

THREE GREY AREAS OF THE CONCEPT OF DURESS UNDER RWANDAN LAW

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ABSTRACT

Duress, which in principle can invalidate a contract, is recognized in both civil and common law systems. In Rwanda, while duress is addressed under the law on contracts, the Rwandan law lacks a precise definition of it, leading to potential inconsistencies in its application. This paper explores the conceptual ambiguities in Rwandan contract law regarding duress, specifically whether it must be physical or not, whether it must necessarily arise from an illegitimate act, and whether it can be exerted by or to third parties. Through a normative approach, the paper focusses exclusively on contractual duress and seeks to illuminate these grey areas by examining Rwandan legal texts, judicial precedents, and insights from other jurisdictions. The goal is to provide a clearer framework for understanding and applying the concept of duress in Rwandan contract law.

Keywords: Duress, lawful, unlawful, threat, consent, contract, third party

INTRODUCTION

The concept of duress is recognized across various legal systems as a fundamental cause that may invalidate a contract. This principle is enshrined in both civil law and common law traditions, with numerous legal frameworks acknowledging that duress can nullify contractual obligations. For instance, Article 1111 of the French Civil Code stipulates that “*duress exerted against the person who has contracted the obligation is a ground for annulment even though it was exerted by a third party different from the one for whose benefit the agreement was made*”. Similarly, Section 123(1) of the German Civil Code (BGB) provides that “*a person who has been induced to make a declaration of intent by deceit or unlawfully by duress may avoid the declaration*”. In the same vein, Article 176 of the UAE Civil Code refers to duress as “*a coercion of a person without the right of so doing to perform an act without his consent*”.

Moreover, the Principles of European Contract Law (PECL) address the issue of duress in Article 4:108, to cite just a few examples.

Under Rwandan law, the invalidating effect of duress on contracts is explicitly articulated. Articles 55 and 56 of Law No 45/2011 of 25/11/2011, which governs contracts in Rwanda, unambiguously state that any contract concluded under duress is void. This principle has been consistently affirmed by Rwandan courts (see for instance Intermediate Court of Gicumbi, Judgment RCA 0008/15/TGI/GIC of 03/12/2015; Intermediate Court of Rubavu, Judgment RC 0042/TGI/RBV of 30/06/2016). While the effects of duress are clearly established by the law and supported by judicial precedent, the concept itself remains inadequately defined, leaving several aspects obscure. Notably, Rwandan legislation does not provide a definition of duress, nor do any existing judicial decisions endeavor to elucidate its meaning. Additionally, the law is silent on the characteristics that constitute duress, and no Rwandan judgment has thus far set forth these characteristics. As a result, the concept of duress, though applied by legal practitioners, remains replete with ambiguities, which could lead to disputes and inconsistencies in its application, potentially resulting in contradictory or controversial judicial outcomes.

For instance, it is unclear whether duress must be physical to have a nullifying effect or whether moral duress can have similar consequences. Furthermore, there is ambiguity regarding whether a legitimate or lawful act can constitute duress with the same legal effect as duress arising from an illegitimate or unlawful act. Equally, it is ambiguous whether a duress exercised by a third party or directed to a third party can produce same effects as a duress exercised by or directed towards the contracting party. While these issues are pertinent within the context of domestic contract law, they also have implications for international business contracts where the parties have selected Rwandan law as the governing law. It is important to note that this uncertainty is not unique to Rwanda. Other jurisdictions, such as South Africa (Plessis, 2023: 733) also exhibit underdeveloped jurisprudence on duress in contract law due to the rarity of such cases (Ogilvie, 2009: 253). This extends the relevance of this paper to other legal systems facing similar challenges.

This is the rationale behind this paper which seeks to clarify the grey areas surrounding the concept of duress in Rwandan law. It aims not only to identify these ambiguities but also to draw upon comparative legal analysis to illuminate each grey area. Beyond that, the significance of this

inquiry is heightened by the uniqueness of the legal system that Rwanda applies.

