolescents Belonging to Traditional Peoples and Communities" must be submitted for evaluation and validation by their leaders and community representatives. The consultation must establish an intercultural dialogue, inviting the traditional peoples and communities to participate in the realization of the guidelines established by this Manual, in order to promote co-responsibility for its implementation and for the results to be achieved.

As the manual presents a set of guidelines, it is necessary that the strategy to be adopted for the realization of each guideline be outlined in consensus with the traditional peoples and communities themselves, constituting these active subjects in the construction of ways to realize the rights of integral protection and non-revictimization of children and adolescents. The guideline on the consultation and participation of traditional peoples and communities assumes a transversal character to the other guidelines, to the extent that they will need to be pactuated, consensuated, and agreed upon with the communities and leaderships.

Traditional peoples and communities, through their professionals, leaders, representatives and organizations must participate in the:

- a) construction of attendance flows;
- b) definition of the appropriate location and necessary characteristics of the space for the collection of the special testimony;
- c) pactuation of the methodology for the hearing of children and adolescents,
- d) translation of the Law of Protected Listening and other associated norms and protocols into the languages of the native peoples and the elaboration of bilingual materials for the dissemination of legislation, flows, services, and strategies for the integral protection of children and adolescents;
- e) cross-cultural adaptation of the Brazilian Forensic Interview Protocol;
- f) indication of interpreters or their qualification as forensic interviewers, trained for cultural mediation;
- g) training of magistrates and specialized professionals;
- h) creation of intercultural measures of integral protection for children and adolescents, both in the community sphere of violence prevention and in the assistance to its victims or witnesses;
- i) elaboration of measures for the sheltering and protection of children and adolescents within the community contexts and kinship networks of traditional peoples and communities.

Conducting process approaches and judicial decisions

Once the channels for intercultural dialog between the justice system and traditional peoples and communities are established, it is possible to agree on the way consultation is carried out in specific cases of legalization of violence against children and adolescents, and to make decisions on the measures to be taken to protect children or adolescent victims of violence. In this way, justice approaches the differentiated socio-cultural universes of traditional peoples and communities through the template of protection.

To the extent that the consultation path and procedures are in place, the judiciary will be able to employ them whenever new situations arise that have not been foreseen and the need for consultation becomes pressing.

Operationalization: recommendations

The consultation must involve leaders, professionals, and representatives of the different social segments that make up a traditional people or community. The communities and traditional peoples, despite being ethnic and social collectives, are not homogeneous in their constitution. The subjects occupy different positions within the social structure of a people and community - gender, age class, political and spiritual roles, lineages, clans, kinship leaders, etc. - which contributes to their different points of view.

Ensuring that all these points of view are considered in the consultation process and in the construction of the implementation strategies for the manual is one way for the justice system to ensure that the different perspectives of the actors that make up the community/people are considered. To ensure that the consultation process is as broad and democratic as possible, it is important that the different social segments that make up the community or people are represented and participate in the construction of strategies for implementing its guidelines: women, youth, traditional leaders, wise and spiritual leaders, midwives, teachers, health agents, counselors, local indigenous organizations and regional and national indigenous movement etc.

On the other hand, it is also important to consider the way traditional peoples and communities organize their communicative events, based on their own sociolinguistic rules and taking into account the temporality that language and communication assume in these contexts. When people/communities communicate in their mother tongue, even if they are bilingual, linguistic and cultural interpreters must be provided so that the shared knowledge and experiences exchanged can be understood by all actors involved in the dialog.

The technology of the conversation circle, in which everyone has the right to express themselves freely on their own terms, is adequate to promote the encounter of knowledge and the flow of intercultural dialogue. Such meetings should take place in the communities and villages of the traditional peoples and communities themselves. By going to the communities, the magistrates and other employees of the Judiciary will have the opportunity to get closer to the sociocultural universes of these groups and become familiar with their realities and the forms of speech used by the traditional communities and peoples.

It is up to the traditional peoples and communities to guide the Judiciary as to the appropriate forms of consultation, which is also an object of intercultural negotiation. There are peoples or communities that have their own consultation protocols already defined and agreed upon. In this case, it is important that the justice system respects those instituted by the traditional peoples and communities to carry out the prior and informed consultation.

* * *

In order to implement the process of consultation and participation of peoples and communities in the realization of this judicial policy, the Courts of Justice must be aware of the diversity of peoples and communities attached to their territories and know the procedures that must be adopted to carry out the consultation of traditional peoples and communities, as described in guideline 1 of this Manual.

The mapping actions of the traditional peoples and communities carried out within the scope of the first guideline must indicate the paths for consulting the traditional peoples and communities and for implementing the intercultural dialogue process, with the aim of concretizing in the territory the other guidelines that make up this Manual. Once these paths have been identified, it is up to the Court's reference technicians for the implementation of the Practical Manual to contact the identified leaders and representations and schedule the first planning meeting for the consultation event with the traditional peoples and communities.

9 Some examples of contexts that are favorable to intercultural dialogue between the Judiciary and leaders, representatives, organizations, and communities: large assemblies of traditional peoples and communities, meetings of the leadership and community councils, public hearings promoted by the court, workshops to exchange experiences, etc.

6.3. Ethnic identification of the victim and witness of violence of traditional peoples and communities

In order for the differentiated rights of children and adolescents from traditional peoples and communities who are victims and witnesses of violence to be translated into action, these groups must be made visible in the official information systems of the justice system. To this end, judicial information systems should open fields for entering information about the ethnicity, language, people, and traditional community to which the victim, witness, or defendant in a judicial proceeding belongs.

The official information of the Judiciary will be important indicators for monitoring and evaluating public and judicial actions, making it possible to improve them to meet the specificities and needs of traditional peoples and communities. This information is fundamental for the elaboration of strategies to improve the operations of the system that guarantees the rights of children and adolescents who are victims or witnesses of violence from traditional peoples and communities, both in terms of measures to prevent violence and in terms of support to individuals.

Since ILO Convention No. 169/1989 also establishes the right of traditional peoples and communities to indicate their identity and membership in ethnic and social groups through self-identification/self-declaration, it is reasonable for judicial proceedings to provide information in this regard. Therefore, it is recommended that self-declaration of children and adolescents from traditional peoples and communities who are victims or witnesses of violence should be done at the non-judicial stage of the process, preferably when they testify at the police station. In cases where the child's hearing does not take place before the police station, the person in charge of the police station must inform the victim or witness of their ethnic identity when summoning them. The police investigation report should include information about the victim's ethnicity and language, which will be included in the prosecutor's documents and applications to the Judiciary, within the scope of specific court proceedings. Those responsible for entering judicial proceedings into the computerized judicial systems must complete the fields identifying the victim or witness of violence in terms of affiliation with traditional peoples or communities, ethnicity, and native language (even if the person speaks Portuguese).

Operationalization: recommendations

To make sure that information about the ethnic and linguistic identity of children or adolescents from traditional peoples and communities is available in the records, it is recommended that the Judiciary establish agreements, pursuant to Article 2 of Resolution CNJ No. 299, with the public security departments so that police stations include the self-declaration of victims or witnesses of violence in the initial phase of the police investigation, when their statements or those of their guardians are taken.

It is important that the Public Prosecutor's Office also be included in these arrangements so that when precautionary evidence is requested, the flagrante delicto arrest is confirmed, or the representation/charge is handed over to the judge in cases involving victims or witnesses of violence from traditional peoples and communities, the information is provided to the court without delay so that specific measures can be taken to culturally and linguistically adapt the services provided to the children and youth to reduce the risk of them being subjected to institutional violence and re-victimization.

6.4. The location for the collection of the special testimony of traditional peoples and communities

The Law of Protected Listening determines that the hearing of the child before the judicial or police authority must be held in a safe, appropriate, and welcoming place that guarantees the privacy of the child or adolescent. To this end, it recommends that specific rooms be implemented for the collection of special testimony, in order to create conditions for the child or adolescent to feel welcomed and secure to the point of being able to speak freely about the situation of violence to which he/she was subjected or had the opportunity to witness.

The criteria to define the characteristics of a protective and welcoming space for children and adolescents from traditional peoples and communities vary according to the culture of each of these groups. What is recommended by the Law of Protected Listening as a favorable environment for the collection of special testimony will not necessarily be considered by children or by the adolescents from traditional peoples and communities, for example, as a welcoming environment.

In this way, the Judiciary and its facilities, by representing the power of the State and of hegemonic society with which traditional peoples and communities have historically maintained tense and conflictive relations, and evoking centuries of colonial violence perpetrated against these groups, can present itself as an oppressive environment for children and adolescents. Besides this, there is the issue of the difficulty of displacement of the victims and their families to the Courthouse to attend the summonses of the Judiciary, which forces them to leave their villages and communities and go to the urban centers, exposing them to other types of suffering. These situations are aggravated when children or adolescents live in places that are difficult to access, as is the case of those who live in the Northern region of the country (NATIONAL COUNCIL OF JUSTICE, 2022c).

Knowing this, and in an effort to avoid the re-victimization of children and adolescents, the Judiciary could consider the possibility of decentralizing the special hearings of witnesses to the territories of traditional peoples and communities, in an itinerant modality, as recommended in Article 107, 2nd Paragraph, and Article 125, 7th Paragraph, of the Federal Constitution. The elaboration of the strategy for hearing witnesses in the territories must be done with the leaders, representatives and professionals of these peoples and communities, as established in Guidelines 1 and 2 of this Manual.

It is important to ensure the confidentiality of the testimony and the safety of the victim or witness of the violent act, as well as that of the legal professionals who are in the area where the testimony is taken. In implementing this measure, the judicial system can call on the institutional support of the protection network institutions and other members of the legal protection system.

In cases where it is not possible to conduct the special testimony in the territories of the traditional peoples and communities, it is important that the environment of the room where the special testimony will take place be organized together with representatives of the traditional peoples and communities, in order to make it more familiar and welcoming for their children and adolescents.

