THE EXCUSE OF DURESS: WORKING PAPER NO.9

TABLE OF CONTENTS

Summary Of Issues For Consideration 1
Introduction 2
An Excuse, A Justification Or A Defence? 2
A Brief History Of The Excuse of Duress 3
Commentary 5
   A) Type of harm threatened 5
   B) Timing of the threat 7
   C) Source of the threat 8
   D) Subject of the threat 8
   E) Cognitive requirement 9
   F) Criteria for assessing the accused's response to the threat 10
   G) Exclusions 14
   H) Application: An excuse or a ground to mitigate punishment? 16
   I) Availability of the common law excuse 17
Burden Of Proof 18
Appendix "A": Text of the Excuse of Duress from the Common Law and Selected Jurisdictions 19
Appendix "B": Comparison Of The Key Elements Of The Excuse Of Duress 22