Indeed, the Rwandan law remained customary law a long time ago before colonial influence. With the 20th century colonialism, the customary law changed into modern law mainly civil law system due to the influence brought in by the German and Belgian colonizations. Rwanda followed a pure civil law system until 1994. From this time, Rwanda started adopting some principles of common law system alongside finding solutions from the Rwandan legal traditions. A great move to common law principles was further instigated by Rwanda's membership to the East African Community (EAC) in 2007, a community whose partner states mainly use the common law system.¹ Rwanda also became a member of the Commonwealth in 2010 which further emphasized the need of aligning with common law. Rwanda's legal system is now characterized as a *sui generis* system, grounded in civil law with common law influences and enriched by local Rwandan legal traditions. This *sui generis* nature of Rwandan law reflects an ambition to build a legal system rooted in Rwandan realities and values (Kamatali, 2020: 2).

Nevertheless, despite the incremental influence of common law, civil law tradition remains influential and continues to dominate legal practice in Rwanda. For instance, many Rwandan judges, who were trained under the civil law system, are not well-versed in common law principles (Anderson, 2015: 9) and may be hesitant to apply precedents, which is a cornerstone of common law jurisprudence. The application of precedent in Rwanda remains nascent and somewhat paradoxical as the availability of precedents (in the strict sense) under Rwandan law remains limited too. Hence, it is common for judges, particularly in lower courts, to base their rulings strictly on statutory provisions without even engaging in deeper interpretative analysis. In such a legal environment, it is imperative that legal provisions be clear and comprehensive. Ambiguities, such as those surrounding the concept of duress, must be addressed to avoid perceptions of gaps in the law.

¹ The founding partner states of the EAC namely Kenya, Tanzania, and Uganda use common law system; Rwanda has a *sui generis* system combining civil law elements, common law elements, and traditional legal values; South Sudan uses common law and customary law; Burundi and DRC use civil law system.

This paper adopts a normative approach to analyze the concept of duress within Rwandan contract law. It examines duress as a contentious legal concept, utilizing a philological analysis of legal texts in conjunction with comparative insights from other jurisdictions. The doctrinal approach, which is widely recognized as a fundamental method in legal research (Hutchinson, 2015: 131), is employed here to systematically examine the rules governing duress, explore the relationships between these rules, identify problem areas, and potentially predict future developments (Hutchinson, 2006: 7). This method aligns with the nature of this paper, which seeks to ascertain how the law is and propose how it ought be. The analysis involves a comprehensive review and critical examination of primary sources, including legal texts and judicial decisions, as well as secondary sources in the scholarly literature. All data were gathered through desk research.

This paper focuses exclusively on contractual duress, excluding the criminal defense of duress. It is structured into seven sections. The first section provides an introduction. The second section discusses the theory of vitiated consent. The third section explores the first grey area: whether a legitimate act can constitute duress or whether duress must always stem from an illegitimate act. The fourth section examines the second grey area: whether duress can be moral or economic or whether it must always be physical. The fifth section addresses the third grey area: whether an act of duress can originate from or be directed to a third party or if it must always come from or be directed to the other contracting party. The sixth section considers additional elements of duress. The seventh section offers a conclusion.

Vitiated consent theory under Rwandan law

The theory of vitiated consent is widely recognized across various legal systems, including Rwanda. The foundational premise of this theory is that a contract, to be valid, must be based on the genuine consent of the contracting parties. Under Rwandan law, this principle is codified in Article 4 of the Contract Law, which enumerates four general requirements for contract formation: mutual assent, capacity to contract, the object matter of the contract, and a licit cause for the contract. In several jurisdictions, including France, mutual assent is a cardinal principle underpinning the validity of a contract (Rowan, 2022: 85-6). Indeed, for a contract to be

legally binding, it must be formed freely and without any factor that could vitiate or nullify it

Duress is one such factor that can vitiate a contract, along with mistake, misrepresentation, illegality, and undue influence. While Rwandan law addresses all these factors, this paper specifically focuses on duress. Under Rwandan law, duress is governed by Articles 55 and 56 of the Contract Law. Article 55 pertains to contracts made under duress and stipulates: *“If conduct that appears to be a manifestation of assent of a party is compelled by duress, the conduct is not effective as a manifestation of assent”*. Article 56 addresses contracts concluded under threat and provides:

If the formation of the contract is induced by ill-treatment, violence and other type of threat by the other party which leaves the victim with no reasonable alternative, the injured party may request that the contract be void.

