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ANÁLISIS CORRELACIONAL DE LA PRUEBA ANTICIPADA Y LAS GARANTÍAS PROCESALES SEGÚN PROFESIONALES DEL SISTEMA PENAL HONDUREÑO.



CORRELATIONAL ANALYSIS OF PRETRIAL EVIDENCE AND PROCEDURAL GUARANTEES ACCORDING TO PROFESSIONALS IN THE HONDURAN CRIMINAL JUSTICE SYSTEM

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Abstract—Access to justice is a right inherent to every person within the criminal justice process, and one of the mechanisms that guarantees it is the preliminary hearing, the central topic of this article; the overall objective is to analyze the relationship between the Gesell chamber, means of evidence, and the protection of vulnerable victims from revictimization, as instruments that safeguard the integrity of testimony and reduce the emotional suffering of victims during the criminal investigation. A quantitative, non-experimental, cross-sectional design was used at the descriptive-correlational level, characterizing the perceptions of legal practitioners and analyzing the relationship between the regulatory framework and its practical implementation, without manipulating variables to ensure the objectivity of the findings. The results show that, when early testimony is formally applied, it effectively ensures the rights of both vulnerable victims and defendants; however, deficiencies persist in practice, as the right to non-revictimization is not always upheld when the evidence is not gathered through a single interview, and in the case of defendants, hearings are often held in their absence, which violates due process and the equality of the parties; there are also cases in which advance evidence is not gathered in accordance with its requirements of urgency and necessity. Therefore, to protect the rights of both parties, this exceptional measure should be permitted only when necessary due to the risk of evidence being lost, and reforms should be enacted to clearly define the rules governing its use.

Keywords—Gesell chamber, due process, criminal law¹, means of evidence, revictimization, vulnerable victims.

Abstract-- Access to justice is a right inherent to every person within the criminal process, and anticipatory evidence is one of the mechanisms that guarantees it, which is the central theme of this article; the general objective is to analyze the relationship between the Gesell Chamber, the means of proof, and the protection of vulnerable victims against revictimization, as instruments that safeguard the integrity of testimony and reduce the emotional suffering of victims during criminal investigations. Using a quantitative, non-experimental, cross-sectional design at a descriptive-correlational level, the study characterized how legal professionals perceive this issue and examined how the normative framework relates to its practical implementation, without manipulating variables so that the findings would remain objective. The results show that, when anticipatory evidence is formally applied, it effectively guarantees

¹ The term “criminal law” corresponds to a preferred descriptor in the UNESCO Thesaurus.

the rights of both vulnerable victims and defendants; in practice, however, shortcomings remain, since the right to non-revictimization is not always upheld when evidence is not collected through a single interview, and hearings involving defendants are often held in their absence, which violates due process and the principle of equality between the parties; there are also cases in which anticipatory evidence is not applied in accordance with the conditions of urgency and necessity. Given this, protecting the rights of both parties requires treating them equally and admitting this exceptional measure only when the loss of evidence makes it necessary, along with reforms that clearly define the rules for its application.

Keywords: criminal law², due process, Gesell Chamber, means of proof, revictimization, vulnerable victims.

INTRODUCTION

Anticipatory evidence serves as a mechanism to safeguard testimony that is at risk of being compromised during criminal proceedings, which helps judicial officials render fairer decisions; however, its application requires simultaneously guaranteeing the rights of vulnerable victims and those of the accused, and in practice, victims are often protected more effectively, leaving it in doubt whether the rights of the accused are guaranteed in the same manner. Hence, it is necessary to balance the early protection of vulnerable victims with respect for the defendant's constitutional rights, including the right to a fair trial and the opportunity to cross-examine witnesses (Yaguachi Sandoya & Zamora Vazquez, 2025).

The implementation of pre-trial evidence in the criminal justice system must be genuine and effective to achieve the goal of justice, and to accomplish this, an analysis is needed to determine its proper use in decision-making while safeguarding the rights of both parties; this issue arises in almost any situation related to criminal law, which is why it is worth addressing it in detail. The authors (Yaguachi Sandoya & Zamora Vázquez, 2025) state that this evidence has implications for the right to a defense, as it affects both judicial practice and public policies aimed at guaranteeing due process (Templo Corcino V. F., 2025).

