

Original Research

Received 16 April 2026

Revised 20 May 2026

Accepted 22 June 2026

Natural Resources for Human Health 2026, Vol. 6(5s): 1048–1055

KEYWORDS:

Proportionality, human rights, preventive detention.

The Principle of Proportionality in the Prolongation of Pretrial Detention in Peru

Raul Espinoza-Murga¹, Robert Manguinuri-Chota², Isaac Espinoza-Murga³

¹Facultad Derecho y Ciencias Políticas, Universidad César Vallejo, respinozamur@ucvvirtual.edu.pe, 0000-0001-6442-2622

²Facultad Derecho y Ciencias Políticas, Universidad César Vallejo, rmanguinuric@ucvvirtual.edu.pe, 0000-0001-7832-4169

³Facultad Derecho y Ciencias Políticas, Universidad César Vallejo, isaacem@ucvvirtual.edu.pe, 0000-0003-1398-403X

ABSTRACT: The present work aimed to describe the implications of the principle of proportionality in the extension of preventive detention in the judicial district of Lima. This study was a basic investigation with a qualitative, phenomenological approach, involving nine attorneys from the Lima prosecutor's office, including prosecutors, judges, and a public defender. Interviews were conducted with them, assessing the principle of proportionality through categories and subcategories, with questions aligned to the study's objectives. The interviewees concluded that it is important to evaluate according to the subprinciples of suitability, necessity, and strict proportionality, ensuring that its application is equitable and justified, considering the fundamental rights of personal liberty and the presumption of innocence.

1. INTRODUCTION

In the world, the so-called pretrial detention is a very common practice, which should not be a norm but the exception (Levin & Haugen, 2018). According to official data, it is considered that there are approximately three million prisoners worldwide with pretrial detention. According to certain statistics in 2021, they state that in 47 nations they have more than half of their detained prisoners who are not prosecuted (Walmsley, 2020).

Proportionality is an issue of total recurrence in the different nations at the international level and is used as a principle for the ruling of pretrial detention, in which this criminal representation that is considered as extreme and exceptional caution is criticized for being used incorrectly and excessively in different jurisdictions. in which it is essential to take into account as an essential law, in which imprisonment is a rare measure and not the norm that considers the approach that is based on legal standards, whose support is in the control of conventionality, considering the criteria required to impose the order to arrest preventively (Moscoso, 2021)

With respect to pretrial detention, it is quite relevant in the international arena, mainly in the United States and Europe, in which it is being put into practice in the criminal justice structure in an abusive way, it is considered as a systematic tactic that tries to ensure that many of the accused people are in prison for a long time. with an anticipated penalty, without being convicted, this is done in order for those accused by pressure to accept the charges and subsequently be sentenced (Kostenwein, 2017).

In Europe, especially in Germany, the principle of proportionality is essential and rigorously used, based on legal principles and jurisprudence, which is the basis for taking coercive measures that are requested by prosecutors' offices (Covarrubias, 2018).

In Peru, taking into account the legal principles and constitutional doctrine used in European nations, conflicts between principles are solved by implementing the principle of proportionality, which includes sub-examinations of suitability, necessity and weighting. The Constitutional Court (Exp. 4780-2017 foundation 112), the Code of Criminal Procedure (Article 253.2),

and the Supreme Court of the Republic are also taken into account. The authorities of these institutions demand that the proportionality tests be complied with, taking into account the requests for pretrial detention submitted by the prosecutors' offices (Palli, 2020). However, in Peru, the effective use of this principle still faces significant challenges, resulting in a high percentage of individuals with preventive pressure who do not meet the required criteria (López, 2017).

The fact of extending the term of pretrial detention has to do with extending the time of confinement according to the nature of the judicial process. For the occurrence of this event, the initial time of preventive detention has not passed. The prosecutor must request the extension in a timely manner before the expiration date. If it is not executed, the accused is released, without the probability of extending the pretrial detention for a longer period of time (Álvarez, 2022).

Pretrial detention to be prolonged in the procedural structure had two revisions since its entry into force. The first is in accordance with Law No. 30077, which determines that the extension of pretrial detention should not be in the investigation phase, but in the criminal procedure, which includes the appeal of the sentence. The second in accordance with D.L. 1307 that determines the periods of extension of preventive detention and the so-called sufficiency of the prolongation of pretrial detention". (Álvarez, 2022).

