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New Technology For War: The Legality Of Drone-Based Targeted Killings Under International Law

Dalia D. Labrador

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INTRODUCTION

The terrorist attacks in New York City on September 11, 2001 left the whole country not only in shock, but in a high state of vulnerability.¹ American citizens around the world felt unsafe and desperately wanted to hold the attackers accountable for the innocent lives they took and the carnage they caused.² Following the attacks, Congress authorized the use of a military force policy known as “targeted killings,” which became the essential tactic used to pursue those behind the 9/11 attacks.³ To execute targeted killings, the United States (U.S.) government began employing unmanned aircrafts known as drones.⁴

When President Barack Obama took office, he not only inherited a country mired in a historically bad financial downturn, but a country also waging two “intractable wars in Iraq and Afghanistan.”⁵ While elected partly on the promise to swiftly end the conflicts in Iraq and Afghanistan and bring the American troops home, it eventually became clear the Obama administration had actually entered a third covert war when the administration escalated drone strikes in Pakistan.⁶ In recent years, the Pentagon and the Central Intelligence Agency (CIA) have employed targeted killings as part of combat operations not only in Iraq and Afghanistan but also in counterterrorism efforts in Pakistan, Yemen, and Somalia.⁷

There are two principal techniques of targeted killings: kill or capture raids and air strikes. This Article focuses on the latter.⁸ Part I of this Article will focus on different types of new technology the U.S. employs to conduct lethal operations abroad. Part II will analyze the legality behind the U.S. actions when conducting drone-based targeted killings abroad. Finally, Part III will discuss whether judicial intervention could prompt accountability for targeted killing operations in foreign territories.

I. THE USE OF NEW TECHNOLOGY FOR TARGETED KILLINGS

The U.S. has long used targeted killings as a combat method.⁹ However, in recent years, this practice gained some unwanted media coverage, because the U.S. military and CIA were using drone strikes and kill/capture raids to engage in these operations.¹⁰ This Part first provides an overview of drones used by the U.S. government and then an overview of the law governing foreign targeted killing operations.

A. Drones defined and their use in U.S. targeted killing operations

The U. S. Department of Defense defines drones as an “unmanned powered aerial vehicle (UAV) that does not carry a human operator, ... can fly autonomously or be piloted remotely, can be expendable or recoverable, and can carry a lethal or non-lethal payload.”¹¹

While drones have recently become a central focus in military strategies, and in the public eye as well, they are not a new creation. Drones have been around since at least the 1950’s, and some theorize they were invented soon after World War II ended.¹² During the Vietnam War and the 1991 Gulf War, drones were used merely for reconnaissance missions, to gain information about an enemy or potential enemy.¹³ However, after the 9/11 attacks, drone technology improved dramatically and at the beginning of the 2000s, the U.S. was ready to employ drones “as launch vehicles for missiles.”¹⁴

To satisfy the U.S. government’s need for low-cost, low-risk cross-border aircrafts, the role of drones evolved rapidly from launch vehicles to attack vehicles.¹⁵ Drones became the cheapest, easiest, and safest means of fighting terrorism.¹⁶ Because of drones, soldiers would no longer need to

expose themselves to battle conditions as drones could be piloted from the safety of a base far from the action.¹⁷ Additionally, targeted killings are easily accomplished, because combat drones' attack capabilities provide a unique "target strike" opportunity because of the nature of the unmanned aircraft size and range.¹⁸

Since 2009, the U.S. has deployed two types of combat drones for its targeted killings: the MQ-1 (AKA predator) and the MQ-9 (AKA reaper).¹⁹ A predator drone can operate on a "5,000 by 75-foot (1,524 meters by 23 meters) hard-surface runway with clear line-of-sight to the ground data terminal antenna."²⁰ The ground data terminal antenna enables communication for takeoff and landing.²¹

A predator drone has an aircraft system remotely piloted by a crew consisting of a pilot, who controls the aircraft and commands the mission; an enlisted aircrew member, who operates the sensors and weapons; and a mission coordinator, if the situation requires it.²² A predator drone's fully operational system also includes "a four sensor/weapon controlled by a ground control station."²³ The ground control station manages the predator drone's operations "via a line of sight data link or a satellite data link for beyond line of sight operations."²⁴

A targeted predator drone killing can be so accurate a person could be resting on his back, while a predator drone hovers undetected over a house 2 miles or so away.²⁵ A drone can then target a person's entire body while remotely launching hellfire missiles "causing a fiery blast in real time."²⁶ In August 2009, Baitullah Mehsud, the leader of the Taliban in Pakistan, was the victim of a targeted killing conducted by a predator drone that tracked his whereabouts to his relative's house before it launched a hellfire missile towards him.²⁷