The adversarial principle is one of the pillars of due process in the criminal justice system. It guarantees the right of the accused to challenge the evidence against them and to mount an effective defense; when properly applied, it prevents imbalances in the evaluation of evidence and preserves the legitimacy of the

² The term "criminal law" is a preferred descriptor in the UNESCO Thesaurus.

process. Likewise, the authors Villacrés Malla & Villacrés Malla (2025) argue that giving decisive weight to pre-trial testimony compromises that right; to this end, they examine the legal framework and legal doctrine regarding pre-trial testimony, its regulation, and its practical application in the courts (Villacrés Malla & Villacrés Malla, 2025).

The problem addressed in this study is the lack of clear and uniform criteria for applying pre-trial evidence; using it without limits can affect the defendant's defense, especially because the speed with which this evidence is presented leaves little time for defense attorneys to prepare a strategy (Robayo & Barrionuevo, 2024; Rojas et al., 2023). Admitting pre-established evidence without cross-examination also calls into question the impartiality of the proceedings (Templo Corcino V. F., 2025).

The effect of pre-established evidence on the equality of arms is also significant, as the lack of regulatory clarity creates uncertainty and can lead to arbitrariness when evaluating the evidence, to the detriment of the right to a defense (Templo Corcino V. F., 2025).

This work goes beyond the academic realm and has a direct impact on judicial practice, as understanding the effect of pre-recorded evidence on the right to a defense can guide policies and reforms that strengthen procedural safeguards. (Templo Corcino V. F., 2025).

The objective of this article, therefore, is to analyze the impact of pre-trial evidence gathered through the Gesell chamber on criminal proceedings, focusing on the tension that arises between the protection of vulnerable victims and respect for due process and the rights of the accused; its use responds to the need to prevent revictimization, especially among minors, since the statement must be given only once to avoid "secondary victimization" and protect the victim's psychological well-being, and because criminal proceedings must guarantee dignified conditions for the participation of children and women given their particularly vulnerable situation. Hence the guiding question of this study: Why should we use the Gesell Chamber for early testimony in criminal proceedings?

The Gesell Chamber is a statement-taking technique that has been used for a relatively short time to interview minors who are victims of sexual crimes, and its name comes from the American psychologist Arnold Gesell, who as early as the 1920s was collecting photographs and videos of children's behavior because, according to his own research, children's reactions and patterns could be analyzed in greater detail in this way; taking notes on certain responses or behaviors was not as

precise as observing them repeatedly through a video recording, and that is how he developed much of his work in the fields of pediatrics and child psychology. (Sanchez Rubio, 2022)

The Gesell Chamber is administered by the Specialized Comprehensive Care Unit (MAIE) and serves as a tool that helps prevent revictimization during interviews or interrogations of vulnerable victims and witnesses at various stages of the criminal proceedings; specialized MAIE staff conduct these interviews and maintain records of the proceedings and statistics on the chamber's use. Its use must comply with the Protocol for the Conduct of Participants in the Gesell Chamber and the corresponding amendments to the Code of Criminal Procedure (Public Prosecutor's Office, 2024)

In practice, criminal proceedings are situated at the intersection of two legitimate interests: the protection of public safety against the commission of a crime and the right to liberty of the person subject to those proceedings. Hence, the accused is granted a set of guarantees that constitute a procedural status, achieved through considerable effort within the legal culture. In this balance between the criminal response and the safeguarding of the rights of those subject to the proceedings lies one of the greatest advances of civilized society. (López Rey, 1989, p. 341)

For Carnelutti, criminal proceedings are the instrument that governs the implementation of objective criminal law, consisting of the set of acts through which the punishment of the offender is determined. (Scalfati, 1994, p. 33)

According to the Code of Criminal Procedure, criminal proceedings seek to resolve conflicts of a criminal nature and restore legal peace and social coexistence by clarifying the facts, determining liability, and applying the corresponding penalties or security measures; this does not preclude other solutions, such as mediation or agreements between the parties, in cases where the law authorizes them.