Pretrial detention is justified by the basic human rights that are provided for in the international context, in domestic constitutional and legal provisions, which take into account the principle of innocence, which states that the suspect must remain at liberty in criminal proceedings unless there are reasons to appear at trial or commit crimes when he or she is free. but on few occasions is this taken into account and if coercive means are resorted to, it must be amply justified (Floriano et al., 2024).

Indeed, the use of pretrial detention should occur in exceptional situations and should be the last resort, first taking into account the presumption of innocence and accepting the fact of restrictively interpreting the relevant legislation (Espinoza, 2022). In this way, when pretrial detention is used improperly, it is going against the principle of legality and also the presumption of innocence (Pineda et al., 2023).

2. MATERIALS AND METHODS

The study corresponded to a qualitative research, in which the aim is to understand the different circumstances through having the collection and analyzing subjective information. The study subjects that were taken into account were chosen in order to obtain important information based on what is being researched (Hernández & Mendoza, 2018).

The type of research was basic, it is pure study as essential inquiry, whose origin is in theoretical knowledge and has as its purpose the development of theories to expand the scientific world (Tamayo, 2013).

Likewise, the design used was phenomenological, in which the purpose is the representation and comprehensiveness of the phenomenon through the collaborators either individually or in groups, in which thoughts, emotions, visions, perceptions, among others, can be considered (Hernández et al., 2018).

The members of the population were 09 lawyers from the fiscal district of Lima, and the sample was 06 prosecutors, 1 public defender and 2 judges involved in criminal law.

The interview technique was used. An interview guide was developed in order to evaluate the principle of proportionality, categories and subcategories were used, the questions were directed to the objectives of the research. In the principle of proportionality, the sub-categories were taken into account: principle of suitability, principle of necessity and principle of proportionality in the strict sense. In pretrial detention, the right to liberty and the presumption of innocence were considered as precautionary measures.

3. RESULTS

For the principle of proportionality and pretrial detention, it focused on the analysis of precautionary measures and its link with the principle of proportionality to ensure that the use is fair and balanced. The fact of applying pretrial detention generated concern in Peru due to its widespread application and that it violates people's rights and has effects on citizen security. For this, 9 lawyers from the fiscal district of Lima were considered.

Table 1. Officials Specialized in Criminal Law

Position	Respondent
Public Defender	E1
Deputy Prosecutor (Lawyer)	E2, E3, E4, E5, E6, E7
Specialized Judged	E8, E9

This table showed the results of the interviewees, specialized in criminal law, the same who participated in public policies on security

General objective: To describe the implication of the principle of proportionality in the prolongation of pretrial detention, judicial district of Lima 2024.

From the analysis of the results, the interviewees agree that the principle of proportionality acts as a fundamental tool to restrict the excessive use of personal coercive measures, especially pretrial detention, which tends to be distorted when used for punitive purposes instead of procedural ones. According to the prosecutors (E2, E3, E4, E5, E6, E7), the principle of proportionality must guarantee that pretrial detention is used only when strictly necessary, in accordance with the principles of suitability, necessity and proportionality in the strict sense, as established by the Code of Criminal Procedure and reaffirmed by the Constitutional Court of Peru. The judges (E8, E9) highlight that pretrial detention, being the most burdensome coercive measure, must be limited to avoid disproportionate treatment of those who, under the principle of presumption of innocence, have not been convicted.

However, research into the implications of the principle of proportionality in the extension of pretrial detention in the judicial district of Lima showed that this principle is essential to protect fundamental rights and prevent abuses in the exercise of judicial power. According to the public defender interviewed, this principle has an essential role in evaluating violations of rights such as the right to liberty, functioning as a limit to the state's punitive power (E1). The prosecutors stressed that the application of proportionality allowed a balance between the need to conduct the criminal process properly and the protection of the rights of the accused, strengthening the rule of law and the legitimacy of the judicial system, in addition to contributing to social and economic benefits (E2, E3). In addition, they agreed that this principle prevented arbitrary and excessive detentions, facilitating judicial control that ensured the reasonableness of the preventive detention measure depending on the progress of the investigation (E5, E6). In accordance with the Code of Criminal Procedure, its implementation required a rigorous examination of suitability, necessity, and proportionality, thus ensuring that restrictions on rights were legitimate and adequately justified (E7). The judges emphasized that the principle of proportionality was crucial in situations of collision of rights, evaluating dimensions such as the suitability, necessity and reasonableness of the measure; the analysis had to be adjusted to each specific case and consider possible obstructive attitudes of the accused, which could lead to variations in the judicial decision, from the prolongation of detention to the possibility of continuing the process in freedom (E8, E9).