A reaper drone is similar to a predator drone in design and function, but it is a newer and more heavily-armed version of the Predator.²⁸ While a reaper drone is also a remotely piloted aircraft, it is

used for long-endurance missions. Specifically, a reaper drone is used primarily against “dynamic execution targets.”²⁹

A reaper drone has an operational altitude of 50,000rft (15,000 m) and a range of 1,000dnmi (1,150 mi; 1,850 km).³⁰ Additionally, a reaper drone’s high loitering time, “range sensors, multi-mode communications suite, and precision weapons,” give this aircraft the ability to execute strikes on highly sensitive targets.³¹ It is considered especially useful for surveillance and support of ground troops.³² As of 2009, the U.S. has at least 100 predator drones and 15 reaper drones.³³

Drones are used for targeted killings, because they are thought to be a more efficient weapon that allows targeting dangerous terrorists, without endangering American lives.³⁴ The results do support this theory as hundreds of dangerous militants have been killed by unmanned aircrafts.³⁵ For example, high ranking leaders of terrorist groups such as al-Qaeda and the Taliban have been targeted and killed.³⁶

Two primary examples of these targeted killings are (1) the successful killing of Osama bin Laden, the figure behind the 9/11 attacks, and (2) the September 2011 drone strike on Anwar al-Awlaki, an American-born Yemeni cleric and an al-Qaeda propagandist in the Arabian Peninsula.³⁷ By 2009, targeted killings escalated through an increase in unmanned drone strikes on al-Qaeda and Taliban targets in the Middle East.³⁸ In all, more than 300 covert drone attacks have been registered in Pakistan alone.³⁹

The Obama administration has asserted the U.S. Government drone-based missile strikes comply with international law.⁴⁰ However, the lack of credible or verifiable information undermines their assertions.⁴¹ The practice of targeted killings assumed on a systematic basis and without verifiable information is severely alarming and regressive.⁴² The use of drones and targeted killings policies could irreparably hurt the international legal framework created to uphold the most basic and valuable protections for the right to human life and dignity.⁴³

As the CIA and the U.S. Department of Defense (DOD) Special Operations forces increase their involvement in carrying out extraterritorial targeted killings through drone-based missile strikes, the inquiry about compliance with international humanitarian right to life law and international humanitarian law is critical.⁴⁴

*B. What legal framework of International law should lethal force be used?*⁴⁵

International humanitarian law allows for the use of lethal force against fighters and terrorist groups, or civilians who are directly linked to hostilities.⁴⁶ However, it is difficult to determine whether it is lawful to use lethal force against an individual who participates in hostilities when the individual, after delivering an attack, travels from a State engaged in conflict to a State not in conflict.⁴⁷

The International Committee of the Red Cross (ICRC) has opined about this issue, asserting that under International humanitarian law, such a person “should not be considered a legitimate target under the laws of war.”⁴⁸ The reasoning behind this opinion is that allowing otherwise would mean no country could exclude their land from battlefield consideration.⁴⁹ Additionally, the ICRC fears any individual moving from one country to another could be considered a legitimate target under International humanitarian law, regardless of the territory where he is found.⁵⁰ While the ICRC acknowledges individuals should be accountable for their actions, they are attempting to avoid the issue of disregarding territorial boundaries thereby treating the whole world as a battlefield.⁵¹

While weapon treaties, or legal instruments of International humanitarian law, do not specifically mention drones, the use of drones as a weapon system in armed conflict is considered subject to the rules of International humanitarian law.⁵² Under International humanitarian law, weapons capable of more precise attacks, minimizing civilian casualties and damages to infrastructure, are given preference over weapons that do not.⁵³ Specifically, this law requires precautions be taken to avoid civilian

casualties and destruction of infrastructure. Parties must stop attacks if casualties or harm to not-targeted individuals are anticipated.⁵⁴

Another law governing targeted killings and the use of drones is the universal right to life, which under International law is broadly regarded as the supreme right.⁵⁵ The deprivation of human life “has been described as a rule of customary International law.”⁵⁶ Furthermore, the majority of State constitutions recognize a right against life deprivation. Under International humanitarian right law unlawful killings are universally criminalized as violations of the right to life war crimes, or crimes against humanities.⁵⁷

Under International humanitarian rights law, the intentional premeditated killing of a human being is unlawful.⁵⁸ However, depending on the circumstances, intentional killings may not be considered against the law when it is the only way to respond to an imminent threat to life (e.g. hostage situations).⁵⁹ “A well-established principle of International law is that International humanitarian right to life” applies during an armed conflict, “as a complement to International humanitarian law.”⁶⁰ Further, International law allows for the use of lethal force in self-defense when responding to an armed attack “as long as that force is necessary and proportionate.”⁶¹

