

***2023 Questionnaire of the 1<sup>st</sup> Study Commission IAJ-UIM  
“The Effects of Remote Work on the Judicial Workplace and the Administration  
of Justice”***

*A submission by Judge Jeland Omer L. Pormentilla, J.D., LL.M.  
Metropolitan and City Court Judges’ Association of the Philippines, Inc.  
Republic of the Philippines*

***Questions:***

- 1) *Remote work of judges in your country*
  - a. *Were judges permitted to work remotely in your country prior to and/or during the COVID-19 pandemic? If yes, please give examples (for example, studying cases at home; discussing cases with colleagues via videoconference applications or the telephone instead of personal meetings; holding hearings online via videoconferencing applications; etc.). Was technical equipment made available to the judges to enable them to work remotely?*

Prior to the pandemic, the Supreme Court of the Philippines (hereinafter referred to as the “Supreme Court”) has already promulgated rules to permit the use of videoconferencing technology for the remote appearance or testimony of the parties in court proceedings.

Particularly, on June 25, 2019, the Supreme Court issued the “*Guidelines on the Use of Videoconferencing Technology for the Remote Appearance and Testimony of Certain Persons Deprived of Liberty (PDLs) in Jails and National Penitentiaries.*” These guidelines were pilot tested in one of the cities in the southern part of the Philippines, Davao City, starting on September 1, 2019. Through these guidelines, the Supreme Court allowed PDLs, who are high-risk or seriously ill and PDLs who are already serving sentence in a national penitentiary because of another case, to testify while staying in the institutions where they are being detained.

Corollary to these guidelines are two more rules which allowed this set-up: the presentation of testimonial evidence through electronic means under the “*Rules on Electronic Evidence,*” and the use of “live-link television testimony” in criminal cases where the witness or the victim is a child under the “*Rule on Examination of a Child Witness.*”

During the pandemic, as with the rest of the world, the landscape in the Philippine judicial system changed, and the rules earlier promulgated by the Supreme Court were “institutionalized” and applied nationwide. In December 2020, the Supreme Court issued the “*Guidelines on the Conduct of Videoconferencing Hearings.*” Unlike the “*Guidelines on the Use of Videoconferencing Technology for the Remote Appearance and Testimony of Certain Persons Deprived of Liberty (PDLs) in Jails and National Penitentiaries*” though, the former was made applicable not only to PDLs but also to all litigants with pending court cases.

Through the “*Guidelines on the Conduct of Videoconferencing Hearings,*” the Supreme considered videoconferencing hearings “as an alternative mode to in-court proceedings, which remains to be the primary mode in hearing cases.” It also allowed for “*fully-remote videoconferencing hearings*” where none of the participants (court personnel and litigants) was physically present in court, and “*partially-remote videoconferencing hearings*” where at least one of the participants appears physically in court.

Another offshoot of these guidelines is the promulgation of the “*Guidelines on the Conduct of Videoconferencing with respect to Remote Appearance from Abroad*” where the Supreme Court laid down the rules on how a party may be examined when the same party is not physically in the Philippines.

For the implementation of all these rules, the Supreme Court provided the courts, for the first time in its history, with official email addresses and official Microsoft Teams accounts. The Supreme Court likewise provided judges with a “communication allowance,” leaving the judges with the discretion to choose which internet service provider could deliver the best internet connection in their respective areas.

Other than these, however, there are no rules which particularly permit judges to work remotely.

As for the equipment, as early as August 22, 2017, the Supreme Court has already issued the “*Interim Guidelines for the Direct Release and Administration of the Maintenance and Other Operating Expenses (MOOE) Budget for the Lower Courts under the Judiciary’s Annual Appropriation.*” These guidelines empower courts to procure their own supplies and equipment, subject to the limitations of budget and the procurement laws of the Philippines. Thus, for courts whose judges have already undergone the seminar for this program, the Supreme Court need not purchase the equipment necessary for their videoconferencing hearings. The judges

themselves procured what was necessary for their own proceedings. For others, the Supreme Court provided for the equipment under its annual procurement plan.