Specific objective 1: To analyze the sub-principle of suitability in the prolongation of pretrial detention, judicial district of Lima 2024.

According to the results of the interviews, they assert that the criteria for determining the suitability of pretrial detention in the judicial district of Lima were based on the means-end approach, i.e., it was considered whether the restriction of liberty really ensured the process and an eventual sentence (E1). Peruvian criminal law established a series of essential parameters that ensured that the measure of pretrial detention will be used in a fair and proportional manner, reserving it for strictly necessary cases. These criteria include the presence of sufficient elements of conviction, the seriousness of the crime, the risk of flight (analyzed through the roots and previous conduct of the accused), as well as the economic capacity of the accused, and the danger of obstruction, in which the possibility of altering evidence or influencing witnesses was assessed (E2, E3, E6). The prosecutors stated that this measure should prove to be useful to comply with the constitutionally legitimate purpose, always evaluating the need for pretrial detention with respect to the presence of less burdensome alternatives (E4). In addition, it was considered whether it was the most suitable measure to guarantee the presence of the investigated person at the trial, taking

into account his procedural behavior (E5). In each specific case, the prosecutors had to demonstrate the accumulation of two material presuppositions: sufficient elements of conviction and procedural danger (E7), while the judges emphasized the application of an appropriate coercive measure to achieve the effectiveness of the criminal process, evaluating its suitability and necessity (E8, E9).

Similarly, pretrial detention was considered adequate in relation to other precautionary measures in situations where the requirements established in Article 274 of the Code of Criminal Procedure were met, always being limited by the principle of legality (E1). The specific circumstances in which this measure was appropriate included cases of serious crimes such as homicide, kidnapping, rape, drug trafficking, and corruption of officials, in which the risk of flight, recidivism, or the possibility of interference in the judicial investigation were high (E2, E3). It was also considered suitable when the accused had a history of non-compliance with previous precautionary measures, which increased the risk of obstruction of the process (E6). The judges indicated three key factors that justified pretrial detention over other precautionary measures: the existence of sufficient elements of conviction that indicated a probable authorship, the probability that the sentence to be imposed would be effectively executed, and the presumption of risk of flight or obstruction of the investigation (E8). In addition, the measure was justified in contexts where the initial elements of conviction provided a strong suspicion of guilt, which made the probability of procedural risk prevalent (E9). However, some prosecutors suggested that this measure should continue to be considered as the last option, being applied only when there were no other less burdensome measures that could guarantee the procedural behavior of the accused (E5).

Specific objective 2: To analyze the sub-principle of necessity in the prolongation of pretrial detention, judicial district of Lima 2024.

In relation to the results, the determination of the need to prolong pretrial detention in a judicial case was addressed. It is relevant that the process would require a rigorous and conscientious analysis in the process of taking different key aspects, ensuring that the measure remains necessary and proportional (E2). The prosecutors stressed how important it is to evaluate the seriousness of the crime, the risk of the defendant fleeing with respect to his family and social roots, as well as the possibility that it will be inferred in the investigation or that the evidence will be destroyed (E2). In addition, the existence of options with a lower degree of seriousness that could ensure the existence of the accused in the trial (E3, E6) was analyzed. In cases in which the action in the investigation made the situation of the accused serious and there was a danger of flight, the extension of the preventive detention was justified (E4). Otherwise, it was taken into account that the grounds that supported the initial decision had to be unchanged at the time of the evaluation of the extension (E5). Similarly, it was recognized that the analysis had to balance the different grounds for the extension, since the Code of Criminal Procedure admits the difficulty of the investigation and also the requirement of additional time (E8). It was concluded that, in the absence of equally effective precautionary measures, pretrial detention could be ordered as the only viable option to guarantee the subjection of the accused to the process (E9).

Likewise, the consideration of options to the extension of pretrial detention was analyzed before making a decision. The prosecutors stressed that, before deciding on the extension, it is essential to evaluate different less serious coercive measures that could ensure the presence of the accused in the criminal process and prevent obstruction of justice (E2). It was emphasized that alternatives, such as the obligation to appear regularly before the judge, the restriction on leaving the country, house arrest, and the placement of monitoring devices, should be analyzed in terms of suitability, necessity, and proportionality (E1, E2, E3). The judges also stressed that the analysis of the defendant's situation should include the evaluation of the diligence of the Public Prosecutor's Office and compliance with the relevant legal requirements (E8, E7). In conclusion, the decision on the extension of pretrial detention must focus on the capacity of the alternatives to effectively comply with the purposes of security and justice, always considering the particularities of the case in question (E6, E9).