If the formation of the contract is induced by ill-treatment, violence and other type of threat by another person who is not a party to the contract, the aggrieved party may request that the contract be void unless the other party to the contract in good faith and without reason to know of the duress, agrees on correcting mistakes.

Although the Rwandan Contract Law does not explicitly define duress or specify the acts that constitute duress, Article 2(12) defines a threat as: *“harassment, violence or any other act that impedes the free will of a party to a contract, whereby no alternative other than accepting the terms of the contract”*.

The Rwandan law is unequivocal regarding the consequences of duress. When duress is proven, the victim’s assent is rendered invalid, thereby nullifying the contract. This effect of duress is consistent with the principles observed in several other jurisdictions (PECL, article 4:108; UAE Civil Code, article 176; Glover, 2006: 175; Pilkington & Winterton, 2023: 244-7; Plessis, 2022: 208; Rowan, 2022: 99; Helvaci, 2017: 73; Jadalhaq: 30). Specifically, mutual assent, as one of the four essential conditions for a valid contract, must be present at the time of contract formation. The absence of mutual assent at formation indicates the non-existence of a valid contract. Moreover, duress can be invoked by a party to annul a contract, based on the premise that when a party enters into a contract under duress, the requisite mutual assent is compromised, thus

failing to meet the necessary conditions for contract validity. This underscores the significance of duress in contractual matters, a concern that has been recognized since Roman times (Chapman, 2012: 220; Bhana, 2021: 111). For that reason, the lack of a precise definition of duress under Rwandan law and the absence of specific criteria for what constitutes duress contribute to the concept's obscurity and highlight the need for further clarification.

The grey area one: whether duress can be physical, moral or economic

As previously discussed, Rwandan law upholds the principle that duress invalidates contracts. However, the law lacks specific details regarding the characterization of duress and the acts that constitute it. On this, it remains obscure whether duress must be physical or if moral or economic acts can also be considered duress. In other words, while physical threats are commonly recognized as constituting duress, the question remains whether moral or economic pressures can also qualify as duress.

Historically, physical acts were primarily regarded as constituting duress. This was the case during Roman times and under Roman-Dutch law, where duress was defined as threats of physical harm directed against the victim, such as death, enslavement, imprisonment, or personal assault (Glover, 2006: 175; Chapman, 2012: 220). However, the doctrine of economic duress is nowadays developed and well established duress—starting mid 1970s— (Pilkington & Winterton, 2023: 238; Turner, 2014: 160; Chapman, 2012: 237; Helvacı, 2017: 74; Struan, 2010: 391.) as differentiating physical from economic duress has become irrelevant (Glover, 2006: 180). In this context, economic duress involves unjustified pressure exerted through a threat that compels the threatened party to comply with demands detrimental to their commercial interests, thereby exploiting the victim's financial difficulties (Pilkington & Winterton, 2023: 238; Helvacı, 2017: 74; Plessis, 2023: 737). Scholars such as F. Terré, P. Simler, and Y. Lequette support the inclusion of moral threats as well. They argue that threats causing harm to one's honor or livelihood, such as threats to disclose damaging information or to deprive someone of employment or resources, can also constitute duress under French law (Terré, Simler & Lequette: 242).