A victim is considered to be in a vulnerable situation if, due to age, gender, physical or mental condition, or social, economic, ethnic, or cultural circumstances, they face special difficulties in fully exercising the rights recognized by law before the justice system; Among the causes that may give rise to such vulnerability are age, disability, membership in indigenous communities or minorities, prior victimization, migration, internal displacement, poverty, gender, and deprivation of liberty; however, this list is not exhaustive, as its

specific determination depends, in each country, on the characteristics of the context and the level of social and economic development (Ibero-American Judicial Summit, 2008). The United Nations does not provide a direct definition of “vulnerable victim,” but it does establish the basic concept of a victim from which this vulnerability is derived, stating that “‘victims’ shall be understood to mean persons who have suffered harm, including physical or mental injury, emotional suffering, financial loss, or a substantial impairment of their fundamental rights...” Based on this definition, in the legal sphere, a vulnerable victim is considered to be someone who, in addition to suffering such harm, faces circumstances related to age, gender, disability, or social context that exacerbate their risk or defenselessness in the face of crime. (National Human Rights Commission, 1985)

Vulnerability can be understood as the significant limitation faced by a crime victim in preventing or mitigating the harm and damage resulting from the criminal offense, from their interaction with the justice system, or in coping with the risk of suffering further victimization. (Public Prosecutor’s Office, 2024)

Revictimization, also known as secondary victimization, is the additional suffering experienced by a victim of a crime or violent act, not because of the original incident but because of the reaction of society, institutions (police, judicial system), or the people to whom the victim turns for help: actions or omissions that, during processes such as filing a complaint, the investigation, or institutional assistance, cause them to experience renewed suffering, harm, or emotional distress. (Matute Jara & Trelles Vicuña, 2022) The principle of non-revictimization is based on the idea that revictimization stems precisely from the victim’s relationship with social, health, media, or legal institutions, among others, and seeks to prevent both secondary victimization and state violence; which is why staff of the Specialized Comprehensive Care Unit who have direct or indirect contact with victims and witnesses must take measures to prevent revictimization, applying the principles of quality care and utilizing the Gesell chamber.

The United Nations Office on Drugs and Crime specifies that “secondary victimization occurs when the victim suffers additional harm as a result of the response of institutions or individuals to the primary victimization.” (National Human Rights Commission, 1985) Due process, understood in a broad sense, encompasses the progressive realization of nearly all fundamental rights of a procedural or instrumental nature: sets of guarantees for the enjoyment of rights whose

enjoyment immediately satisfies the person's needs or interests—that is, the means aimed at ensuring their validity and effectiveness. (García Leal, 2003). Due process can also be understood as judicial activity aimed at resolving claims, conducted in accordance with the principles that constitute the concept of justice and specified in the procedural rules specific to each proceeding: what legal doctrine refers to as “a proceeding with all due guarantees.” (Prieto Monroy, 2003) The principle of legality is the foundation upon which due process rests, since it requires that the forms and procedures governing the parties' actions have been previously established by the legislature, with clarity and precision, and be fully respected to ensure a fair and transparent trial; it is the responsibility of the competent judge or court to ensure this, provided that they, too, have been previously appointed in accordance with the law; thus, due process requires the full functioning of the institution of the “natural judge,” an element that lends legitimacy to the administration of criminal justice. (Romero Seguel, 2015)

Recognized by both the Constitution and international treaties, the rights of the accused constitute fundamental guarantees that protect those charged with a crime throughout the criminal proceedings; their function is twofold, as they ensure a fair trial and, at the same time, place limits on the State's punitive power, so that legal rights such as liberty cannot be arbitrarily violated. (Uribe García, 2018)

Based on this concept, legal doctrine identifies a set of minimum safeguards that every criminal proceeding must respect with regard to the accused:

Presumption of Innocence: As long as there is no final judgment declaring the person guilty—rendered in a public trial with all the corresponding safeguards—no person may be treated as responsible for the act of which they are accused.

Right to Defense and Legal Assistance: Every accused person has the right to a lawyer—whether privately retained or court-appointed—to prepare their defense, examine the evidence against them, and be present during any interrogations.

Right Against Self-Incrimination: No one may be compelled to testify against themselves or to confess guilt; thus, the accused's silence is protected and may not be used as evidence of guilt.

Right to Be Informed of the Charges: The accused must be informed, precisely and from the outset of the proceedings, of the charges against them, along with the facts and evidence supporting them.

Right to a Public and Expeditious Trial: The accused has the right to have an independent and impartial court resolve their case without undue delay.