Likewise, the criteria used for the evaluation were considered whether the extension of pretrial detention was the only feasible measure in a given case. It was emphasized that this procedure involved an exhaustive analysis that took into account aspects such as the seriousness of the crime, the risk of flight of the accused and the possibility of obstruction of justice, as well as the effectiveness and availability of less restrictive alternative measures (E2, E3). The judges should have been sure that there are clear grounds and that the assumptions determined in Article 274 of the Code of Criminal Procedure are met, in which it is evaluated whether the extension is required due to the special difficulty of the case or the possibility that the accused would remove himself from the action of justice (E8). In addition, an injunction examination was used to compare the possible

measures and choose the most appropriate one to safeguard the criminal process (E7). In conclusion, the evaluation tried to balance the rights of the accused with the interests of justice and society (E6).

Specific objective 3: To analyze the sub-principle of proportionality in the strict sense in the prolongation of pretrial detention, judicial district of Lima 2024.

Regarding the analysis of the results, the use of the sub-principle of proportionality in the strict sense when deciding on the extension of pretrial detention was considered. It was emphasized that this sub-principle was used through an analysis with extreme care that evaluated the level of intensity of the affectation of the right of the accused in the face of the requirement to guarantee the normal course of the judicial process (E1, E2). It was taken into account that the extension of pretrial detention should be used when it was strictly necessary and proportionate, trying to avoid any excess that could compromise the essential rights of the accused, such as the presumption of innocence and the right to a fair trial (E6). In addition, it was highlighted that the analysis involved a weighting between individual and collective rights, such as the right to personal liberty versus rights of collective interest, such as the right to truth and to an effective sentence (E7). The requirement to carry out a proportionality test was determined by Cassations 626-2013 and 353-2019, in which it was indicated that the Public Prosecutor's Office must justify why pretrial detention was the most suitable and necessary measure, compared to other less restrictive alternatives (E8). Thus, it was concluded that if the suitability and proportionality of the measure were affirmative, the extension of pretrial detention could be considered justified, protecting a right of greater interest than that of the accused (E9).

The measures taken into account to ensure that the extension of pretrial detention was proportional to the crime committed and the situations of the case were analyzed. The application of the weighting rule was established, which compared the level of realization of constitutional ends with the intensity of the intervention in freedom, stating that the greater the impact on freedom, the greater the satisfaction of the end (E1). To achieve this balance, processes such as individualized analysis of the case, hearings for the review of precautionary measures, evaluation of less burdensome alternatives, and the requirement of detailed justification for the decisions taken (E2) were implemented. The necessity and justification of the extension was periodically reviewed, ensuring that any measure taken was proportionate to the crime and the situations, which included the consideration of procedural deadlines and judicial control (E3, E6). Likewise, the importance of due motivation in prosecutorial decisions was emphasized, since these not only affect the rights of the accused, but also ensure that the measure of procedural coercion responds to sufficient reasons, safeguarding the principle of proportionality (E8). The evaluation was carried out according to the specific case, considering the legal context of Article 274 of the Code of Criminal Procedure, which allowed a broadening of the spectrum of analysis based on the particularities of each situation (E9).

4. DISCUSSION

According to the general objective, the prosecutors agree that proportionality guarantees that pretrial detention is applied only when it is strictly necessary and in accordance with the principles of suitability, necessity and proportionality in the strict sense, as established by the Code of Criminal Procedure and reinforced by the Constitutional Court of Peru. The judges stress that this coercive measure, being the most serious, must be limited to avoid violating the presumption of innocence, highlighting the importance of adjusting its application to the specific case and considering obstructive conduct by the accused that justifies the prolongation or even allows his release (E2, E3, E8).

This finding coincides with the studies of Huamán (2021) and Zapata (2021), who highlight that the excessive use of pretrial detention violates fundamental rights and has socio-legal and personal effects, such as family disintegration and post-prison stigmatization. However, while Huamán exposes the social dimension of the impact of pretrial detention, the prosecutors and judges in this research place greater emphasis on the criteria of proportionality and on the need to adjust it to each specific case, in order to mitigate the interference of external factors, such as media pressure, in justice (E6, E9).