From these discussions, it is evident that duress can manifest as actual or threatened physical, moral, or economic violence. For instance, in the case RCA 0008/15/TGI/GIC, the threat of imprisonment was

recognized as duress. The Intermediate Court of Gicumbi referred to Black's Law Dictionary, which defines duress as including “[d]uress of imprisonment, where the person is deprived of his liberty in order to force him to compliance, or by violence, beating, or other actual injury or duress per minas, consisting in threats of imprisonment or great physical injury or death” (Gicumbi Intermediate Court, Judgment RCA 0008/15/TGI/GIC of 03/12/2015, para. 29).

Rwandan legislation has not elaborated on or distinguished between physical duress and moral or economic duress. Given the discussions above, it is reasonable to infer that the Rwandan legislature intended to encompass both physical and moral or economic duress within its definition of duress. Such an approach aligns with the principle that any form of duress affecting a party's assent invalidates the contract. It would, therefore, not make sense to limit some forms of duress. Hence, Articles 55 and 56 of the Contract Law can be interpreted to include both physical and moral or economic forms of duress.

The grey area two: whether duress can be legitimate or illegitimate

Similarly, Rwandan law does not clarify whether acts of duress can be legitimate or illegitimate. The effect of illegitimate or unlawful duress in rendering a contract void is well-established and has not sparked much debate (Tamblyn, 2010: 400; Loke, 2017: 424; Pilkington & Winterton, 2023: 243). Many jurisdictions require that duress be unlawful. For instance, South African law mandates that consent be obtained through unlawful or contra bonos mores threats (Plessis, 2023: 733). Article 176 of the UAE Civil Transactions Law similarly refers to duress as “*duress is coercion of a person, without the right of doing so...*”, indicating that duress must be unlawful (Jadalhaq: 32). The Court of Cassation in Abu Dhabi has further clarified that “[...] *threat must be intended for achieving an illegitimate purpose. If such pressure is intended for achieving a legitimate purpose, then duress is absent*” (Jadalhaq: 42). Section 123(1) of the German Civil Code also reflects the notion of unlawfulness in duress.

In contrast, the issue of whether lawful acts can constitute duress has divided opinion (Morgan, 2022: 17; Pilkington & Winterton, 2023: 238; Gardner, 2019: 496; Loke & Sin, 2022: 241; Jadalhaq: 42-3). Some argue that if an act is lawful, then doing it remains lawful even if it involves threats (Tamblyn, 2010: 400). However, after a longstanding controversies, it is now established that lawful acts can also constitute duress. This

doctrine was notably affirmed in the leading case of *Times Travel (UK) Ltd v. Pakistan International Airlines Corporation*, where the UK Supreme Court held that a contract may be voidable for lawful act duress (Plessis, 2023: 734; Gardner, 2019: 496; Loke & Sin, 2022: 239). Subsequent cases have supported the notion that lawful act duress is actionable and can invalidate a contract (Plessi, 2023: 736). Commentators such as H. Mazeaud, L. Mazeaud, J. Mazeaud, and F. Schabas have also adopted a broad approach, suggesting that any duress affecting consent should be considered, regardless of its legitimacy (para. 202).

The foregoing discussion establishes that duress can arise in various contexts, regardless of the nature of the coercive act. In *Haumont v. Security State Bank* (Supreme Court of Nebraska, 1985, 220 Neb. 809, 374 N.W.2d 2), the court held that acts constituting duress need not necessarily be criminal or tortious (Smith, Mann & Roberts:180), and thus can be either lawful or unlawful. The court noted: “[...]. Ordinarily, the acts or threats constituting duress are themselves crimes or torts. But this is not true in all cases. The acts need not be criminal or tortious in order to be wrongful [...]. Moreover, it has generally been held that contracts induced by threats of criminal prosecution are voidable, regardless of whether the coerced party had committed an unlawful act”. This position underscores that the lawfulness or unlawfulness of the act of duress is not determinative of the validity of a contract. This view is widely accepted in contractual scholarship concerning duress.