Right to Present Evidence: This includes both the ability to cross-examine prosecution witnesses and the ability to present evidence or call witnesses of their own in support of their version of the facts.

Right to a Second Hearing (Appeal): In the event of a conviction, the accused retains the right to have the decision reviewed by a higher court.

For Ferrajoli, the rights of the accused are part of fundamental rights: all those subjective rights that universally belong to human beings insofar as they are endowed with the status of persons, citizens, or individuals with legal capacity. A subjective right is understood to be any positive or negative expectation—for example, the expectation of not suffering harm—attributed to an individual by a legal norm; and by “status,” the condition of an individual also established by a positive legal norm, as a prerequisite for their eligibility to be the holder of legal rights or the agent of acts that constitute the exercise of those rights. (Ferrajoli, 2025)

METHODOLOGY

This study adopted a quantitative approach, as it allowed for the objective measurement and analysis of legal practitioners’ perceptions of preliminary evidence in criminal proceedings, while also offering the possibility of establishing relationships between variables and ensuring the replicability of the results (Hernández-Sampieri & Mendoza Torres, 2023) The research was descriptive and correlational in nature, aimed at characterizing the participants’ knowledge and practices while also identifying the relationship between normative knowledge, practical application, and the effectiveness of the special procedure. The study design was non-experimental and cross-sectional: data were collected at a single point in time, without deliberately manipulating variables, and the study was limited to observing the phenomenon in its natural context. (Kerlinger & Lee, 2020)

The population consisted of legal practitioners in the Honduran criminal justice system: judges, private attorneys, public defenders, prosecutors, and psychologists. From this population, 81 legal professionals were selected through purposive non-probabilistic sampling, taking into account their direct experience in criminal proceedings involving vulnerable victims where the Gesell chamber has been used. The

inclusion criteria were: (a) active practice in the field of criminal law, (b) minimum experience in judicial proceedings related to the subject matter, and (c) direct participation in cases involving early evidence presentation in criminal proceedings, excluding those who lacked specific experience in the matter. Table 1 presents the distribution of the sample.

Table 1. *Profile of the unit of analysis by position.*

Unit of analysis	
Legal professionals	No
Judge	8
Private attorney	48
Public defender	12
Prosecutor	6
Psychologist	7
Total	81

Source: *Compiled by the authors.*

The data collection instrument was a structured questionnaire with items on a three-point Likert scale, covering three dimensions: knowledge of the law, practical application of the process, and the effectiveness of the procedure in providing redress to victims. To ensure its content validity, the instrument was reviewed by specialists in criminal and procedural law, who assessed the relevance and clarity of the items, and was subsequently pilot-tested with five professionals with characteristics similar to those of the sample. Reliability was calculated using Cronbach's alpha coefficient, interpreted according to (George & Mallery, 2023).

Table 1. *Reliability Statistics.*

Summary of Case Processing			Reliability Statistics	
	N	%	Cronbach's alpha	Number of items
Cases	Valid	10	.905	36
	Excluded	0		
	Total	10		

a. Listwise deletion is based on all variables in the procedure.

Source: *Prepared by the author using SPSS version 27.*

Data were collected between February and May 2023 using a questionnaire created in Google Forms, which was distributed via email and messaging apps to ensure the confidentiality and anonymity of the participants. The information was exported to Microsoft Excel for initial cleaning and then processed in SPSS version 27. The variables were coded, and

descriptive statistics on frequencies and percentages, and Spearman's correlations were applied to determine the relationship between the variables under investigation (Field, 2013). As this was a cross-sectional study, the data were collected at a single point in time, and the results are presented in tables and graphs (Hernández-Sampieri & Mendoza Torres, 2023)

ANALYSIS OF RESULTS

The bar chart cross-tabulates gender and professional position (Judge, Private Attorney, Public Defender, Prosecutor, Psychologist). Overall, there is a higher representation of women: of the 81 respondents, 49 were women and 32 were men. The position of private attorney, with 23 men (28.40%) and 25 women (30.86%), is the most represented among both genders and is confirmed as the primary field of practice within the sample, with a slightly higher proportion of women. Based on my experience as a legal professional in criminal law, women currently pursue this career path more frequently and practice as private attorneys in greater numbers than men. The position of judge is underrepresented overall: 2 men (2.47%) and 6 women (7.41%); in La Ceiba, all four criminal judges are women. The public defender role shows a wider gender gap, with 3 men (3.70%) compared to 9 women (11.11%). Among prosecutors, the distribution is more even: 3 men (3.70%) and 4 women (4.94%). The role of psychologist again shows a female predominance, with 1 man (1.23%) compared to 5 women (6.17%).

