

failure to exercise control over such subordinates. This would be premised on the fact that the superior either knew or, owing to circumstances, should have known that the subordinates were committing or about to commit such crimes, or that the superior failed to take all necessary and reasonable measures to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.²

This delegation could also support the text of Draft Article 6(4) as the principle has basis in our national law, which states that the fact that a crime defined and penalized under the said law has been committed by a person pursuant to an order of a government or superior, whether

We could also work on the basis of Draft Article 6(5) as our national law provides legal basis for this and in fact, are immunities or special procedural rules that may attach to official capacity from suit during tenure shall not necessarily bar any court from exercising jurisdiction over such a person. Further, immunities that may attach to official capacity of a person under international law may also impose some limitations.⁴

Under our national law, the crimes penalized therein, including other crimes against humanity, genocide and war crimes, their prosecution, and the execution of sentences, shall not be subject to any prescription. Thus, we could support Draft Article 6(6) which states that the offences under the said draft article are not subject to the statute of limitations.⁵

We could support the current Draft Article 6(7) as our national law provides for appropriate penalties that take into account the grave nature of the offences under the said article. In general, a person guilty of committing crimes against humanity shall suffer the penalty of reclusion temporal in its medium to maximum period and a fine.⁶

x 2Q 'UDIW \$UWLFOH RQ μ(VWDEOLVKPHQW RI QDWLRQDO

Subject to further consideration, we are looking constructively at Draft Article 7. Under our national law, the Philippines shall exercise jurisdiction over persons, whether military or civilian, suspected or accused of, inter alia, other crimes against humanity, regardless of where the crime is committed, provided, any of the following conditions is met: (1) the accused is our citizen; (2) the accused, regardless of citizenship or residence, is present in the Philippines; and (3) the accused has committed