The first specific objective, when analyzing the sub-principle of suitability in the prolongation of pretrial detention in the judicial district of Lima, allows us to observe how this criterion tries to guarantee that the measure fulfills its purpose in a constitutionally legitimate way to ensure the process and an eventual sentence. The interviewees agree that the suitability of pretrial detention should be evaluated under a means-end modality, considering whether the limitation of liberty effectively guarantees the judicial process (E1). Peruvian criminal law determines essential parameters for the use of this measure, restricting it to strictly necessary cases, and calculating it in sufficient elements of conviction, seriousness of the crime, danger of flight, risk of obstruction, and the economic capacity of the defendant (E2, E3, E6). Prosecutors emphasize the use of pretrial detention only when there are

no less serious options and underline the importance of the defendant's procedural conduct in ensuring his or her presence at the trial (E4, E5).

When comparing these results with the studies of Cáceres (2019) and Moscoso (2021), it was possible to see an approximation in the requirement of respect for the principles of exceptionality and temporality, in line with the American Convention on Human Rights. In spite of this, Article 274.5 of the Code of Criminal Procedure shows inconsistencies with supranational norms, since it prolongs pretrial detention that is far from the control of conventionality, thus exposing a restriction in the alignment between domestic law and the inter-American human rights framework. This lack of control of conventionality is especially emphasized in national jurisprudence, as in the case of Cassation No. 328-2012 Ica, where the rule is applied without a rigorous evaluation of proportionality.

In the second specific objective, the analysis of the sub-principle of necessity in the prolongation of pretrial detention in the judicial district of Lima reveals the importance of rigorously and thoroughly evaluating the aspects that justify this measure. The prosecutors highlight the seriousness of the crime, the risk of flight based on the social and family roots of the accused, and the possibility that it interferes in the investigation or destruction of evidence (E2). The presence of less restrictive alternatives, such as house arrest or electronic monitoring, was analyzed, evaluating whether these can ensure the appearance of the accused without affecting the integrity of the criminal process (E3, E6). In cases where the progress of the investigation aggravates the situation of the accused or there are still significant risks of flight, the extension of the measure is justified (E4). The prosecutors also emphasize the requirement that the initial grounds for pretrial detention remain valid at the time of considering its extension (E5). The judges also analyze the complexity of the case and the need for additional time for the development of the proceedings, as allowed by the Code of Criminal Procedure (E8).

This interpretation coincides with the findings of Floriano and Contreras (2024), who emphasize the importance of exhaustively analyzing proportionality for decisions on restrictions on freedom. However, while in Lima there is a detailed focus on the continuous validation of the measure according to the progress of the research, Floriano and Contreras found inconsistencies in the use of proportionality in other judicial contexts, in which subjective interpretations are seen. Gonzalo (2020) warns about the use of pretrial detention as a premature punishment, in an analysis that coincides with Morales and Preciado (2024) regarding the tension in countries such as Mexico, where the measure is automatically applied in certain crimes, reducing the margin of judicial assessment.

In contrast, the Peruvian context determines that the measure must be completely justified and exceptional, relying on national and international jurisprudence to ensure that pretrial detention is a last resort in the protection of liberty and the presumption of innocence (Espinoza, 2022; Llobet, 2021). These findings suggest a judicial practice in Lima that is relatively aligned with the principles of necessity and proportionality, although challenges persist in the consistency and coherence of its application.

With regard to the third specific objective, the analysis of the sub-principle of proportionality in the strict sense for the prolongation of pretrial detention in the judicial district of Lima, there is evidence of an exhaustive use of this principle, guided by the protection of the fundamental rights of the accused and the efficiency of the judicial process. When it is used, judges and prosecutors carefully weigh the seriousness of the crime and the requirement of a security measure that, proportionally, reduces the impact on personal liberty and avoids any excess in the measure (E1, E2). This assessment takes into account not only the risk of flight or obstruction of the process, but also the balance between the individual right to liberty and the need for effective justice.