6.5. Planning the special testimony hearing of traditional peoples and communities

Among the rights and guarantees of children and adolescents provided in Article 5 of Law 13.431/2017 is that of having their participation planned in the special testimony hearing in order to safeguard them and protect them from suffering. In the case of traditional peoples and communities, planning for the participation of children and adolescents in the making of the special testimony is decisive when it comes to guaranteeing adequate conditions for the hearing.

In order to plan the participation of the child in the special testimony hearing, it is appropriate that the professional responsible for taking the special testimony, either a court employee, a specialized professional assigned by the network, or an expert, study the judicial process beforehand and be informed about the psychosocial studies and anthropological reports attached to the records. In addition, he/she should review the literature on pertinent issues related to the people or community where the child or adolescent comes from.

It is based on these previous studies that the specialized professional will find the necessary subsidies to plan the participation of the child or adolescent in the hearing of the special testimony, helping him/her to approach children and adolescents who belong to other cultures and speak other languages. Such a step is fundamental for the interviewer to assume an empathic posture that enables him to conduct the forensic interview. This will reduce the risks of intercultural misinterpretations and misunderstandings during the special testimony.

It is in the course of planning the special testimony hearing that the forensic interviewer will check, based on the analysis of the court file, the ethnic belonging of the victim or witness of the violence and whether there is a need to appoint an interpreter to act during the special testimony.

When necessary, it is advisable that the interpreter, who must be of the same people as the witness, also participate in the planning phase of the special testimony hearing, so that the hearing can be conducted in a culturally and sociolinguistically appropriate manner. It is recommended that the forensic expert and the interpreter study and talk about the court case in advance in order to outline the communicative approach to be taken with the victim or witness of violence, making the necessary cross-cultural adjustments so that communication between the parties actually takes place.

The planning for the participation of the child or adolescent in the special testimony should include all the moments in the process that lead up to the hearing of the child or adolescent: the summoning of the victim or witness in his or her community by the court official (if the victim or witness is from a community where his or her mother tongue is spoken, an interpreter must be present during the summoning)), the transportation of the child or adolescent and their family members between the village and the courthouse, the feeding of the child or adolescent while awaiting the hearing, and their participation in the special hearing itself.

If the Courts of Justice are unable to implement the taking of special testimony in the territories of traditional peoples and communities and cannot guarantee dignified, safe and welcoming conditions for the participation of victims and witnesses in the hearings, it is recommended that partnerships be established with the institutions that make up the system of rights guarantees to provide the necessary logistical conditions for the access of children and adolescents to justice.

Operationalization: recommendations

It is advisable that the planning of special testimony hearings be the responsibility of the psychosocial centers of the Judiciary, even when the testimony is taken by professionals on loan or by experts, and be accompanied by the responsible magistrates. In districts where the psychosocial center is composed of several specialized professionals, it is recommended that reference professionals be defined for taking the special testimony of traditional peoples and communities. In the districts that do not have these professionals on staff, the magistrate in charge of the judicial process is responsible for coordinating the planning of the special testimony hearing.

Some of the steps that should be considered in planning the special testimony hearing are:

- 1) Study the judicial process, with special attention to the psychosocial and anthropological reports and studies attached to the records;
- 2) Perform a literature review on the people or community to which the child or adolescent belongs and on related topics: kinship, theories of corporality, sexuality, marriage and conjugal alliances, rites of passage, notion of person, life cycles and childhood modes, etc.;
- 3) Identify the need for an interpreter and inform the magistrate so that his/her appointment can be arranged;
- 4) Call the interpreter to study the court case and plan the hearing with the forensic interviewers: sociolinguistic adequacy of the forensic interview and agreements on coordinated action between interviewer and interpreter;
- 5) Identify the logistical needs for the safe participation of the child in the special testimony hearing and communicate to the magistrate;
- 6) Validate the planning of the special testimony hearing with the magistrate responsible for the judicial process and inform the other legal operators about the hearing planning;
- 7) present a report after the act, identifying and contextualizing sociolinguistically, the aspects that deserve cultural mediation for the analysis of the testimony collected.

6.6. From the forensic interviewers

The Law of Protected Listening provides that the special testimony of children and adolescents who are victims of or witnesses to violence may be taken by specialized professionals who are part of the Judiciary staff, by professionals hired by the system's protection network to guarantee rights, or by specialized professionals hired as experts in forensic interviewing. In any case, children and adolescents who are victims or witnesses of violence have the right to be assisted by trained professionals and to know the professionals who participate in special testimony procedures, as provided for in Article 5 of Law No. 13.431/2017.

The quality of the special testimony of children and adolescents from traditional peoples and communities depends on the excellence with which the forensic interviewers conduct the conversation with the deponent. In order to hear children and adolescents from these peoples, it is necessary that these interviewers develop intercultural communication skills and know how to work with the presence of interpreters in hearings where victims or witnesses of violence choose to express themselves in their mother tongue.

The Courts of Justice will be responsible for training specialized professionals to act as forensic interviewers for children and adolescents from traditional peoples and communities. To do so, interviewers must learn not only to apply the communicative techniques presented by the Brazilian Protocol for Forensic Interviewing of children and adolescents who are victims or witnesses of violence (CHILDHOOD *et al*, 2020), but also how to conduct conversation with children and adolescents who have their subjectivities and ways of expressing themselves shaped by other sociocultural and linguistic universes. The forensic interviewer should be able to adjust the cultural and linguistic adaptation of the forensic interview techniques to the particularities of the victims or witnesses of violence that he/she assists, so that evidence is produced without the victims or witnesses of violence being re-victimized or suffering psychological distress for participating in the special testimony.

It is important for the forensic interviewer to know that the encounter with the child or adolescent from traditional peoples and communities in the context of special testimony collection constitutes a type of interethnic relationship marked by tensions and power asymmetries that characterize the interactions of these peoples with the national society. Professionals should not allow themselves to be influenced by prejudiced, stereotyped, stigmatizing, and discriminatory views about these peoples, and they should be alert to any embarrassment that these children and adolescents may present as a result of being in an interethnic situation to which they have been summoned. The interviewers need to act to neutralize the tensions that may come across the special testimony hearing and compromise the building of empathy (*rappport*) necessary for the flow of the deponent's free narrative, as recommended by the Brazilian Forensic Interview Protocol (CHILDHOOD *et al*, 2020).

As children and adolescents from traditional peoples and communities have the right to know the professionals who participate in the special testimony, it is recommended that the forensic interviewers who take the special testimony belong to the same people as the victim or witness of the violence. In this way, the necessary conditions will be guaranteed so that the hearing environment for children and adolescents is safe and welcoming, allowing them to express themselves in their own way and enabling the emergence of a free narrative about the facts.

The accreditation and hiring of specialized professionals as experts may be the way for the Courts of Justice to enable the hiring of professionals from the traditional peoples and communities to act as forensic interviewers in the scope of special testimony hearings. Another possibility is that these professionals are assigned by the protection network to the judiciary when the latter has a professional staff.

One way or another, specialized professionals from traditional peoples and communities must be trained to conduct forensic interviews in the context of special testimony. The training of these professionals, to be offered by the courts, can be a moment to move forward in adapting the Brazilian protocol of forensic interviewing to traditional peoples and communities. To this end, the pedagogical means used in these courses must recognize the knowledge and experience of professionals from traditional peoples and communities, in order to work with them on the necessary adaptations for hearing victims or witnesses of violence.

With regard to the possibility of the protection network yielding its specialized professionals to collect special testimony from children and adolescents from traditional peoples and communities, it is fundamental that the Courts of Justice strive to establish an ethical relationship with the professionals and the institutions of the rights assurance system that operate in this network, avoiding that the collaboration provided by these professionals may compromise the bonds of trust established with the communities where they work. When the professionals of the protection network are called upon to act in the taking of special testimony, the possible consequences and damages that this collaboration will bring to the work of these professionals with the traditional peoples and communities must be evaluated.

The bonds of trust established between the professionals of the protection network and the traditional peoples and communities are fundamental to the good performance of their activities and the achievement of the results of their actions. It is important to emphasize that health care, protection and attention are distinct in nature and, to some extent, ethically incompatible with the activity of evidence production. Considering that it is the function of health and protection professionals to attend to everyone, including the possible aggressor and his relatives, involving them in the special testimony may compromise the professional's performance with the communities in which he works, if it identifies him as a supporter of one of the sides involved in the legal dispute.

For this reason, recourse to the support of the professionals of the protection network of the system to guarantee rights should be an emergency measure to address the shortage of specialized professionals in certain districts. This is a measure that can be implemented in the short term, but in the medium and long term it should be replaced by a more efficient structuring of the judicial service, using either salaried or accredited experts who are legally recognized and paid for their services to the justice system.

Operationalization: recommendations

If the Court of Justice adheres to the proposal to enable the presence of specialized professionals from the peoples and communities to act as forensic interviewers in the special testimony hearings, it is recommended that calls for applications be opened for their accreditation. Soon afterwards submit the list of the professionals who answered the Public Call for the validation of traditional peoples and communities, employing the consultation methodology agreed upon in the activities developed under Guideline 2. After this list is validated, the specialized professionals must be trained by the Court to take the children and adolescents from traditional peoples and communities who are victims or witnesses of violence. It is noteworthy that, only after this training, will they become part of the Court of Justice's roster of specialized professionals.

In case the Court has specialized professionals on loan, it is suggested that cooperation agreements be established with the institutions in the protection network to formalize the partnership. The pact with the protection network must foresee the indication of professionals with the profile to act in the taking of special testimony, without ethical impediments and conflicts of attributions for the performance of the activity.

Finally, if the special testimony is conducted by court personnel, they should be trained to act as forensic interviewers of children and adolescents from the PCT, in order to develop the necessary intercultural competencies to conduct the forensic interview for special testimony.