In relations to that, the original draft of the Rwandan Contract Law included provisions defining threats as encompassing “a crime or a tort” and “criminal prosecution, the use of a civil lawsuit or other legal action made in bad faith or as a breach of good faith and fair dealing” (Uwicyeza, 2013: 39). However, these qualifications were ultimately omitted from the final version of the Contract Law.

That being said, the distinction between legitimate and illegitimate threats, or the propriety or impropriety of the coercive act, does not appear to be a significant factor under Rwandan law. The legislative intent seems to have been to encompass all forms of duress, whether the underlying act is lawful or unlawful. In light of the effect of duress on the validity of a contract, I contend that both lawful and unlawful acts can give rise to duress, and that distinguishing between them should not be dispositive.

The grey area three: whether duress can be from or to a third party

Under Rwandan law, a contract is legally binding only on the parties involved. The principle is that a contract primarily affects only the parties to it and cannot impact third parties unless it is specifically intended to benefit them. This raises the question of whether duress exerted by a third party can affect the validity of a contract. Specifically, while duress exercised by one party over another can invalidate a contract, it remains to be seen whether duress exerted by a third party can also serve as a ground for invalidation. This includes various scenarios: whether the third party's duress is done in collusion with a contracting party or not, and whether it benefits the contracting party or not.

Rwandan law addresses these scenarios explicitly. Article 56 of the Contract Law distinguishes between duress exerted by the parties to the contract and duress originating from a third party. Specifically, Article 56(1) pertains to duress by a contracting party, while Article 56(2) addresses duress from a third party. Additionally, Article 57(3) deals with undue influence exerted by a third party. This article states that:

If the formation of the contract is induced by undue influence by another person who is not a party to the contract, the aggrieved party may request that the contract be void unless the other party to the contract in good faith and without knowledge of what happened agrees on correcting mistakes.

The consideration of duress acts from a third party is also recognized in foreign laws. For example, Article 1111 of the French Civil Code includes threats exerted by third parties as grounds for annulling a contract. This principle underscores the protection of the consensual basis of contracts, irrespective of whether the duress originated from a contracting party or a third party (Rowan, 2022: 99; Helvaci, 2017: 73-4). Similarly, in *Haumont v. Security State Bank* (Supreme Court of Nebraska, 1985, 220 Neb. 809, 374 N.W.2d 2), it was held that a contract signed under duress from a third party can be voided (Smith, Mann & Roberts: 180). The case went further to elaborate that duress, including threats directed at third parties such as relatives, can invalidate a contract. It was stated:

To constitute duress, there must be an application of such pressure or constraint that compels someone to go against his free will and takes away his free agency, destroying the power of refusing to comply with the unjust demands of another. Where a parent or other relative is induced to execute

an instrument by threats and fear of criminal punishment of a child or relative, the instrument is the result of duress and the contract is therefore voidable.

The Rwandan law, in addition to the legal mentions, courts appear to support that position. In RCA 0008/15/TGI/GIC, it was held that a sale agreement was void because it was executed under duress exerted by a third party.

The threat exercised on a third party has been also considered in other laws. For instance, in *Grasso v Dean*, it was stated that “*In Nebraska, the law is well established that where a parent or other relative is induced to execute an instrument by threats and fear of criminal punishment of a child or relative, the instrument is the result of duress and the contract may be voided*” (*Grasso v Dean*, 171 Neb. 648, 650-51, 107 N.W.2d 421, 423 (1961)). French law, in article 1113 of the Civil code, similarly accepts duress against third parties, though typically limits recognition to spouses, descendants, and ascendants. Turkish contract law also considers threats against contracting parties or individuals close to them, or related to their personal rights, such as right to life, body, honor, or asset, as constituting duress (Helvaci, 2017: 73-4).

It is important to note that the Rwandan Contract Law does not require the victim to prove that there was complicity between the third party and the contracting party or whether the duress benefited the contracting party. This absence of a requirement aligns with civil law traditions, where duress is considered socially unacceptable, and complicity is often presumed when the contractor benefits from the duress (Chauvel, 2019). Consequently, duress from a third party is treated as a cause for nullity without needing to prove direct collusion or connivance.