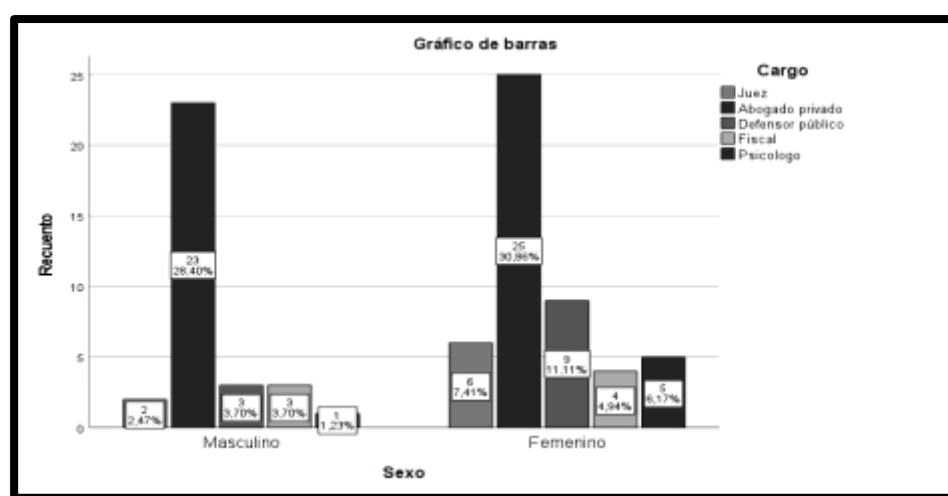


Figure 1. Gender and Position.

Source: Prepared by the author using SPSS, version 27.

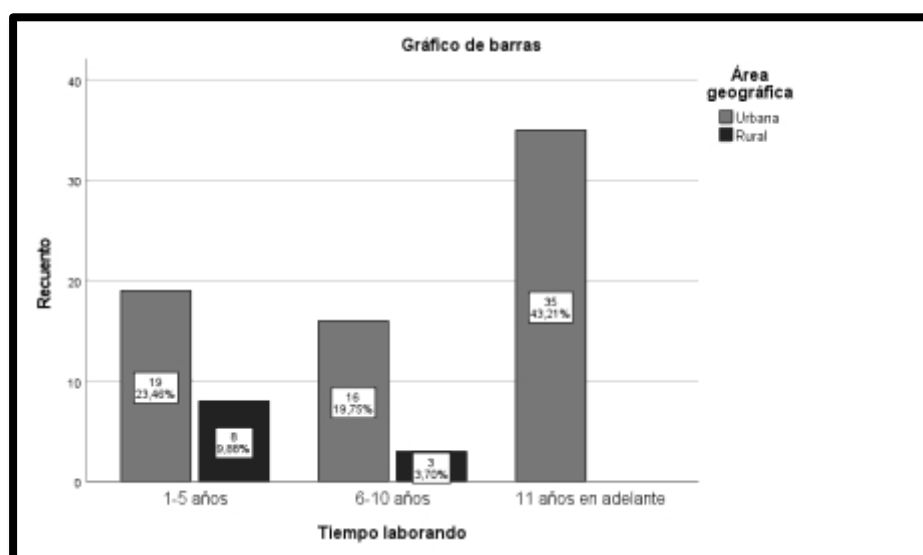


Figure 2. *Length of Employment and Geographic Location.*

Source: *Prepared by the author using SPSS, version 27.*

The findings show a higher concentration of professionals in urban areas across all length-of-service categories, particularly in the group with more than 11 years of service, suggesting greater job stability in cities compared to rural areas, where shorter tenure may be linked to temporary contracts or a lack of formal employment. There is a specific explanation for this disparity: there are more public institutions—whether centralized, decentralized, or deconcentrated—in urban areas than in rural areas, where the government has only gradually established institutions with their own jurisdiction, in accordance with the budget approved each year, in areas that previously lacked institutional representation. Added to this is the fact that, historically, legal professionals from rural areas had to travel to major cities to study, as there were no universities nearby; this limitation has been changing, and today there are more educational opportunities in rural areas, although they still do not match those available in urban areas.