When comparing with the precedents of Pineda et al. (2023) and Aguiar (2022) in Ecuador, there is agreement in the use of the proportionality test to limit pretrial detention and ensure that it does not become an early sentence. However, it is observed that, in the Ecuadorian context, the analysis includes a criticism of deficiencies in the application of proportionality, an aspect that, in the case of Lima, according to the interviews (E8 and E9), is reinforced through periodic review and continuous justification. This methodological difference can be attributed to Peruvian judicial practice, which emphasizes proportionality based on Article 274 of the Code of Criminal Procedure and on jurisprudential precedents such as Cassations 626-2013 and 353-2019, requiring an exhaustive justification of pretrial detention based on its suitability for each specific case.

5. CONCLUSION

Regarding the general objective, the study showed that the principle of proportionality in the prolongation of pretrial detention in the judicial district of Lima, according to the prosecutors and judges interviewed, was used with a direction to ensure that this coercive measure is strictly used. The prosecutors and judges stressed the importance of evaluating this measure according to the sub-principles of suitability, necessity and proportionality in the strict sense, so that its use is equitable and justified, safeguarding fundamental rights such as the presumption of innocence and personal liberty.

According to the first specific objective, the analysis of the sub-principle of suitability showed that this measure seeks to ensure that pretrial detention fulfills its legitimate purpose of protecting the judicial process and a possible sentence. Respondents agreed that the suitability of this measure is validated through a rigorous analysis of compliance with legal requirements, such as the seriousness of the crime, the risk of flight, and the conduct of the accused. This sub-principle allowed prosecutors and judges to justify pretrial detention only in complex cases, such as organized crime, where there is a greater risk of obstruction of justice.

In relation to the second specific objective, the sub-principle of necessity revealed how essential it is to evaluate whether there are less restrictive alternatives to pretrial detention, such as house arrest or electronic monitoring, and their feasibility in ensuring the presence of the accused in the process without compromising him. The results indicated that the extension of this measure was justified in highly complex crimes and in cases where the investigation needed more time, provided that a specific procedural danger persists. Prosecutors and judges concluded that only in the absence of less restrictive alternatives and when the initial conditions of risk remain, pretrial detention is prolonged, in an effort to balance justice and public safety.

In the third specific objective, the analysis of the sub-principle of proportionality in the strict sense showed that this measure seeks to balance the impact on the personal liberty of the accused with the need for effective justice. The judges and prosecutors indicated that, in evaluating this sub-principle, factors such as the seriousness of the crime, progress of the process, and the possibility of applying less restrictive alternatives were weighed, as happened in the high-profile cases analyzed, where measures were chosen to protect the freedom of the accused without compromising the process. The application of this sub-principle resulted in a judicial practice that minimizes the excessive use of pretrial detention, respecting the rights of the accused in the context of due process.

AUTHOR CONTRIBUTIONS

Raul Espinoza-Murga, Robert Manguinuri-Chota, Isaac Espinoza-Murga: Conceptualization, Investigation.

Raul Espinoza-Murga, Robert Manguinuri-Chota, Isaac Espinoza-Murga: Methodology, Laboratory Analysis.

Raul Espinoza-Murga, Robert Manguinuri-Chota, Isaac Espinoza-Murga: Data Curation, Formal Analysis.

Raul Espinoza-Murga, Robert Manguinuri-Chota, Isaac Espinoza-Murga: Supervision, Writing, Review & Editing.

CONFLICT OF INTEREST

The authors declare that there is no conflict of interest.

ETHICS STATEMENT

Ethical approval was not required for this study.

DATA AVAILABILITY STATEMENT

Data supporting the findings of this study are available from the corresponding author upon reasonable request.

REFERENCES

- [1] Aguiar, J. (2022). Analysis of the failure to apply the proportionality test for the reasoned disposition of pretrial detention. *Pole of Knowledge*, 922-944. https://doi.org/10.37811/cl_rcm.v7i2.5557.
- [2] Álvarez, H. (March 01, 2022). *Prolongation and adequacy of the term of pretrial detention: approximation and procedural reflections*. Obtained from Lp passion for law: <https://lpderecho.pe/prolongacion-adequacion-plazo-prison-preventive-approach-procedural-reflections/>