On this point, it is clearly established that the impact of duress does not change in consideration of the person who exercised the acts of duress. In other words, the Rwandan law, the available Rwandan cases, and the foreign case laws are all aligned that a duress from a third party produces similar effects as duress act exercised by the contracting party. Thus, it is logical to conclude that duress exerted by or on a third party invalidates a contract, as long as such duress influenced the contracting party’s decision.

Other elements of duress

In addition to the core elements of duress discussed previously, two other critical factors must be considered in determining whether duress affects

the validity of a contract: the seriousness of the duress and the absence of alternatives for the victim.

Serious act of duress

For duress to be effective in invalidating a contract, the act of duress must be serious enough to influence the other party into contracting. Seriousness implies that the threat should not be trivial or superficial; it must involve a significant degree of danger or coercion. This seriousness is closely linked with the imminence of the threat, meaning the danger must be imminent or immediate. If the threat is not imminent, the victim may then have opportunities to avoid the threat or mitigate its effects. The imminence and seriousness of the threat are assessed using both subjective and objective standards.

Starting with the subjective test, this is recognized in scholarship and involves evaluating whether the threat actually induced assent from the person claiming to be the victim of duress (Smith, Mann & Roberts: 180). In this regard, the means of duress have to be assessed in proportion to the person submitted to duress to assess whether the duress could have effect or not (Jadalhaq: 39-40). This has been commented as the fact that what matters is not the act of duress itself but the extent of influencing the consent of the victim party. One commentator on Rwandan contract law observes (Uwicyeza, 2013):

The fact that the act or threat would not affect a person of average strength and intelligence is not important if it places fear in the person actually affected and induces him to act against his will. The test here is subjective, and the question is this: did the threat actually induce assent on the part of the person claiming to be the victim of duress?

Other commentators further emphasize that the subjective test must account for the victim's characteristics such as age, sex, capacity, background, relationship of the parties, vulnerability, and all attendant circumstances (Chapman, 2012: 265; Rowan, 2022: 99). The subjective test indeed complements the objective test. As clarified by one scholar, the seriousness of duress has to be determined on the basis of the subjective test because what may be considered serious for one person may not be the same for another person (Jadalhaq: 39).

Some jurisdictions, such as France and the UAE have expressly included these elements in their legal frameworks. For example, Article

1112 of the French Civil Code and Article 180 of the UAE Law on Civil Transactions refer to factors like age, sex, weakness, conditions of the concerned persons, rank, influence, position, and any other factor which may affect the seriousness of the duress.

As far as the objective standard is concerned, the test evaluates whether a reasonable person in the same situation as the victim would have been influenced by the threat. In other words, the test examines if a typical person, standing in the victim's shoes, would be compelled to enter into the contract due to the threat.

Both tests are commonly applied in evaluating duress. In this regard, duress has been characterized with two elements namely the nature of a threat of danger, which is an objective element, and the resulting lack of freedom of consent, inspired by fear, which is a subjective element (Mazeaud et al.: para. 200).

The burden of proving the seriousness and imminence of the threat rests with the party alleging duress. In other words, a party wishing to avoid a contract for duress, must show that it was predominantly influenced to enter the contract by a threat. Not only that but also that party has an obligation to show that its consent was significantly compromised by it.

Absence of alternative

For duress to be a valid claim, either as a shield i.e. a defense or as a sword i.e. a cause of action, the victim's consent must have been influenced by threat, ill-treatment, violence and other type of threat that leaves the victim with no other alternative other than accepting the terms of the contract. This requirement ensures that the consent was not merely coerced but that the victim was left with no viable options other than to comply. This implies that the court cannot grant a relief if the counterpart had a reasonable alternative.