In the case of traditional peoples and communities who speak their native languages, it is necessary that the interviewer learns to work with the presence of the interpreter in the room. The training course for the development of intercultural competencies should be offered to the forensic interviewers regardless of their relationship with the judiciary - whether they are civil servants, assigned by the protection network, or experts.

6.7. Forensic interpreters and cultural mediators

The right to the presence of interpreters at special testimony hearings for children and adolescents from traditional peoples and communities is provided by the Law of Protected Listening. The role of interpreters belonging to traditional peoples and communities in these hearings is fundamental for the realization of the rights to non-revictimization and to the full protection of children and adolescents who are victims or witnesses of violence.

The context of the special testimony hearing that requires the work of the court interpreter is very complex, as different levels of interpretation/translation must be activated. Even in a hearing where all parties speak Portuguese, the forensic interviewer is responsible for adapting the questions of the judge and other legal staff to the language of the child or youth, which is a kind of cultural translation. If that child or adolescent speaks another language, the situation becomes even more complex.

If the forensic interviewer has no knowledge about the linguistic and socio-cultural context of the child or adolescent, he or she will hardly be able to adapt the language to your terms. In this case, the interpreter will be responsible not only for linguistic interpretation, but also for adapting the questions to the sociolinguistic reality of the child or adolescent, also acting as a cultural mediator.

The court-appointed forensic interpreters who take special statements from victims or witnesses of violence must be from the same town as the child or teenager to be heard in the hearing.

The presence of qualified forensic cultural interpreters who belong to the same people as the victims or witnesses of violence is a condition for the free expression of the child or adolescent, even when they are bilingual and have a relative understanding of Portuguese. This is because communication between the subjects involved in situations of violence that occur in community contexts where the mother tongue is spoken, generally happens in the language of the people. To demand that the child or adolescent express him/herself in Portuguese in special testimony hearings is to transfer the responsibility for translating the situation of violence to the victim or witness of the violence, and this constitutes a form of institutional violence.

The forensic interpreter of traditional peoples and communities not only interprets from Portuguese into the language of the accused and vice versa, but also plays a fundamental role in greeting the victim or witness of violence and building empathy. These conditions are important for the child to feel safe and to be able to speak freely about the events he or she has experienced. In addition, it is advisable that the interpreter be of the same gender as the victim or witness of violence who will be testifying so that this framework can be used to its fullest potential.

Another interpreter's attribution will be to perform the cultural mediation of the communicative process instituted within the scope of the hearing, adapting the interviewers' questions to the terms of the children or adolescents from traditional peoples and communities and performing the linguistic interpretation of the answers into Portuguese and the cultural translation of the meanings that inform the statements and categories used by the children or adolescents in their discourse.

In the planning phase of the special testimony hearing, the interpreter is also responsible for advising the forensic interviewers and the magistrates responsible for taking the special testimony about the linguistic and cultural adjustments that must be made to ensure cross-cultural communication. It is known that some questions or the way they are asked do not make sense to members of traditional peoples and communities, so it is necessary to adapt to the terms used by children and adolescents.

It is recommended that a report be written to document the main sociolinguistic issues found during the interpretation and cultural mediation work carried out at the hearing to support the judicial decisions to be made.

Operationalization: recommendations

The Courts of Justice will have to create a registry of interpreters who belong to traditional peoples and communities. The interpreters will be hired as experts to act in special testimony hearings involving children and adolescents from traditional peoples and communities who speak other languages.

As the forensic interpretation in the scope of special testimony hearings must be qualified, the accredited interpreters must be trained by the Court of Justice itself to perform the function of linguistic interpreter and cultural mediator, so as to qualify them to act in the different judicial proceedings involving people belonging to traditional peoples and communities who speak other languages.

Some remarks about the need for forensic interviewers, magistrates and legal practitioners to learn how to work with interpreters

Not only interpreters should be trained to act in the taking of special testimony. It is important that magistrates, legal practitioners, and forensic interviewers also learn to work with the presence of the forensic interpreter at hearings.

The interpretation modality performed in special testimony hearings is close to consecutive interpretation (ALMEIDA; NORDIN, 2017): the interpreter puts the statements of the forensic interviewer into the language of the deponent and subsequently interprets his or her answer into Portuguese, in order to transmit it both to the interviewer and to the magistrates and legal operators who follow the hearing in real time, via the videoconferencing system.

Since consecutive interpretation requires the use of short-term memory for the message to be transmitted between the subjects involved in the communicative process, it is important that the statements issued by the interviewer and the operators of the law be simple, direct, and economical in the number of words used to express an idea. It is appropriate for interviewers to use short sentences, simple language, and direct messages so as to allow for prompt consecutive interpretation, without the message adapted to the other's terms losing its original meaning (ALMEIDA; NORDIN, 2017).

About the forensic interview and the cultural interpretation/mediation to be performed by the same professional

Regarding the possibility of the forensic interviewer playing the role of forensic interpreter during the taking of the special testimony, it should be evaluated whether the overlapping of functions will allow the conduct of the conversation with the child or adolescent and the interpretation of the statements made by all those involved in the hearing not to compromise the conduct of the forensic interview, impacting the quality of the evidence produced.

Concentrating forensic interviewing and linguistic and cultural interpretation on the same professional requires, first of all, that this professional be proficient in both techniques. If there is no strict methodological control of the application of these techniques and the interpretation does not comply with the requirement of impartiality, neutrality, and faithful reproduction of what was said in the interrogation, even in cases where cultural translation/mediation is necessary to enable communication, the validity of the victim's or witness's testimony may be questioned by the defense, requiring the victim or witness to be re-interrogated. This situation would certainly lead to re-victimization of children and adolescents who are victims or witnesses of violence.

Therefore, if this is the option of the Court, it is recommended that it be implemented on a pilot basis, to experiment with the strategy and see if it meets the expected goals of the special testimony.

6.8. On the adequacy of the Brazilian Protocol for Forensic Interviews of Child and Adolescent Victims or Witnesses of Violence

Among the rights and guarantees of children and adolescents provided by Law 13.431/2017, in its article 5, is the right to provide statements in a format adapted to children and adolescents with disabilities or in a language other than Portuguese. The "Brazilian Protocol for Forensic Interviews with Child or Adolescent Victims or Witnesses of Violence" (CHILDHOOD BRASIL, CNJ, UNICEF, 2020), as it operates with a discursive genre that is peculiar to Western society, needs to be adapted to be applied in special testimony hearings of children and adolescents from traditional peoples and communities.

As this protocol is structured in such a way as to allow for its adaptation to the singularities of the child or adolescent and their social, cultural, and linguistic specificities, its principles must be observed in the hearing of children and adolescents from traditional peoples and communities, guiding the process of adapting the way the forensic conversation is conducted. The general principles to be observed are:

- 1) Establish an empathetic relationship between the deponent and the interviewer in order to institute a more fluid conversation about issues that are of interest to the child or adolescent. It is from this first moment of the interview that the interviewer will adapt the language to the specificities of each child or adolescent.
- 2) Encourage children and adolescents to freely narrate the facts;
- 2) Adapt and rework the questions of the parties to the socio-cultural level and development of the child or adolescent, in order to ensure the reliability of the answers.
- 3) Be aware of the cultural and developmental differences of the child or adolescent in order to adapt the questions to their specificities.

When it comes to the special testimony of children and adolescents from traditional peoples and communities, it is difficult to establish a relationship of empathy between the interviewer and the interviewee only at the time of the hearing, because the empathic relationship is established only when there is identification between the interlocutors involved in the communication process. In order for empathy to be established, it is recommended that the interviewer be of the same people as the child or adolescent. In situations where the child or adolescent speaks a different language and only the interviewer belongs to a different people, the interpreter is responsible for establishing this empathic relationship.

In the case of traditional peoples and communities that speak other languages, the guidelines and the script of questions suggested by the Brazilian Protocol for Forensic Interviews with Child and Adolescent Victims or Witnesses of Violence (CHILDHOOD *et al*, 2020) that guide the conduct of the forensic conversation in its different moments - welcoming, transition from one stage to the next, the encouragement of free narrative, the "tapering" phase - need to be reviewed. This is because the languages spoken by traditional peoples and communities have their own symbolic structures on which their ways of being (ontologies) and worldviews (cosmologies) are based, in addition to the fact that each people has its own ways of telling about the events that occurred (speech genres). This revision should be based on the establishment of a dialogue between the agents of the judiciary and traditional peoples and communities.

Operationalization: recommendations

The Brazilian Forensic Interview Protocol should be adapted to each of the traditional peoples and communities served by the Courts of Justice, in order to contemplate their specificities. This adaptation process can be implemented as part of the training offered to the forensic interviewers from the traditional peoples and communities and to the interpreters for the special testimony hearings. It is recommended that the training courses for these experts include a specific module to address this adequacy, with intercultural guidelines for the application of this protocol as one of the products of this training process.

Another possibility is that the Courts of Justice organize intercultural workshops involving the participation of forensic interviewers, interpreters and other professionals and leaders of the traditional peoples and communities to outline the protocol adjustments that may be necessary.

After being adequate, the intercultural guidelines developed for the adaptation of the Brazilian Forensic Interview Protocol must be discussed and validated by the traditional peoples and communities, in consonance with the consultation methodologies agreed upon with the activities carried out under Guideline 2 of this Practical Manual.

10 In situations of violence against indigenous children and adolescents in which the perpetrator of the aggression belongs to the same people or community as the victim, Resolution No. 287/2019 and Resolution No. 299/2019, both of the National Council of Justice, are closely related, and the same expert appointed to produce subsidies to assess the responsibility of the accused person should contribute to indicate the best form of comprehensive protection for children and young people from native peoples.

6.9. Anthropological expertise

In the context of the Law of Protected Listening, anthropological expertise must contribute to make effective the right of children and adolescents from traditional peoples and communities to full protection and to non-revictimization, observing the ethnic, sociocultural, and linguistic specificities of the subjects and collectives to which they belong¹⁰. Anthropological expertise should answer questions about the traditional forms of conflict resolution and child and adolescent protection employed by traditional peoples and communities. As Amorim (2012) states, "the importance of this work lies in its ability to reveal, through ethnography, the foundations necessary for the consolidation of collective social, cultural, and ethnic rights."