II. THE LEGALITY OF THE U.S.’ DRONE-BASED TARGETED KILLINGS ABROAD

Policymakers, scholars, and the media frequently debate the legality of the U.S. drone-based targeted killings.⁶² This debate has been centered among two theories of law.⁶³ The first theory, *Jus ad bellum*, governs the necessity and proportionality of the conduct of states and non-state actors considering whether to engage in war and armed conflict.⁶⁴ The second theory, *Jus in Bello*, governs “the conduct of individuals and units toward combatants, non-combatants, property, and the environment.”⁶⁵ *Jus ad bellum* and *jus in bello* “were declared to be distinct normative universes, in order to postulate the principle that all conflicts shall be fought humanely, irrespective of the cause of armed violence.”⁶⁶

A. *Jus Ad bellum* analysis

The U.S. government has reported the actions taken under the targeted killing's policy "are consistent with the International law requirement for the use of self-defensive force."⁶⁷ President Obama's administration has asserted that the U.S. does not need to make a *proportionality-jus ad bellum* analysis before each targeted drone strike undertaken since no more force than reasonably required to overcome the threat is being used.

Additionally, on May 23, 2013, during a speech on counterterrorism, President Obama stated that the U.S. targeted killing policy is permissible against the Taliban, Al Qaeda, and their associate forces.⁶⁸ President Obama indicated that because a non-international armed conflict exists between the U.S. and these organizations, the U.S. government can "engage in at-will targeting of enemy belligerents," under both domestic and international law.⁶⁹ However, these justifications do not explain whether the hostilities between U.S. and Al-Qaeda rise to the level of an armed conflict, and if an armed conflict does exist how should the scope of the conflict be delimited.⁷⁰

The simple act of targeting individuals using drones intrinsically infringes upon international law since it is hard to determine, "who may lawfully be targeted and on what basis," who is authorized to carry out the killing, and "the extent to which less-than-lethal measures are required to be used."⁷¹

Notwithstanding the U.S. government's explanations, it is still unknown what legal basis the U.S. operates,⁷² especially since the U.S. has embarked on impermissible strikes "beyond the scope of any existing armed conflict."⁷³ For example, the 2009 targeted killings in Pakistan using predator drones, a country with which the U.S. is not at war and had not consented to the U.S. use of force in its territory.⁷⁴

Under the legal limitations of proportionality requirements of *Jus ad bellum*, an argument could be made that the U.S. should first exhaust

all measures to capture insurgent suspects before employing targeting killings to avoid violations to international laws.

B. *Jus In Bello analysis*

Under the *Jus In Bello* theory of law, the targeted killing tactics used in certain drone-based operations are also evaluated for International humanitarian law violations.⁷⁵ *Jus In bello* limits the consequences of armed conflicts on civilians not involved in armed conflicts, as well as, infrastructure and the environment.⁷⁶

A controversial argument is that drones are inherently indiscriminate, thus violating the “principle of distinction” upheld under this theory of law.⁷⁷ The U. S. government does not comment on or acknowledge drone strikes that take place outside of hot battlefields, and keeps secret the list of targeted killings, making it impossible to know the actual number of civilian casualties. Additionally, because different standards are used to target citizens and non-citizens, the derogation is possible with regards to human rights instruments. However, absent derogation, human rights obligations do apply in times of armed conflicts under this theory of law.

Humanitarian organizations are concerned with the potential psychological impact of drone strikes.⁷⁸ One major problem is the level of stress and mental health consequences drone strikes have on the populations over which they hover.⁷⁹ Specifically, the effect the constant presence of the aircrafts in the skies have on non-targeted individuals.⁸⁰ However, because the use of drones and drone strikes are performed under high levels of security, it is impossible to accurately determine their impact.⁸¹ This makes it imperative to require drones to make a distinction between military targets and civilian casualties.⁸²

Currently, the U.S. engages drones in operations targeting individuals with a mere past or present involvement in planning attacks regardless of whether or not specific evidence of imminent threat of attack in fact exist.⁸³ The target is generally an alleged terrorist or other insurgent

deemed dangerous “based on undisclosed intelligence, applied against secret criteria.”⁸⁴ These targets are then put on a list known as the kill/capture list.⁸⁵ In Afghanistan alone, the U.S. has “six different kill/capture lists, with a total of thousands of names on them.”⁸⁶ However, because of the level of secrecy these operations and the kill/capture list require, “the CIA will neither confirm nor deny their existence.”⁸⁷

Non-supporters of these practices argue the U.S. targeting policy degrades International humanitarian law and “undermines the legal framework meant to protect human rights in armed conflict.”⁸⁸ Among the arguments made against targeting killings is that drone strikes are assassinations, and therefore, not authorized under International law.⁸⁹ However, supporters of drone-based targeted killings argue there is a distinction between illegal assassinations, and the lawful targeting in armed conflict of insurgents who represent a direct threat to the U.S.⁹⁰