- b. *What is the status of remote work by judges in your country now? Do many judges still work remotely in your country, and to what extent? (for example, all or just a certain percentage of judges? Only in certain fields of law or for certain types of cases? Only lower courts or higher courts? etc.)*

As restrictions in mobility were lifted and travel were eventually allowed across the Philippines, videoconferencing hearings were still allowed albeit under certain circumstances only. This is contained in OCA Circular No. 43-2022 issued by the Office of the Court Administrator (hereinafter referred to as “OCA”), the office which supervises first level, second level, and appellate courts in the Philippines. The circular states:

“1) When the videoconferencing hearing is done inside the courtroom by the Judge [in cases of “*partially-remote videoconferencing*”], and unless otherwise required by the latter, the parties, lawyers and witnesses may or may not be personally in attendance and may opt to appear while in locations outside of the court.

2) When the Judge, based on compelling reasons, has to conduct a videoconferencing hearing from home, he/she can do so by merely giving notice to the Office of the Court Administrator (OCA) prior to the scheduled date thereof, provided that his/her home is in an area within the jurisdiction of his/her court and, provided further, that such hearing from home shall be limited to two (2) hearing dates in a week.

Also, every time the Judge is done with his/her said hearing, he/she shall proceed to the court to attend to other matters or concerns that require his/her physical presence.

3) When the Judge, under exceptional circumstances, has to conduct a videoconferencing hearing from home or in another location which is in an area outside of his/her court's jurisdiction, but within the judicial region, then the said Judge must seek prior clearance or permission from the OCA for the same at least two (2) days from the scheduled hearing/s.

4) No videoconferencing hearing may be conducted by a Judge in a location outside of his/her court's judicial region, unless authorized by the Court or the OCA in further pursuit of the efficient administration of justice.

In addition, and as earlier mentioned, all cases involving PDLs are now required to be conducted through videoconferencing hearings pursuant to the “*Guidelines on the Conduct of Videoconferencing Hearings*” and as reiterated in “*OCA Circular No. 06-2021.*”

2) *Effect on judicial work*

- a. *Did remote work change judicial work in general for better or worse – or both – in your country? Please give examples.*

Videoconferencing hearings have favorably changed judicial work. It had a huge impact in the resolution of cases in the Philippines. According to Court Administrator Midas Marquez, now a Justice of the Supreme Court, the Philippine judiciary was able to process and release, as of October 2022, 132,916 PDLs who have pending cases before various courts all over the country due to videoconferencing hearings. Of this number, 2,210 were children in conflict with the law. Justice Marquez likewise revealed that, despite internet connectivity problems in some courts, videoconferencing hearings enjoyed a success rate of 89.27%, a significant percentage by any standard. By these numbers, it cannot be denied that videoconferencing hearings have favorably changed the judicial administration of justice in the Philippines.

- b. *Does the remote work of judges have an impact on the judicial workplace in your country? Negative, positive or both? Please give examples.*

As mentioned earlier, other than videoconferencing hearings, no other rules particularly permit judges to work remotely.

For videoconferencing hearings for PDLs, one of the positive impacts concerns the safety of the workplace itself. Because the PDLs stay in the institution where they were being detained, there were fewer chances for escape and even less opportunities for such escape to happen in court, thereby reducing risks to both court personnel and litigants present. This is in addition to the fact that individual courts have no security personnel assigned to each specific court. More, this also secures the safety of the PDLs themselves.

Another impact on the safety of the workplace is that litigants who are ill may still attend hearings but will be unable to spread their disease to the court attendees.

Still, videoconferencing hearings also impact the workplace -- in this instance, the courtroom -- in such a way that the layout of the courtroom in conducting hearings must be modified to accommodate the equipment needed for the conduct of videoconferencing hearings. Monitors, speakers, and microphones must be set up in the courtroom for the benefit of the people in the courtroom's gallery, the lawyers present, the court personnel, and the judge.

3) *Effects on the administration of justice*

a. *What are the pros and cons of remote work on the administration of justice?*

Immediately, the most glaring impact of videoconferencing hearings is the speedy disposition of the cases pending before the courts. Resetting of hearings due to the incapability of any litigant to attend court hearings is greatly reduced when videoconferencing hearings are available as an alternative mode for trial. This also include the conduct of videoconferencing hearings for litigants who are abroad. If hearings continue uninterrupted by any resetting, the resolution of the case would be timely and would not incur unwarranted delays.