It would be appropriate for the specialized interprofessional teams of the Courts of Justice that deal with traditional peoples and communities to have an anthropologist on their staff. If no such professional is available, it is necessary to appoint anthropologists as experts so that studies can be conducted on the sociocultural context of the facts that victimized children and adolescents, as well as on the best forms of protection and care indicated by the community itself.

It is necessary to create conditions for the rapid operationalization of the anthropological opinion, as this measure will contribute with information for the teams working in the special testimony procedure and support the decision-making process of judges. The expert anthropological report can help in the planning of the special testimony by clarifying the communicative genres of traditional peoples and communities, especially with regard to communication between adults and children, between members of different social segments (clans, lineages, relatives), between members of traditional communities and non-members, and between people of different genders. In addition, the opinion will provide the judiciary with the tools it needs to select the interpreter to be used for obtaining specific private testimony and to ensure the impartiality of the interpreter responsible for forensic interpretation and cultural mediation.

Anthropological expertise can be used to clarify different aspects that inform the phenomenon of violence against children and adolescents from traditional peoples and communities. It can contribute both to the understanding of situations in which the phenomenon of violence assumes collective and communal contours that affect children and adolescents, and in concrete legal cases that require cultural mediation between the legislation that institutes and regulates the rights guarantee system and customary rights.

In the first case, when there are many judicial situations involving children and adolescents, it is advisable to carry out an anthropological diagnosis of the phenomenon of violence within the specific communities from which the victims come. Such an expertise should identify the multiple determinants of violence, the form that this phenomenon takes in specific collective and community contexts, and the way it affects the lives of families and communities. It should also uncover the specifics of being a child and the transition from childhood to adulthood in these communities, map the traditional forms of protection-the traditional knowledge and practices used in caring for children and youth-and the people

responsible for that care, and learn from communities what forms of action would be appropriate for the justice system in particular and for the justice system as a whole. This study will assist the Judiciary in planning the collection of special testimony and sentencing, in organizing the service flows of the rights assurance system, and in the recommendations to be made, taking into account the right of children and adolescents to full protection.

The second form of activation of anthropological expertise occurs in individualized cases that require intercultural mediation between the legislation that institutes and regulates the rights assurance system and customary rights. Whenever there is a possibility that the judicial process may find that the victim or the aggressor is from a traditional people or community, anthropological expertise should be used to clarify the facts and build ways to solve conflicts that combine the methods of the communities and traditional peoples with the legislation that guarantees these peoples the right to their cultures, ways of life, forms of social organization, ritual systems, legal systems, etc.

The same situation of violence can be interpreted in different ways by the operators of law and by the subjects involved in the event as well as by their communities and relatives. The anthropological expertise aims to unveil the different versions of the facts and situations of violence that occur in the communities, and to identify the possibilities of conflict resolution and community ways of protecting children and youth.

In light of the right to integral protection of children and adolescents, anthropological expertise is an important procedure to be observed in all cases involving defendants and victims belonging to traditional peoples and communities. However, due to the countless factors that make its operationalization difficult in judicial proceedings, it is convenient to establish some typical situations in which the anthropological study becomes indispensable.

Among the situations in which the performance of anthropological expertise is essential are:

- 1) When the accused is an elder, sage, spiritual leader, healer or shaman, because at the same time that his figure can be ambiguous in community contexts, the traditional role played by him is fundamental for the integral protection of children and adolescents. Depending on the sentence handed down, the impact on the social organization of the community could be devastating;
- 2) When the situation involves accusation of witchcraft or involves other dimensions of the spirituality of traditional peoples and communities;
- 3) When affective-sexual conflicts (jealousy, betrayal, deception, etc.) involving minors under 14 years of age are constitutive of situations of violence;
- 4) When it involves marriage with minors under the age of 14;
- 5) When there are risks of criminalization of traditional practices, such as rites of passage from childhood to adulthood, therapies used for healing and restoring the well-being of children and adolescents, etc.;
- 5) When the situation involves political conflicts and disputes between relatives;
- 6) Whenever the object of the complaint does not come from members of the community itself;
- 7) Whenever there is a custody dispute or when it is necessary to remove

the child from the family;

- 8) Whenever there is a need to remove the child or adolescent from their family and/or community context and shelter them in non-indigenous institutions or give them up for adoption;
- 8) Whenever there are people belonging to isolated and recently contacted indigenous peoples (PIIRC);
- 9) Whenever the parties involved in the legal proceedings - defendant, victims and witnesses - are monolingual or not fluent in Portuguese.

These situations do not exhaust the possibilities of conflict and violence that, when judicialized, should be instructed by anthropological studies. Other situations may arise and it is important that magistrates are able to identify and decide which lawsuits require the appointment of anthropology experts. In this case, anthropological expertise is indispensable in clarifying the facts and in the decision-making process of the Judiciary, since it will present culturally adequate strategies to enforce the right of children and adolescents to full protection and non-revictimization.

The list presented must be improved and incremented based on the discussion with the leaders, the representatives of the different social segments (women, young people, indigenous health agents, teachers, audiovisual producers, etc.) and the professionals from the traditional peoples and communities. Ultimately, it is these subjects who must indicate which situations require the use of anthropological expertise, in accordance with Guideline 2 of this Practical Manual.

Finally, it is important to emphasize that anthropological expertise does not replace consultation with the communities and with the leaders and representatives of the various social segments that make up the communities and traditional peoples. Forensics can even help the court on the best way to perform this consultation.

Operationalization: recommendations

In order to make anthropological expertise feasible so that it meets the needs of lawsuits involving children and adolescents from traditional peoples and communities who are victims or witnesses of violence, the Courts of Justice are required to evaluate the possibility of inserting anthropologists with a master's or doctorate degree in this area of knowledge into the multidisciplinary teams of the Judiciary.

Anthropological expertise can be made feasible both through agreements with state and federal, public and private universities, and by appointing anthropologists to act as experts. In any case, it is important that adequate conditions be created for anthropological forensics, both in terms of making research actions feasible and in terms of adequate remuneration for professional experts.

The terms of cooperation established with universities will aim to create the conditions for research and studies of interest to the justice system. Among these themes are those foreseen in Guideline 1 of this Manual, namely: mapping of the traditional peoples and communities attached to the territories of the Courts of Justice; identification of the best forms of consultation and involvement of traditional peoples and communities for the construction of intercultural flows and culturally adequate services, among them the special testimony procedure itself; understanding of the phenomena of violence to which traditional peoples and communities are subjected, identification of traditional forms and networks of protection for children and young people and systems for conflict resolution, etc.

The accreditation of anthropologists able to act as experts in lawsuits dealing with violence against children and adolescents from traditional peoples and communities who are victims or witnesses of violence is an important measure to be adopted by the Courts of Justice. To this end, it is recommended that they publish an edict for the accreditation of professionals with a minimum master's degree in social anthropology for the creation of a national registry of expert anthropologists.

Accredited experts must be trained to understand the organizational dynamics and flows within the justice system, so as to be able to provide excellent services to the Judiciary, respecting the ethical, epistemological, methodological, and theoretical premises that must guide their work in the expert field.

6.10. The internal organization of the districts for the taking of special testimony

One of the main objectives related to the special testimony procedure is to avoid the re-victimization of the child or the adolescent victim or witness of violence. This is why it is governed by protocols and must be carried out only once, in the early production of judicial evidence whenever the child is less than 7 (seven) years old and in cases of sexual violence.

In order to avoid institutional violence, article 6 of CNJ Resolution No. 299/2019 states that courts of justice must regulate how evidence is shared to avoid repetition of evidence. In the districts that have multiple judicial courts - criminal, family, children and youth - it is convenient to establish one magistrate as the reference for the collection of the special testimony. This measure becomes important in situations where the fact of violence against the child or adolescent will be the subject of different judicial processes. In this way, it is avoided that the special testimony is taken several times by different judges. The testimony collected should serve as "borrowed evidence" for the other cases that are in progress.

In cases where the district does not have specialized professionals and multi-professional teams for the collection of special testimony, it is of fundamental importance that the magistrates have a command of the techniques of forensic interviewing of children or adolescents from traditional peoples and communities, in case it is necessary that they themselves make the hearing of the victim or witness of the violence.

It is also important that the other employees of the Judiciary, such as the court officers who carry out the communication of procedural acts (summonses and judicial notice) in a lawsuit or in the enforcement of a court order, search and seizure, for example, are also prepared to work with traditional peoples and communities, so that their work does not re-victimize children and adolescents from these groups.

Operationalization: recommendations

For such measures to be implemented, this Practical Manual presents the following recommendations:

- 1) That the Coordinators for Children and Youth in the Courts of Justice create judicial cooperation mechanisms among the courts that may be involved in conflicts involving children and adolescents, particularly those from traditional peoples and communities, in order to avoid re-victimization and repetition of the acts;
- 2) That magistrates be trained to conduct forensic interviews with children and adolescents from traditional peoples and communities, in accordance with what is established by the adapted Brazilian Forensic Interview Protocol, as described in Guideline 8 of this Manual;
- 3) That the civil servants of the Judiciary who work directly with traditional peoples and communities - judicial officers, assistants, heads of registries, etc. - be prepared to work with traditional peoples and communities, in order to prevent their practices from reproducing prejudices and discriminations that culminate in institutional violence.

6.11. The articulated action of the Judiciary with the rights assurance system

Article 3 of CNJ Resolution No. 299/2019 directs the Courts of Justice to recognize "as an activity inherent to the judicial function, for productivity purposes, the participation of magistrates in the implementation of local service flows for children and adolescent victims or witnesses, observing local peculiarities. The courts are also responsible for disseminating the established flow of services to society and governmental and non-governmental sectors that assist children and adolescents.