Figure 3. *Correlation between preliminary hearings, criminal proceedings, and the assessment of evidence.*

Correlations

		Preliminary Evidence		Criminal proceedings and evaluation
Spearman's Rho	Preliminary Evidence	Correlation coefficient	1.000	.588**
		Significance (two-tailed)	.	,000
		N	81	81
		Correlation coefficient	.588**	1.000
		Significance (two-tailed)	,000	.
		N	81	81

****.** The correlation is significant at the 0.01 level (two-tailed).

Source: Prepared by the author using SPSS, version 27.

The analysis revealed a Spearman correlation coefficient of 0.588 between the preliminary hearing and the evaluation of evidence in criminal proceedings; this reflects a positive relationship of moderate strength, with a significance level of 0.01, which corresponds to a 99% confidence level in the result.

The fact that $\rho = 0.588$ is positive and of moderate strength between preliminary evidence and the effectiveness of the criminal proceedings—as it pertains to the evaluation of evidence—has a reasonable legal explanation: by securing evidence that would otherwise be at risk of being lost or deteriorating over time, preliminary evidence ultimately contributes to the discovery of the truth, which is, after all, the ultimate goal of any criminal proceeding. It also serves to safeguard the integrity of testimony when the victim or witnesses are at risk, thereby reducing the possibility of revictimization or of their statements being influenced by external factors. Even so, this procedure is not exempt from respecting the principles of immediacy and adversarial proceedings, and its practice requires that the parties participate so that the right to a defense retains substantive meaning.

The significance level (0.01) indicates that this relationship is not the result of chance. It cannot be asserted, however, that the use of early evidence alone leads to a better evaluation of the evidence—the cross-sectional design of the study does not allow for that conclusion—but it does suggest a consistent association between the two variables within the criminal justice system analyzed. Rather, the data suggest that when early evidence presentation is applied correctly, it tends to be accompanied by a criminal proceeding that better respects due process and the right to a defense, without this automatically implying a violation of those rights.

Spearman's correlation coefficient (0.493) indicates a weak positive relationship between the Gesell chamber, evidence, and vulnerable victims. The significance level of 0.01 implies that the researcher has a 99% probability in favor of the hypothesis and a 1% probability against it (0.99 and $0.01 = 1.00$).

The coefficient ($\rho = 0.493$) indicates a positive but weak relationship between the use of the Gesell chamber and the protection of evidence in cases involving vulnerable victims. There is a link, but it is not decisive in all cases—which is to be expected, given that the effectiveness of the Gesell chamber depends on the context of each case and the training of the personnel involved; it is not a tool that operates automatically.

Even so, it serves an important function, as it helps obtain testimonies that safeguard the victim's dignity—especially in cases of sexual offenses or crimes against minors—and prevents the need to repeat the statement; however, the weak correlation also reveals its limitations, since the evidentiary assessment depends on other factors, such as peripheral corroboration, and the use of the Gesell chamber may be hindered by a lack of infrastructure or specialized personnel in several courts across the country. The association is statistically significant (0.01), although its modest magnitude confirms that the Gesell chamber is just one component within a system of safeguards, and not a solution in and of itself.

Figure 4. Correlations between the Gesell chamber and other forms of evidence, as well as vulnerable victims and revictimization.

Correlations

Spearman's Rho	Gesell Chamber and Testing Methods		Gesell Chamber and Means of Evidence	Vulnerable Victims
		Correlation Coefficient	1.000	.493**
		Significance (two-tailed)	.	,000
		N	81	81
	Vulnerable Victims	Correlation Coefficient	.493**	1.000
		Significance (two-tailed)	,000	.
		N	81	81

** . The correlation is significant at the 0.01 level (two-tailed).

Source: Prepared by the author using SPSS, version 27.

Spearman's correlation coefficient (0.588) indicates a moderate positive relationship between due process and the right to a defense, as well as procedural equality and the defendant's guarantees, in the application of pretrial evidence. The significance level of 0.01 implies that the researcher has a 99% probability in their favor and a 1% probability against (0.99 and 0.01 = 1.00).