In this respect, the Rwandan law aligns with other legal systems in setting this condition. Article 1115 of the French Civil Code, for instance, stipulates that a contract cannot be contested on the grounds of duress if the duress has ceased and the contract has been ratified, expressly or by conduct, by the victim. This implies that if the victim did not take steps to nullify the contract after escaping the duress, the claim of duress may no longer stand (Chapman, 2012: 236).

Scholars have also described absence of reasonable alternative as an essential element to operative duress (Loke, 2017: 421) to an extent that it

stands as a standard of many modern cases (Chapman, 2012: 265). This reflects the idea that duress should render the victim's options effectively non-existent (Chapman, 2012: 267-8; Elhauge, 2016: 512-3). Here, absence of alternative is understood in terms of having "no alternative" or "no practical alternative" or "no reasonable alternative" (Loke, 2017: 422).

Under Rwandan law, the absence of alternative is explicitly required in Article 56(1) of the Rwandan Contract Law. This paragraph concerns the acts of duress emanating from the contracting party. However, Article 56(2) does not impose this condition for duress exerted by a third party, potentially allowing for a contract to be voided even if the victim had reasonable alternatives. This distinction seems inconsistent, and it is reasonable to argue that the absence of alternative should be uniformly applied, regardless of whether the duress originates from a contracting party or a third party.

The burden of proving the existence of a reasonable alternative lies with the respondent, i.e., the party alleged to have made the threat. Availability of alternative choices is typically assessed using the "but - for" test (Loke, 2017: 424), which examines whether the respondent can prove that an alternative was indeed available. In other words, if the Respondent can demonstrate the existence of a viable alternative, the claim of duress may be negated.

CONCLUSION

This paper has demonstrated that while Rwandan law clearly establishes the consequence of duress—namely, the invalidation of the contract—the concept of duress remains ambiguously defined and its characteristics inadequately detailed. This ambiguity poses a risk of controversial interpretations and inconsistent applications. The analysis herein identified three key grey areas that could lead to such controversies: (a) whether acts of duress can be physical, moral, or economic; (b) whether acts of duress can be legitimate or lawful, or must be illegitimate or unlawful; and (c) whether acts of duress can be exercised by or towards a third party, or if it must come from the contracting party itself.

The purpose of this paper was not only to identify these ambiguities but also to suggest clearer guidelines by learning from other jurisdictions. Hence, with regard to grey area one on whether acts of duress can be physical or moral or economic, the recommendation is to include all forms of duress. In other words, duress should encompass physical, moral, and

economic threats. Each form of duress should produce the same effects, considering the specific circumstances of the case. With regard to the second grey area on whether legitimate/lawful and illegitimate/unlawful acts can both constitute duress, the recommendation is to recognize both acts as duress. The critical factor here should be the impact on consent, not the nature of the threat. The same recommendation is for the third grey area on whether acts of duress may be exercised by or to a third party or by the contracting party. Here the recommendation is that effects of duress should be consistent regardless of whether it is exercised by or directed towards a third party or the contracting party itself. In other words, the principle remains that duress invalidates the contract.

In brief, duress, whether physical, moral, economic, legitimate, or illegitimate, directed to or from a third party or the contracting party, should uniformly render a contract void. Given the fundamental principle of free will in contractual relationships, any form of duress should lead to invalidation. Modern contractual contexts require an expansion beyond traditional threats of physical harm to include broader cases of duress. Considering that the void is relative and not absolute, the burden of proof lies with the victim, who must demonstrate: (a) the presence of an act of duress, (b) a causal link between the duress and the effect on the willingness to contract, and (c) that the contract would not have been executed if the duress was inexistent. Both objective and subjective assessments should apply.

Lastly, it is recommended that the Rwandan legislature provide explicit guidance on all dimensions of duress. There is indeed a serious need for guidance, either from the legislature or the Supreme Court. This would mitigate unnecessary debates and ensure consistent application of the law. This is particularly crucial for Rwanda, given its legal system's continued influence from civil law traditions.

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