The justice system, acting in accordance with what is established in Article 3 of the resolution, plays a fundamental role in the creation of intercultural flows of differentiated services for children and adolescents, guided by the principle of articulation between traditional ways of protecting children and youth and resolving conflicts and the system of rights guarantees, in order to create favorable conditions for the realization of the rights to non-revictimization and full protection.

For these care streams to have intercultural contours, they must take into account, on the one hand, peoples' own ways of caring for and protecting indigenous children and youth based on their knowledge horizons - ontological, cosmological, social and kinship organizations, rituals, and customs responsible for the construction of bodies, people, and their subjectivities. On the other hand, the effectiveness of the right to comprehensive protection requires that the judiciary establish cross-sectoral relationships with the other institutions that make up the system of legal protection in order to influence the concretization of the flow of services. For this recommendation to be implemented, the institutions that make up the system of ensuring the rights of children and adolescents from traditional peoples and communities must reach agreements and build consensus on the need for cross-cultural alignment of the flow of services.

The intersectoral relations to be established by the Judiciary meet two purposes: The first relates to the organization of the process itself, in order to prevent the re-victimization of children and adolescents from traditional peoples and communities who are victims or witnesses of violence, when they are supported by the system of legal guarantee; the second relates to the support of institutions for the services that the Judiciary itself must provide, such as the receipt of special testimonies.

The pact between the Judiciary, the security system and the protection network must be based on the adoption of good practices that guarantee the protection of children and adolescents who are victims of violence, such as the creation of conditions for traditional peoples and communities to receive children and adolescents who must be removed from their families of origin and who cannot find a person within the extended family to take care of them.

The Judiciary and the security system

For some measures to be enacted, collusion between the justice and security systems is required, including precautionary anticipation of evidence. As for children and adolescents from traditional peoples and communities, it is advisable that the special testimony be taken only by the judicial authority in anticipation of evidence for the cases provided for in the law.

The precautionary rite of anticipation of evidence avoids the exposure of children and adolescents to institutional approaches that do not have the necessary preparation, neither in terms of infrastructure nor in terms of specialized personnel capable of hearing subjects that belong to groups that operate with distinct cultures and languages. In addition, it reduces the possibility of the child or adolescent being exposed to prejudice, stigma, and discrimination, with which, perhaps, the agents that operate within the rights assurance systems operate.

An important measure to be established in the prosecution bodies and in the judiciary concerns the recording of the language and ethnic identity self-declared by the victim or witness of violence and by those responsible for him/her in the statement itself. This information recorded during the extrajudicial phase of the process will be used to feed the information systems of the courts, as described in Guideline 3 of this Manual.

Still with regard to the relationship between the Judiciary and public security, it is necessary to create mechanisms to reduce the traumatic effects that the corpus delicti exam of carnal conjunction can produce on children and adolescents from traditional peoples and communities who are victims of sexual violence.

Ensuring that victims who speak their native languages are accompanied by an interpreter of their gender to help them understand the procedures they will undergo can reduce the revictimizing effects of such care. The role of the Judiciary as an articulator of the presence of the interpreter in the services provided by the rights guarantee system is fundamental to avoid the revictimization of children and adolescents.

The Judiciary and the Public Defender's Office

One of the important measures to be adopted in order to avoid revictimization of children and adolescents from traditional peoples and communities has to do with their right to legal counseling that defends their interests and prevents them from being subjected to institutional violence when they are assisted by the institutions of the rights assurance system.

The role of the Public Defender's Office in defending the rights of children and adolescents who are victims or witnesses of violence to access culturally appropriate care is fundamental to their comprehensive protection. In order to prevent these children and adolescents from being subjected to institutional violence in the institutions of the system for guaranteeing rights, legal counseling by the Public Defender's Office must take place in all the institutions to which they are subjected, and it must begin at the moment they are called to give their testimony before the police authority.

The Judiciary and the protection network

The articulation of the Judiciary with the protection network constitutes an important aspect of the concretization of local service flows for children and adolescents from traditional peoples and communities who are victims or witnesses of violence. This articulation should be based on dialogue with the Municipal Councils for Children and Adolescents responsible for formalizing the protection network for these children and adolescents that operates in the territories (National Council of the Public Prosecutor's Office, 2019).

The flow of legal proceedings involving children and adolescents from traditional peoples and communities relies on the participation of the justice system, the public security system, and the social protection network. Law No. 13,431 provides for operational integration among these agencies based on a "relationship of partnership rather than subordination" and the establishment of communication and articulation channels in order to optimize efforts and avoid revictimization (National Council of Public Prosecutors, 2019, 12).

The operational integration between the agencies of the protection network (Social Assistance Reference Centers, Specialized Social Assistance Reference Centers, Psychosocial Care Centers, Tutelary Councils, etc.) must be promoted beyond the interests of the instruction of the judicial processes, as a way to guarantee the protection and the biopsychosocial recovery of children and adolescents who are victims of violence.

In the case of traditional peoples and communities, other institutions become part of the protection network of the rights assurance system. In the case of indigenous peoples, the network is now integrated by the National Indigenous Foundation (FUNAI) and the Special Indigenous Health Secretariat of the Ministry of Health (SESAI/MS). Particularly the Special Indigenous Health Districts (DSEIs), through the actions of the multidisciplinary indigenous health teams in the territories where they operate, are fundamental to ensure the full protection of children and adolescents of the native peoples.

The multidisciplinary indigenous health teams that work in the territories of the original peoples must be involved in the process of caring for indigenous children and adolescents. By being closer to the communities and knowing their reality, they are able to clarify to the Judiciary the contexts in which the situations of violence occurred, and indicate the best means to protect indigenous children and adolescents.

These teams are responsible for providing primary health care to indigenous children and adolescents and for coordinating clinical and psychosocial care for the victims. They refer these individuals to the Psychosocial Care Centers (CAPS) for the construction of Individual Therapeutic Plans (PTS). These teams should instruct the judicial processes with information about the procedures that have been adopted for the care and recovery of indigenous people subjected to the traumas of violence. The Individual Therapeutic Plans (PTS) of the victims of violence prepared by the health services, an important measure to ensure the integral protection of the indigenous victims, can be attached to the case file in order to instruct them.

Some districts also count on the collaboration of the protection network to hold the special testimony hearing, when they request specialized professionals from CREAS to conduct the forensic interview with the child or adolescent victim or witness of violence. If the protection network collaborates with the making of the special testimony by assigning its professionals to the Judiciary, inter-institutional cooperation should be formalized in order to enable the training of professionals for the hearing of children and adolescents from traditional peoples and communities.

Still with regard to inter-institutional articulations, the justice system can activate the public institutions responsible for intervening on the social determinants responsible for configuring situations of violence in the territories, adopting a systemic approach to this phenomenon. In order to transform the realities of violence, police intervention and the judicialization of individual cases are not enough; it is necessary to intervene on the factors that converge to configure the social phenomenon of violence experienced by traditional peoples and communities in the contemporary world.

6.12. Ongoing formation

In order that the rights to non-revictimization and to full protection of children and adolescents from traditional peoples and communities who are victims or witnesses of violence are put into effect, it is necessary that the agents of the justice system - magistrates, specialized professionals responsible for collecting the special testimony, and operators of the law - are qualified to act as subjects situated in culturally differentiated contexts. In addition to the magistrates and specialized professionals in the judiciary, the training actions concerning the Law of Protected Listening should also be carried out with the employees of the judiciary who interact with children and adolescents from traditional peoples and communities, such as the magistrates' assistants and court officers.

It is recommended that the permanent training plans for the Judiciary's civil servants (Resolution No. 192/2014), aimed at working with traditional peoples and communities, adopt the methodological strategies of intercultural dialogue, exchange of experiences, encounter and articulation of differentiated legal knowledge, for the development of intercultural competencies necessary for working with these different ethnic, linguistic, and sociocultural groups.

The training process must enable the judiciary employees and accredited experts - forensic interviewers and interpreters - to conduct the special testimony of children and adolescents from traditional peoples and communities in a culturally appropriate manner. This training should also be extended to the specialized professionals of the protection network assigned to the judiciary to collaborate with the collection of special testimony.

The training of forensic interviewers - Judiciary employees, specialized professionals from the protection network, or accredited experts - for the taking of special testimony from children and adolescents from peoples and communities, in addition to teaching how to apply the Brazilian Protocol for Forensic Interviews, must include specific content aimed at developing the intercultural competence needed to talk to subjects from other linguistic and sociocultural universes. It is important that these courses count on the pedagogical work of professionals from the traditional peoples and communities to guide the interviewers on the best ways to approach the subjects discussed in the special testimony hearings.

The training process of the Judiciary's employees for the collection of special testimony from traditional peoples and communities should add the following topics to their teaching plans:

1. legislation and differentiated rights of traditional peoples and communities and the role of the Judiciary in enforcing differentiated rights;
2. cultural awareness of diversity, multiculturalism and sociolinguistic barriers to access to justice; stereotypes, assumptions and prejudices; intercultural misunderstandings; linguistic accessibility and clarity and assessing the need for interpreters; how to work with interpreters;
3. historical, sociocultural, and linguistic aspects that contribute to shaping the diversity of social and community configurations in contemporary times. Among the aspects to be addressed are: the conceptions and modes that assume childhood and youth among traditional peoples and communities; knowledge, practices and subjects involved in the care and protection of childhood and youth; body, person, and sexuality; gender, kinship, and age class relations; ways of conceiving violence, particularly against children and adolescents; traditional ways of solving conflicts;
4. Participatory methodologies: dialogue, cultural mediation and translation, ecology of knowledge and epistemological articulations, critical interculturality.

Training interpreters is a fundamental strategy for qualifying communication in hearings involving special testimony. Since interpreters must translate the interrogator's statements into the language of the child or adolescent, they must have a good command of the Brazilian Forensic Interview Protocol in order to make the necessary adjustments. The Courts of Justice will be responsible for developing courses to qualify the performance of the accredited interpreters in the procedural files that are introduced during the course of the special testimony.