These safeguards function as an interdependent system: when pretrial evidence is presented under appropriate standards, the judge acts as a guarantor of legality, and the defense retains the ability to challenge the evidence, thereby reinforcing the balance between the parties. A moderate, rather than strong, correlation shows that this interplay is relevant but not always fully realized; there are cases in which the practice falls short of the expected standard, due to poorly reasoned rulings or limitations on the defense's access to evidence. The significance level (0.01) confirms that the association is not merely coincidental.

Figure 5. Correlations between due process and the right to a defense, procedural equality, and guarantees for the accused in the application of early disclosure of evidence.

Correlations

		Due Process and the Right to a Defense		Procedural equality
Spearman's Rho	Due process and defense	Correlation coefficient	1.000	.588**
		Sig. (two-tailed)	.	,000
		N	81	81
	Procedural equality	Correlation coefficient	.588**	1.000
		Sig. (two-tailed)	,000	.
		N	81	81

** . The correlation is significant at the 0.01 level (two-tailed).

Source: Prepared by the author using SPSS, version 2.

Spearman's correlation coefficient (0.576) indicates a moderate positive relationship between the preliminary hearing and due process and the right to a defense. The significance level of 0.01 implies that the researcher has a 99% chance of being correct and a 1% chance of being incorrect (0.99 and 0.01 = 1.00).

When pre-trial evidence is applied correctly, it tends to coincide with a greater strengthening of procedural safeguards, which makes sense considering that, as an exceptional measure, it is subject to strict judicial oversight, thereby limiting the scope for arbitrary actions; its proper regulation also provides a clear record of how the evidence was obtained, which promotes the transparency of the process. The fact that the correlation is moderate rather than strong is, in itself, a relevant finding: advance disclosure helps prevent violations of the right to a defense, but its effectiveness is not absolute, as it can be undermined by improper practices—such as a lack of notification or restrictions on the defense's participation—which are not uncommon in Honduran practice. The significance level (0.01) confirms that this relationship is not coincidental: the greater the judicial oversight and the more correctly early disclosure is applied, the greater the respect for due process; thus, far from weakening it, early disclosure reinforces the right to a fair trial when applied in accordance with standards of legality, necessity, and proportionality.

Figure 6. Correlations between pre-trial evidence and due process and the right to a defense.

Correlations

		Preliminary Evidence		Due process and right to a defense
Spearman's Rho	Preliminary Test	Correlation coefficient	1.000	.576**
		Significance (two-tailed)	.	,000
		N	81	81
	Due Process and Defense	Correlation coefficient	.576**	1.000
		Significance (two-tailed)	,000	.
		N	81	81

** . The correlation is significant at the 0.01 level (two-tailed).

Source: Author's own analysis using SPSS, version 27.

DISCUSSION

Every rule and every law in the criminal justice system is ultimately aimed at the pursuit of truth and justice; within this framework, preliminary evidence serves as one of the means to preserve testimony that, if not secured in a timely manner, could subject vulnerable victims to additional suffering by forcing them to repeat their statements, or that would simply become impossible to obtain later on. As Zavaleta (2023) argues, early evidence collection is the procedural step through which evidence is preserved that is feared cannot be obtained later during the oral trial hearing; the author illustrates this with the case of organized crime, where failing to conduct early evidence collection leaves witnesses exposed to various forms of intimidation that ultimately prevent them from testifying at trial, thereby hindering the ability of those administering justice to establish the facts correctly. (Zavaleta Verde, 2023)

Yaguachi Sandoya & Zamora Vázquez (2025) point out that early evidence presentation should not be understood solely as a tool for protecting the victim, but rather as a mechanism that requires a balance between both parties; the findings of this study are consistent with this view, as protecting vulnerable victims is an ethical and legal imperative; however, when cross-examination is limited by time or technical constraints, the right to a defense is weakened, and the adversarial principle is not fully realized.

Pérez Ayala & Iza Ayala (2025) argue that the adversarial principle guarantees the right of the accused to challenge the evidence against them; in Honduran practice, this is not always upheld, since when access to evidence is unequal, the defense loses its actual ability to challenge it, and evidence that no one has truly contested can hardly, on its own, sustain a conviction.