Also, the Supreme Court recently amended the *Rules of Civil Procedure* where filing and service of pleadings, judgments, and other papers may now be done through electronic means. While this must be accomplished in court, that there is an option to also file and serve these documents remotely help in the timely disposition of the cases.

On the other hand, considering that not all courts and detention facilities in the Philippines have access to a fast and reliable internet connection, the courts and detention facilities with no reliable internet access undergo a difficult time in conducting videoconferencing hearings. There are some instances when, instead of continuing the proceedings, the courts had to reset the same proceedings due to communication issues with the litigants on the other side of the videoconferencing hearings. More, this also impacts the work of the public attorneys who, for the most part, are only able to communicate with the accused through videoconferencing calls, as opposed to the previous practice where the public attorneys could personally confer with their clients. In this sense, it could be said that videoconferencing hearings, rather than contribute to the speedy disposition of cases, contribute to the delay instead.

- b. *Does remote work have a positive or negative impact on the administration of justice in general in your country? Please give examples that include, but are not limited to, the quality of the administration of justice.*

Overall, videoconferencing hearings have a positive impact on the administration of justice in the Philippines. As earlier mentioned, it contributed to the speedy disposition of cases. In the Philippines where some perceive that cases are not timely resolved, videoconferencing hearings elicit the perception that justice could be served efficiently. This is no small feat in the perception of the administration of justice in the country.

In addition, please refer to the response in Question 2(a).

- c. *Are you aware of the public's perceptions of remote work by judges? Please give examples of positive or negative perceptions.*

By and large, the introduction of videoconferencing hearings has had a positive effect on the public. The court has direct feedback from lawyers and litigants, especially those of advanced age, who support these hearings because of the convenience in not appearing in court for trial. This means that they need not necessarily expose themselves to COVID-19, either when travelling, appearing in court, or even when meeting their clients/lawyers. This contributed largely to the public's positive awareness of justice administration in the Philippines.

For the negative impacts, please refer to the responses in Questions 3(a) and (d).

- d. *What are the positive and/or negative effect of holding remote hearings/conferences?*

For reference on these effects, please see the response to Question 3(a).

In addition, there are some disadvantages regarding the trial itself. Considering that the witnesses make their testimonies remotely, then the judge has only the opportunity to observe the demeanor of the witnesses through the court's monitor. The witnesses' nuances as they testify would sometimes escape the scrutiny of the judge. This is also the same for lawyers who examine the witnesses. The traditional methods of questioning, especially on cross-examination, may be ineffective if the witness is not present in-court. There is also the danger that any

person with the witnesses at that time, and who are not visible through the video camera, may coach the witnesses without the knowledge of both the judge and the lawyers. While there are protocols and guidelines provided by the rules to mitigate these effects, the possibility of these instances occurring could not be totally negated.

4) *Remote work and judicial independence*

*Do you see any positive or negative effects of remote work on judicial independence? If yes, please give examples.*

None.

5) *Limits on remote work for judges*

a. *Does your country place any limits on the remote work of judges (for example, limits on remote hearings in criminal cases)? If yes, please give examples.*

Please refer to the response in Question 1(b).

b. *Are there any proposals to change rules or statutes in your country either to permit more, or to limit, remote work by judges?*

So far, the rules on videoconferencing hearings promulgated by the Supreme Court have already stabilized. Currently, there are no other proposals to further amend the existing rules on videoconferencing hearings.

c. *Should there be any changes of rules or statutes in your country either to permit more, or to limit, remote work for judges?*

The Supreme Court of the Philippines, under Section 5(5), Article VIII of the 1987 Philippine Constitution, is vested with the power to “promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission of the practice of law, the Integrated Bar, and legal assistance to the underprivileged.”

As such, the Supreme Court issuances earlier mentioned are already “changes,” which permitted and limited videoconferencing hearings.

Thus, to answer the question, yes, rules must be changed to permit more, or to limit, videoconferencing hearings. These rules, however, are within the absolute control of the Supreme Court and the latter has already imposed these changes to allow for videoconferencing hearings.