Both the interpreter should know about the principles that govern special testimony and about the techniques recommended by the Brazilian Protocol for Forensic Interviewing, and the forensic interviewers should learn to work with the presence of an interpreter from traditional peoples and communities who speak their mother tongues. The training of forensic interviewers and interpreters to act in special testimony hearings, therefore, must enable them to conduct the forensic interview and to adapt the procedures to the sociolinguistic and cultural realities of children and adolescents from traditional peoples and communities.

In this process, interviewers and interpreters should learn to work together so that the interviewer can conduct the forensic interview appropriately in situations where the interpreter will be present; and so that the interpreter is able to do the work of linguistic interpretation and cultural mediation in the context of the special testimony hearings of traditional peoples and communities. The joint work of interviewers and interpreters allows for the adaptation of the special witness rite and the language used in communicating with the child during the forensic interview to occur early in the planning phase of the hearing.

It is advisable that the other legal operators who work in special testimony hearings be trained to work with traditional peoples and communities, both in order to comply with the provisions of the Law of Protected Listening and the legislation that guarantees the rights of traditional peoples and communities, and to develop intercultural competence to act with excellence in cases involving children and adolescents from these groups.

In the same way, the professionals who work in the institutions that make up the rights assurance system must be trained to make cultural adaptations to the services provided to children and adolescents from traditional peoples and communities, in order to avoid revictimization and to make their differentiated rights to full protection effective.

6.13. About isolated and recently contacted indigenous peoples

Joint Ordinance No. 4,094, dated December 20, 2018, published by the National Indigenous Foundation (FUNAI) and the Special Secretariat for Indigenous Health (SESAI/MS), in its Article 1 adopts the following definition:

I - Isolated Indigenous Peoples: peoples or segments of indigenous peoples who, from the perspective of the Brazilian State, do not maintain intense and/or constant contact with the majority population, avoiding contact with people outside their collective; and

II - Indigenous Peoples of Recent Contact: indigenous peoples or groups that maintain relations of occasional, intermittent or permanent contact with segments of national society, with reduced knowledge of the codes or incorporation of the uses and customs of the surrounding society, and that conserve significant sociocultural autonomy.

Since the 1988 Federal Constitution recognized the right of Indians to their social organization, language, customs, beliefs, and traditions, the Brazilian State is responsible for protecting isolated and recently contacted indigenous groups. To this end, Decree No. 9,010, of March 23, 2017, assigned Funai the planning, formulation, coordination, and implementation of protection policies, and is responsible for "to discipline the entry and transit of third parties in areas where the presence of isolated Indians is verified, as well as to take the necessary measures for the protection of these groups (Article 7, Decree No. 1,775/96).

The policy directed at isolated and recently contacted Indians aims to guarantee these peoples and collectives the full exercise of their freedom and traditional activities, ensuring the protection and preservation of their cultures, in their various forms of manifestation. The verification of the existence of isolated Indians in a given territory does not oblige the state to contact them, but to act so that the conditions for maintaining their voluntary isolation are maintained. Isolated and recently contacted indigenous peoples have the right to decide whether to remain in isolation or to establish contact with national society.

Among the principles that govern Joint Ordinance No. 4,094/2018 is the recognition of the right of isolated and recently contacted indigenous peoples to self-determination and respect for their uses, customs, and traditions, as well as their social and epidemiological vulnerability due to their greater susceptibility to illness and death.

With this, given the possible decisions made by the isolated groups to establish contact with national society (which can occur for different reasons, among them, to escape the pressures exerted by illegal fronts that exploit their territories - gold miners, loggers, land grabbers, etc.), it is necessary to implement contingency plans for situations of contact, aiming to mitigate the deleterious effects caused by the encounter. Contingency plans to control outbreaks and epidemics must be drawn up for recently contacted peoples, due also to their greater social and epidemiological vulnerability.

Therefore, in any action that the judiciary is called upon to take involving traditional peoples and communities, FUNAI, through the General Coordination of Isolated Indians and Indians of Recent Contact (CGIIRC) and the Ethno-environmental Protection Fronts specialized in protecting these groups, must be called upon, even before any other measures are taken. It will be up to the Official Indigenist Body to guide the justice system and other institutions of the rights assurance system on the best practices to be adopted for the assistance of these collectives.

Since in order to fully protect children and adolescents of isolated and recently-contacted indigenous peoples, as foreseen by Law No. 13.431/2017, it is necessary that their own collectives and groups be protected, it is recommended that the Courts of Justice that have isolated and recently-contacted peoples in the territories under their jurisdiction, in conjunction with FUNAI, promote debates about the performance of the rights guarantee system with these collectives, with a view to qualifying their staff to act in contexts marked by radical alterity relations.

As the actions of the system to guarantee the rights of children and witnesses who are victims and witnesses of violence among the isolated and recently contacted indigenous peoples must be based on the delineation of specific guidelines that orient the actions of the various institutional actors involved, it is necessary to promote a broad debate among the different institutional actors involved and who work in the defense and enforcement of the differentiated rights of these groups. Besides FUNAI, the debate on the theme should mobilize the Special Indigenous Health Districts/Special Secretariat for Indigenous Health Care (DSEIs/SESAI), the Indigenous and Indigenist Organizations, national and international, that defend the rights of the isolated and recently contacted peoples.

In cases of violence against children and adolescents belonging to isolated and recently contacted peoples, it is important, when necessary, that they are heard in their own territories, respecting the decision of these groups to keep their distance from the majority population of the national society. The presence of interpreters must be guaranteed in all procedural acts carried out by the judiciary and anthropological expertise must be carried out to clarify the facts, as well as the point of view of the indigenous people themselves on possible situations of violence. In addition, as established by guideline 6.9 of this Practical Manual, anthropological expertise is essential, helping to prevent the traditional knowledge and practices of isolated and recently-contacted peoples from becoming the object of criminalization.

6.14. Planning, monitoring and evaluation

In order to put into practice the guidelines recommended in the Practical Manual for the Special Testimony of Children and Adolescents from Traditional Peoples and Communities, the Courts of Justice must develop their own action plans, outlining short, medium, and long-term strategies for implementing actions aimed at adapting the special testimony procedure and the service flows provided to children and adolescents from traditional peoples and communities.

Each action plan will assume a particular configuration, considering that the Courts of Justice will have to deal with a wide diversity: ethnic, linguistic and sociocultural diversity of traditional peoples and communities; configuration of the networks of the rights assurance system in the territories; ways of structuring the justice system in the localities; regional and geographic in which the districts are located.

The action plans to be developed by the Courts of Justice must include the objectives, the activities to be carried out, the results and goals to be achieved, the methodological strategies to be used, the timetables, the definition of those responsible for carrying out the actions, the possible partners for implementing the actions, and the tools for monitoring and evaluating the process of implementing these plans.

In order for the implementation process of the action plans to be monitored and the achievement of their goals and results to be evaluated, it is important that the Courts of Justice prepare a baseline on the current situation of the special testimony of children and adolescents from traditional peoples and communities when they start implementing the actions in this Manual. The knowledge produced under Guideline 1 should contribute to the delineation of the baseline from which the implementation of this judicial policy will take place in the Courts of Justice.

A process of follow-up, monitoring, and evaluation should be implemented by the National Council of Justice to provide support to the Courts of Justice for the implementation of action plans for the realization of the guidelines, as well as to evaluate the performance, efficacy, and effectiveness of this judicial policy, as well as to identify the lessons learned, in order to make the necessary alignments to fulfill the main objective: to guarantee the differentiated rights of children and adolescents from traditional peoples and communities to non-revictimization and full protection.

Among the indicators to be observed are:

- 1) number of consultations with traditional peoples and communities carried out by the Courts of Justice;
- 2) number of special testimony hearings held with children and adolescents from traditional peoples and communities/number of court cases;
- 3) number of interpreters assigned to special testimony hearings/number of court cases;
- 4) number of anthropological surveys conducted / number of lawsuits;
- 5) number of judiciary employees, trained and specialized professionals from the protection network, and experts (forensic interviewers and interpreters) qualified to take special testimony from traditional peoples and communities;

- 6) number of action plans implemented by the Courts of Justice to make this Manual effective;
- 7) number of magistrates trained.

The monitoring and evaluation actions must also involve the participation of traditional peoples and communities, and it is necessary to agree with them on the milestones that can be used to evaluate the intercultural quality of the services provided by the justice system to the traditional subjects involved in the judicial processes. Traditional peoples and communities have their own ways of evaluating the results of the activities carried out. Integrating ethno-methodologies into the monitoring and evaluation process will allow it to acquire intercultural contours.

Operationalization: recommendations

It is recommended that the Courts of Justice define an internal team, composed of magistrates and specialized technicians, in order to elaborate and execute action plans to implement the guidelines of this Manual in their territory. This team should also be integrated by members of the traditional peoples and communities - leaders, representations, and professionals - allowing the action plan to be built in a participative way.

This team will also be able to monitor the activities foreseen in the action plan by the districts that are part of its jurisdiction, which will serve as support for the implementation of the guidelines recommended by this Manual.

The action plan for the implementation of the Practical Manual for the Special Testimony of Traditional Peoples and Communities must be validated with the leaderships, representations, organizations, and social movement of these collectives, as established in Guideline 2.