Templo Corcino (2025) warns that the lack of regulatory rigor regarding pre-established evidence opens the door to judicial arbitrariness—a point also reflected in the findings of this study—since the principle of equality of arms gives way to the speed of the proceedings, and what should be an exceptional tool is gradually becoming standard practice; admitting evidence that avoids cross-examination in oral proceedings, on the grounds that it is “pre-established,” deprives the defendant of their actual ability to challenge it.

CONCLUSIONS

Under judicial oversight and in compliance with due process—particularly the right to a defense and the principle of adversarial proceedings—pre-trial evidence serves as an exceptional mechanism capable of preserving both the evidentiary materials and the integrity of the testimony without deviating from the safeguards inherent in criminal proceedings.

As a means of evidence, the Gesell chamber is appropriate because it successfully reconciles evidentiary effectiveness with the protection of vulnerable victims: it allows for the collection of complete and spontaneous testimony, prevents the victim from having to repeat their statement or face an intimidating environment, and thereby protects both the validity of the criminal proceeding and the dignity of the person testifying.

Conducting advance testimony is not sufficient to render it legitimate; it must be carried out with genuine respect—not merely on paper—for the right to defense, procedural equality, and the defendant's other guarantees, because limiting cross-examination, the principle of immediacy, or the timely participation of the defense distorts the nature of the procedure and compromises the entire process. It is not automatic that advance testimony will respect due process; it depends on clear rules, effective judicial oversight, and the full guarantee of the right to defense. Without these elements, the procedure ceases to protect rights and instead violates them, and in the Honduran system, its validity lies in its practical application, not merely in principle. Within the context of advance evidence, the Gesell chamber is justified because it guarantees valid testimony under judicial oversight without sacrificing the right to a defense or the principle of adversarial proceedings; at the same time, it prevents the victim from having to repeat their statement or being exposed to further harm, which is why it is indispensable for advance evidence to respect due process.

FUTURE WORK

1. Analyze the regulatory and technical framework applicable to virtual hearings used to conduct pre-trial testimony, with the aim of determining whether this method helps reduce revictimization without compromising the principle of immediacy.
2. Examine compliance with the adversarial principle in digital environments, particularly whether videoconferencing ensures an effective legal defense and allows for cross-examination without placing the parties at a disadvantage.
3. Identify and evaluate the security protocols necessary to protect remote testimony from potential external pressures and ensure its integrity during pretrial evidence presentation.

ETHICAL CONSIDERATIONS

Participation was voluntary. Before submitting their responses, each participant received the study information and provided written consent via Google Forms. Records were handled anonymously and confidentially. The relevant institutional body at the Technological University of Honduras reviewed the research.

FUNDING

The authors covered the costs of the study; no external funding was received.

Conflicts of Interest. None of the authors reported any conflicts of interest related to this research.

DATA AVAILABILITY

Public access to the primary dataset is not available. The manuscript and the statistical outputs included in the paper are preserved.

USE OF GENERATIVE ARTIFICIAL INTELLIGENCE

ChatGPT was used for an initial exploratory search. The authors were responsible for selecting and verifying sources, analyzing the data, interpreting the results, and approving the final text.

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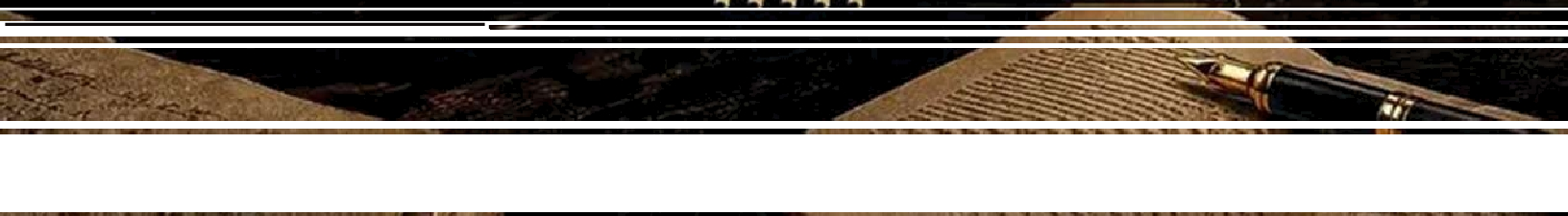
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