- [3] Cáceres, R. (2019). *Article 274.5 of the Code of Criminal Procedure on the extension of pretrial detention and control of conventionality with respect to exceptionality and provisionality*. Cusco: National University of San Antonio Abbot of the Cusco. <https://renati.sunedu.gob.pe/handle/sunedu/2687172>.
- [4] Covarrubias, I. (2018). The principle of proportionality by the German Federal Constitutional Court: beyond Alexy. *Ins et Praxis*, <https://www.redalyc.org/journal/197/19758439014/html/>.
- [5] Espinoza, E. (2022). Pretrial detention as a precautionary measure and respect for the principle of presumption of innocence. *Society & Technology*, 5(2), 351–364. <https://doi.org/10.51247/st.v5i2.219>.
- [6] Floriano, R., & Contreras, R. (2024). Analysis of the principle of proportionality when applying pretrial detention in Peru. *InveCom Magazine / ISSN Online: 2739-0063*, 4(2), 1–13. <https://doi.org/10.5281/zenodo.10641819>.
- [7] Floriano, R., Contreras, R., Contreras, A., & Giselle, F. (2024). Inclusive public policies in the Peruvian penal system as an alternative to pretrial detention in women. *Venezuelan Journal of Management*, 293-308. <https://doi.org/10.52080/rvgluz.29.107.17>.
- [8] <https://doi.org/10.52080/rvgluz.29.107.17>.
- [9] Gonzalo, J. (2020). *Pre-trial detention as an anticipated penalty*. Barcelona: Universitat of Barcelona. https://diposit.ub.edu/dspace/bitstream/2445/179547/1/JGM_TESIS.pdf.
- [10] Hernández, R., & Mendoza, C. (2018). *Research methodology: The quantitative, qualitative and mixed routes*. Mexico: Mc Grall Hill.
- [11] Hernández, R., Fernández, C., & Baptista, C. (2018). *Research Methodology*. (6th Edition). Mexico: McGraw-Hill/Interamericana.
- [12] Huamán, J. (2021). *Extension of pretrial detention in view of the effects caused to the acquitted defendants*. Lima: Universidad Nacional Federico Villarreal. <https://renati.sunedu.gob.pe/handle/sunedu/3288566>.
- [13] Kostenwein, E. (2017). Pre-trial detention in plural. *Revista Direito e Práxis*, 8(2), 974-1007. <https://doi.org/10.12957/dep.2017.25019>
- [14] Levin, M., & Haugen, M. (2018). *Open roads and overflowing jails: Addressing high rates of rural pretrial incarceration*. Texas: Public Policy Foundation.
- [15] Llobet, J. (2021). Pretrial Detention in Juvenile Criminal Justice, according to the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights. *Revista Digital de Ciencias Penales de Costa Rica*, 1(32), 1 - 13. <https://doi.org/10.15517/rdcp.2021.49563>.
- [16] López, S. (2017). The principle of proportionality as a canon of constitutionality: an approach to the Ecuadorian case. *Estudios de Densio*, 185-217. [https://doi.org/10.18543/ed-65\(1\)-2017pp185-217](https://doi.org/10.18543/ed-65(1)-2017pp185-217).
- [17] Morales, J., & Preciado, G. (2024). Mandatory preventive detention in Mexico: contradictions of unconventional constitutionalities. *Mexican Law Journal Constitutional*, 2448-4881. <https://doi.org/10.22201/ij.24484881e.2024.51.19192>.
- [18] Moscoso, G. (2021). Pretrial detention in the light of the control of conventionality. The binomial of proportionality and due motivation of prosecutorial decisions as a rule in Peruvian criminal procedure. *Dikaion Magazine*, 29(2), 469-500. <https://doi.org/10.5294/dika.2020.29.2.6>
- [19] Palli, C. (2020). The proportionality examination in preventive prison marriages. *Journal of Research of the Academy of the Magistracy*, 193- 208. <https://doi.org/10.58581/rev.amag.2020.v2n2.10>.
- [20] Pineda, A., Alvarez, B., & Vilela, W. (2023). The incorrect application of pretrial detention as a precautionary measure within a criminal proceeding. *Ciencia Latina Revista Científica Multidisciplinar*, 7(1), 5222-5240. https://doi.org/10.37811/cl_rcm.v7i1.4826.
- [21] Tamayo, M. (2013). *The process of scientific research*. Mexico: Editorial Limusa.
- [22] Walmsley, R. (2020). *World pre-trial/remand imprisonment list (4th ed.)*. London: University of London. https://www.prisonstudies.org/sites/default/files/resources/downloads/world_pre-trial_list_4th_edn_final.pdf.
- [23] Zapata, L. (2021). *Excessive application of pretrial detention and its impact on the right to liberty*. Lima: Universidad Nacional Federico Villarreal. <https://renati.sunedu.gob.pe/handle/sunedu/3288539>