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ANNEX - Operational Matrix for implementing the guidelines of the Practical Manual on the Special Testimony of Traditional Peoples and Communities in the scope of the Courts

Guideline 1 - Diversity of Traditional Peoples and Communities

Activities	Products /Result	Implementation Strategies
Map the PCTs attached to the territory served by the TJ.	Ethnic and linguistic diversity of the PCTs mapped by the Courts of Justice, in order to be able to contemplate it in the process of implementing the guidelines of the Practical Manual.	Diagnosis performed by professionals from the psychosocial centers of the courts; or Diagnosis performed by expert anthropologists hired by the TJs;
Identify the languages spoken by the PCTs.		
Identification of the PCT leaders, representatives, organizations, and movements active in the territory.	Leaderships, representatives, civil society organizations, and social movements of the PCTs identified for consultation, participation, and the establishment of intercultural dialogue on the applicability of the Law of Protected Listening, the implementation of the guidelines of the Practical Manual, and the cultural adaptation of the procedures related to the special testimony of children and adolescents in the PCTs.	Diagnosis carried out through agreements/terms of cooperation/partnerships between the TJs and universities, public or private.
	Pathways for conducting consultation and mobilizing PCTs to participate in the implementation of the Practical Manual guidelines identified.	
Cartography of childhoods, traditional modes of protection, conflict resolution systems, instances and forms of decision-making, etc.	Subsidies for the cultural adaptation of the services provided by the judiciary to PCTs and for the construction of the intercultural flow of special testimony.	

Guideline 2 - Consultation and Participation of PCTs to implement the guidelines of the Practical Manual

Activities	Products/Result	Implementation Strategies
Contact and previous meetings with leaders, representatives, or organizations of the PCTs operating in the territory identified by the activities developed under Guideline 1.	Agreements and pacts with the legitimate representations of the PCTs regarding the planning and organization of communicative events for consultation and intercultural dialogue with the different social segments (women, youth, counselors, elders, spiritual leaders and healing specialists, wise men, etc.) that make up the signed PCTs.	The contact and scheduling of meetings with the PCT leaders to plan the consultation activities can be done by professionals from the court's psychosocial nucleus, by a hired expert, or by the magistrate's assistants. At the planning meeting for consultation events it is recommended that the magistrate be present.
Intercultural event (conversation circle, assembly/ leadership council, workshops, etc.) for consultation and mobilization of the PCTs to participate in the implementation of the Practical Manual guidelines.	Procedures for implementing the guidelines of the Practical Manual agreed upon and agreed upon with the PCTs, with the intercultural service flows and strategies built. The subjects that are the object of the covenant are: 1) applicability of the Law of Protected Listening and associated legislations to community contexts - categories proper to the statements of justice here must be thematized in order to allow the PCTs to understand what is being talked about and the concepts that are employed in processes that may impact their lives, such as, crime, penalties, sentences, subpoenas, revictimization, illegality, law, etc. The PCTs should also have the opportunity to present their knowledge of the traditional ways of protecting and caring for children and youth and how they understand the phenomenon of violence, as well as say about the ways they resolve conflicts and make decisions.	The event for the PCT consultation must be planned with the leaders, representatives, and organizations of these collectives. The consultation and participation of the PCTs should be carried out through an intercultural dialogue aimed at building mutual understanding of the relevant issues. The device of cultural and linguistic translation, when appropriate, must be activated. Such events must be organized in a way that respects the temporality and the forms of speech of the traditional peoples and communities consulted. Therefore, it is possible that there is a need to set aside a few days for consensus and pacts to be built. Preferably such an event should take place in the territories of traditional peoples and communities, as this is the place where power asymmetries can be suspended, at least temporarily, to allow the flow of intercultural dialogue.

Activities	Products/Result	Implementation Strategies
Intercultural event (conversation circle, assembly/ leadership council, workshops, etc.) for consultation and mobilization of the PCTs to participate in the implementation of the Practical Manual guidelines.	<p>This is the time to reflect on the articulation between the justice system and the PCT's conflict resolution systems and to agree on ways to do it.</p> <p>2) On the ways of implementing the guidelines of the Practical Manual on Special Testimony with the specific people or community - definition of interviewers and interpreters, for example;</p> <p>3) On the cultural and linguistic adaptations of the special testimony service for the hearing of child or adolescent victims or witnesses of violence who belong to the people;</p> <p>4) Create intercultural protection strategies for children and adolescents in the PCT, such as the institution of traditional foster families that will serve as references for children who need to be removed from their families, but who should not be removed from their people. This pacting with the PCTs will help the magistrate to pact with the institutions responsible for the execution of this public policy on how to implement these measures.</p> <p>5) Agree on the cross-cultural adequacy of the flows of services provided by the rights assurance system from the moment the police report was registered at the police station - the flow of the judicial process.</p> <p>6) Define the instances and leaderships of reference for consultation with the PCT in specific legal cases involving children or adolescents who are victims or witnesses of violence, in order to create agile and effective intercultural devices for decision making and referrals both in terms of how to conduct conflict resolution (whether the problem is solved internally or whether it requires that articulated measures be adopted between the PCT and the justice system. In this case, which measures would be appropriate), as to the referrals that guarantee the integral protection of children and adolescents, understood, from this moment on, in its systemic dimension.</p>	<p>The event must be planned and organized according to the sociolinguistic norms that govern communication within these collectives. Initially, the PCT authorities should be allowed to be the hosts and welcome the justice system agents, determining the best moment in which the justice system agents should present the Law of Protected Listening, the Practical Manual, and the special testimony: flows and attendance.</p> <p>It is important that the first to speak at these consultation events are the PCT members. From this first moment of listening, the Judiciary agents who will present the objects of the intercultural consultation will be able to get closer to the language and speech forms of the PCTs, helping them to adapt their speech to the terms of the other in order to enable them to be understood by their interlocutors.</p> <p>This event has a formative character, constituting a moment to experience intercultural dialogue. In this way, it is important that judges, specialized professionals, employees of the Judiciary, and other legal operators - prosecutors, attorneys, and public defenders involved in the different moments of the flow of the special testimony participate in the construction of consensuses, pacts, and intercultural strategies of action of the justice system.</p>

Guideline 3 - Ethnic and linguistic identification in the Judicial Information System

Activities	Products/Result	Implementation Strategies
Self-declaration and linguistic identification in the context of the police report.	Information about the ethnic and linguistic belonging of the victim or witness of violence recorded at the extrajudicial stage of the proceedings and easily accessible to the court and other legal operators involved.	Articulation with the Public Security System - Police Stations.
Filling in the ethnicity and language fields in the information system.	Information systems of the Judiciary fed with information referring to ethnic and linguistic belonging, in order to subsidize the elaboration and implementation of judicial policies that enforce the differentiated rights of these groups. It also establishes mechanisms for monitoring and evaluation with the definition of indicators and qualitative and quantitative targets.	Articulation with the Public Prosecutor's Office - informed denunciation/representation.

Guideline 4 - From the place for ED collection

Activities	Products/Result	Implementation Strategies
Definition with the leaders and representatives of the PCT of the location for the special testimony of the children and adolescents.	A welcoming, safe, and private place for the taking of the special testimony of children and adolescents from the PCT, defined together with the leaders and representatives of these collectives.	These activities should be carried out in a participatory way with the PCT reference leaders to follow up on the implementation of the Manual, defined during the activities carried out under Guideline 2.
Participatory planning and organization of the space for holding the hearing of the child and the victim observing the criteria for a special testimony room for PCT.	Space for taking special testimony organized in a welcoming, safe, private, and culturally appropriate place: - Territory: space for taking special testimony organized and structured together with the community leadership; - Forum: space for taking special testimony organized and structured together with the PCT professionals appointed to act as interviewers or interpreters.	

Guideline 5 - Planning the special testimony Hearing by the forensic interviewer and magistrate

Activities	Products/Results	Implementation Strategies
Study the judicial process that involves the child or teenager in the PCT in advance, analyzing the reports and reports available in the records for a previous approximation to the child's reality.	A forensic interviewer who is familiar with the facts that led to the judicial process and is aware of the services that the victim was subjected to within the system of rights guarantees, in order to plan the hearing based on the singularity of the subject and the specificity of the case. Forensic interviewer informed about the socio-cultural reality of the victim based on studies of the psychosocial reports and reports available in the records.	As soon as the court has received the accusation from the MPF or has granted the request for the precautionary rite of anticipation of evidence, appoint the interviewer responsible for taking the special testimony and provide him/her access to the records.
Perform a literature review on the people or community to which the child or adolescent belongs and related topics: kinship, theories of corporality, sexuality, marriage and conjugal alliances, rites of passage, notion of person, life cycles and childhood modes, etc.	Forensic interviewer.	
Identify the need for an interpreter and communicate this to the magistrate, in order to involve him/her in the process of culturally adapting the hearing of the victim or witness of violence.	Interpreter who will accompany the designated victim or witness of violence.	Appointment of an interpreter by the magistrate to accompany the victims or witnesses of violence at all times during the judicial process that may be necessary and to plan the special testimony hearing.
Together with the PCT forensic interpreter, adapt the PBEF forensic interview scripts, outlining welcoming strategies, encouraging free narrative, adapting the protocol questions to the language of the child or adolescent.	special testimony hearing planned based on the sociocultural and linguistic specificities of the victim or witness of violence.	Meeting between designated interviewer and interpreter for planning and adjustment of the special testimony hearing.

Activities	Products/Results	Implementation Strategies
Investigate and communicate to the magistrate about the logistical conditions necessary for the displacement of the child or the adolescent, in case the hearing is held in the city and he/she and his/her family members have to leave the village, and the permanence in the city (food, lodging) while waiting for the hearing to take place, so that in this displacement the victim is not exposed to risk factors, remaining in situations of greater vulnerability.	Logistical conditions for the safe participation of the victim or witness of violence in the special testimony hearing provided.	After receiving the planning, the magistrate may request the institutions of the protection network, and if it is the case of indigenous people, the indigenist institutions - FUNAI and SESAI -, to guarantee the logistical conditions necessary for the safe participation (displacement, food, and lodging) of the child or adolescent in the special testimony hearing.
Validate the planning of the special testimony hearing with the magistrate responsible for the judicial process.	Magistrate informed about the intercultural contours of the forensic interview in the context of special testimony, in order to be able to conduct the hearing avoiding revictimization of the deponents.	Evaluation and validation by the magistrate of the special testimony hearing planning.
To inform the other operators of law about the planning the special testimony hearing.	Law operators prepared to interact with those responsible for conducting the special testimony - interviewers and interpreters - contributing to the non-revictimization of the deponents.	Planning of the special testimony hearing attached to the record to allow interested parties access.

Guideline 6 - Forensic Interviewers

Activities		Products/Result	Implementation Strategies
Servants	Define reference servants (profile).	Civil servants qualified to act as forensic interviewers and apply the FBSAP, with developed intercultural competence and able to work with interpreters (in cases where the latter are required).	That the TJ develop courses to train forensic interviewers who will work in the PCTs to develop the intercultural competencies needed to conduct the forensic interview for special testimony.
	Training for civil servants.		
Experts	Public notice for the accreditation of PCT professionals.	Registration of PCT experts for special deposit taking established.	Share the public notice with the PCT leaders, representatives, organizations, and social movement, requesting wide dissemination among their groups.
	Expert training.	Experts qualified to act as forensic interviewers and to apply the PBEF, with developed intercultural competence and able to work with interpreters (in cases where the latter are required).	Validation of the accredited professionals with the leaders, representatives, organizations and social movement of the PCT That the TJ develop courses to train forensic interviewers who will work in the PCTs to develop the intercultural competencies needed to conduct the forensic interview for special testimony.
Assigned	Pacting with the protection network to define reference professionals.	Specialized reference professionals for the taking of special testimony identified.	Establishment of a cooperation term with the institutions of the protection network for the assignment of specialized professionals to take special testimony. To see in the protection network indications of professionals with a profile that can act in the taking of special testimony, without ethical impediments and conflicts of attributions for the performance of the activity.
	Training of the assigned specialized professionals.	Qualified professionals to act as forensic interviewers and apply the FBSAP, with developed intercultural competence and able to work with interpreters (in cases in which the latter are required).	That the TJ develop courses to train forensic interviewers who will work in the PCTs to develop the intercultural competencies needed to conduct the forensic interview for special testimony.

Guideline 7 - Forensic Interpreters and Cultural Mediators

Activities	Products/Results	Implementation Strategies
Announcement for accreditation of interpreters belonging to the PCT.	Registration of interpreters of PCTs who speak other languages for special testimony taking instituted.	Share the public notice with the PCT leaders, representatives, organizations, and social movement, requesting wide dissemination in their collectives. Validation of the accredited professionals with the leaders, representatives, organizations, and social movement of the PCT.
Training interpreters to act in court cases involving children and adolescents from PCT.	Professionals from the PCT who are qualified to act as forensic interpreters in the different procedural acts involving children and adolescents in special testimony hearings.	That the TJ develop courses to train the forensic interpreters who will work in the PCTs to develop the intercultural competencies needed to conduct the forensic interview for special testimony.

Guideline 8 - Adequacy of the Brazilian Forensic Interview Protocol

Activities	Products/Result	Implementation Strategies
Adapt the script for conducting the forensic interview of the PBEF to the linguistic, sociolinguistic, and cultural specificities of the PCTs, outlining the best ways to approach certain topics, to conduct the conversation cross-culturally, and to enable free narrative and culturally appropriate construction of the questions to be addressed to the children and adolescents.	Outlined intercultural protocols of conducting the forensic interview.	Hold workshops between interviewers and PCT professionals to adjust the PBEF.
	Established intercultural communicative flow between forensic interviewer and victim or witness of PCT violence.	In the case of peoples who speak other languages, hold workshops between interviewers and interpreters for the adaptation of PBEF.
	Quality testimony without revictimizing the child or adolescent in the PCT.	Introduce in the training of forensic interviewers a module for the adequacy of the PBEF that counts with the presence of professionals from the PCT that can collaborate on the subject. In case the people or community speaks another language, that this module includes the presence of forensic interpreters.
	Validation of the PBEF culturally adapted by magistrates and other legal operators.	Meeting/workshop between interviewers, PCT professionals, interpreters, magistrates and other legal operators to validate the adapted version of the PBEF.
	Validation of the culturally adapted FBSP by the PCTs to which it will be applied.	Conversation round with the PCTs for presentation and validation of the PBEF culturally adapted to the PCTs - reference representations indicated by the initial consultation (Guideline 2). This moment should have the participation of magistrates, forensic interviewers, and interpreters, when appropriate.

Guideline 9 - Anthropological expertise

Activities	Products/Result	Implementation Strategies
Carry out research and studies on topics of interest to the justice system.	Cartography of PCT - traditional systems of conflict resolution, ways of childhood and traditional ways of protecting children and young people, etc. - carried out; Dynamics, social determinants and local configurations of the phenomenon of violence against children and adolescents understood in its collective dimension; Survey of the PCT proposals to face the problems and to adjust the flows and services, community alternatives for the protection of children and adolescents in risk situations.	1) Establish cooperation term with public and private universities to carry out these investigative undertakings; 2) Establish partnerships with indigenous and indigenist organizations for the production of knowledge about traditional peoples and communities.
Assign anthropological expertise to instruct legal cases involving children and adolescents from the PCT.	Judicial decisions are supported by anthropological knowledge about the facts and about the best ways to deal with situations.	Appointment of an expert anthropologist to act in judicial processes that require unveiling the PCT's point of view about the facts, identifying alternative sentences, and instituting protection mechanisms for children and adolescents.

Guideline 10 - The internal organization of the judiciary for taking special testimony

Activities	Products/Result	Implementation Strategies
Establish a reference magistrate for taking special testimonies of children and adolescents from PCT, in order to avoid them being heard more than once when the same fact institutes different judicial processes.	A special testimony procedure set up within the districts/court of justice that focuses on the non-revictimization of children and adolescents in the PCT.	Creation of an instance within the Coordinators for Children and Youth of the Courts of Justice regarding the special testimony of PCT, in order to guide the process of defining the magistrate of reference for the hearing of PCT children and adolescents, to coordinate the holding of special testimony hearings, and to supervise the flow of services provided to PCT children and adolescents.
Qualify the Judiciary's employees to act in the PCTs, with a focus on the court clerk.	The judicial officers' actions with the PCTs are qualified, so as not to reproduce institutional violence when approaching members of these collectives.	That the TJs train the bailiffs to act in the PCTs.

Guideline 11 - Articulation of the Judiciary with the system for guaranteeing rights

Activities	Products/Result	Implementation Strategies
Security Public	Instituting the self-declaration procedure for police charges: ethnicity and language.	Information on ethnic belonging and spoken language of victims or witnesses of violence available in court cases to enable evidence-based judicial policy-making.
	Request to the Public Prosecution Service a Precautionary Rite for Anticipation of Evidence.	Reduce the situations of assistance and the time between the communication of the violence and the hearing of the child or adolescent victim or witness of violence in order to avoid re-victimization.
Public Defender's Office	Set up legal counseling for child or adolescent victims of violence.	Guaranteed rights to full protection and non-revictimization for child or adolescent victims or witnesses of violence.
Network Protection	Instituting intercultural flows for the protection of children and adolescents in the PCT.	Culturally appropriate care provided to victims and adolescents from traditional peoples and communities;
		Lawsuits instructed with psychosocial reports and reports that contemplate the cultural and linguistic specificities of traditional peoples and communities.

Guideline 12 - Permanent Formation

Activities	Products/Result	Implementation Strategies
Training for magistrates.	Magistrates prepared to conduct and make special testimonies with children or adolescents from traditional peoples and communities who are victims or witnesses of violence.	<p>For the development of this guideline, the Courts of Justice can adopt the following measures:</p> <ol style="list-style-type: none"> 1) Development of courses in the judicial schools for the development of the intercultural competence of the judiciary's employees who work with traditional peoples and communities; 2) Enabling the participation of members of traditional peoples and communities as instructors in the courses held by judicial schools. 3) Establishing partnerships with universities, public and private, to offer training courses to the Judiciary's civil servants.
Training for forensic interviewers.	Forensic interviewers with intercultural competence able to conduct the forensic interview with children or adolescents from traditional peoples and communities who are victims or witnesses of violence.	
Interpreter training.	Interpreters qualified to perform linguistic interpretation and cultural mediation in the context of special testimony hearings.	
Training of Judiciary employees.	Judiciary employees trained to respect cultural differences and avoid the re-victimization of children and adolescents from traditional peoples and communities who are victims or witnesses of violence.	

Guideline 13 - Isolated and Newly-Contacted Indigenous Peoples

Activity	Product/Result	Implementation Strategy
Establish, in partnership with FUNAI, the procedures to guide the approach of the justice system in the PIIRC	Procedures for the assistance provided by the TJ to the PIIRC defined in conjunction with the General Coordination of Isolated Indians and Recent Contacts/FUNAI and the Ethno-Environmental Protection Fronts/FUNAI.	Creation of an inter-institutional working group involving members of the TJ, FUNAI, indigenous and indigenist organizations for the delineation of strategies and procedures for the assistance of the justice system to isolated and recently contacted indigenous peoples.

Guideline 14 - Planning, monitoring and evaluation

Activities	Products/Result	Implementation Strategies
Set up a reference team in the courts responsible for implementing the guidelines in this Practical Manual.	Reference team for the implementation of the Practical Manual established.	Identify magistrates, specialized public servants, forensic interviewers, and interpreters to be part of the reference team for the Manual's implementation.
Develop Strategic Action Plan for the implementation of the Practical Manual guidelines that addresses the diversity of existing PCTs in the TJ territories.	Action plan for implementing the guidelines of the Practical Manual prepared and implemented in the different districts of the TJ.	Holding workshops with magistrates, specialized professionals, forensic interviewers, interpreters, and anthropologists (invited) to prepare the action plan, defining objectives, results, activities, timeline, goals and indicators, and monitoring and evaluation methodology.
		Validate the Action Plan with PCT leaders, representatives, organizations, and social movements.

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