III. ACCOUNTABILITY SOLUTION - JUDICIAL REVIEW

The courts could offer the best prospect of compelling accountability for drone-related targeted killings.⁹¹ This may be accomplished by developing principles overseeing the insertion of names on kill/capture lists, by questioning the legality of the decision to kill, and by prosecuting those who kill in circumstances not allowed by law.⁹² The goal is to guarantee that matters involving national security are given specific considerations by preventing intelligence agencies from exercising their powers arbitrarily,⁹³ and to provide legal recourse to “any person whose rights are violated.”⁹⁴

Some court systems have started to work on this issue.⁹⁵ For example, the Israeli Supreme Court established conditions where targeted killings are authorized under the law.⁹⁶ Additionally, the Israeli court has insisted on retroactive investigations on each targeted killing instance, to ensure it was pursuant to a lawful purpose.⁹⁷ Similarly, the European Court of Human Rights established extensive jurisprudence to satisfy the

need of individualized remedies to stop intelligence agency's practice of human rights violations.⁹⁸

Unlike Israel and Europe, the U.S. courts do not currently enforce any form of judicial protections for these practices.⁹⁹ It is close to impossible for an average individual, whose rights have been violated, to challenge the legality behind the actions of U.S. intelligence agencies, because an individual seeking remedies in the U.S. court system must first satisfy strict substantive and procedural standing requirements.¹⁰⁰

The Maher Arar's case illustrates this principle.¹⁰¹ Maher Arar, a Canadian resident with double citizenship in Canada and Syria, was taken into U.S. custody in 2002 from the John F. Kennedy airport in New York. The U.S. government took Arar, because they believed he was involved with al-Qaeda. Then, he was rendered to Syria, where he was allegedly questioned and tortured for ten months.¹⁰² In 2009, Arar brought a civil action against the U.S. government, but the Second Circuit dismissed the case, because an appropriate remedy did not exist.¹⁰³

The court also stated its concerns about inquiring into the work of government agencies, foreign governments, as well as, potentially embarrassing the U.S. by disclosing classified/secret information.¹⁰⁴ The court also relied on the separation of powers to dismiss the case, noting that this kind of lawsuit involves topics beyond the "limited experience and knowledge of the federal judiciary."¹⁰⁵

After the U.S. court ruling, the Canadian government got involved and appointed an "independent commission of inquiry," to look into Arar's case.¹⁰⁶ In gathering evidence, the commission questioned over seventy Canadian government officials and reviewed over 21,500 government documents.¹⁰⁷ At the end of the investigation, the commission prepared two factual reports with its findings: one confidential report with a summary of the evidence including classified information; and a second report with almost 400 pages of non-confidential evidence.¹⁰⁸ After the commission's report was published, the Canadian Prime Minister issued

an apology to Arar and compensated him based on the findings for C\$10.5 million, plus legal fees.¹⁰⁹

Another case dismissed by a U.S. court was *Al-Aulaqi v. Obama*.¹¹⁰ In 2010, the U.S. District Court for the District of Columbia dismissed this case, because there was “no convincing basis upon which Al-Aulaqi’s father could have standing to bring the case on behalf of his son.”¹¹¹ Al-Aulaqi, a joint U.S. and Yemen citizen who resided in Yemen, was killed by an AGM-114 Hellfire missile in September 2011, after the U.S. Treasury Department allegedly labeled him a “Specially Designated Global Terrorist” on a CIA kill list.¹¹² The alleged U.S. Treasury Department actions took place after AL-Aulaqi made statements calling for “Jihad against the West and other related activities.”¹¹³ The U.S. government never confirmed nor denied the alleged inclusion of Al-Aulaqi to the CIA kill list.¹¹⁴

The U.S. District Court for the District of Columbia cited the political question doctrine in its dismissal.¹¹⁵ The court explained that judicial review is not possible on these type of cases, because a court cannot question a decision that the U.S. Constitution committed to the political branches.¹¹⁶

CONCLUSION

While terrorist attacks concern countries around the world, it is important to avoid letting a state of war against terrorism erode accountability of unlawful killings. The U.S. and its intelligence agencies do not have unlimited power to conduct lethal operations abroad, especially without a formal declaration of war. Citizens of each country have a right to due process of law before they are charged and killed by a drone-based strike.

This Article provides a reminder that International humanitarian law exists to govern unlawful assassinations; to require transparency and accountability behind each drone based-targeted killing; and to call for a more effective monitoring mechanism that efficiently examines human

rights violations associated with new technologies such as unmanned drones.

¹ Officially known as the National Commission on Terrorist Attacks upon the United States. THE 9/11 COMMISSION REPORT 415 (2004) <http://www.911commission.gov/report/911Report.pdf> (Last visited April 10, 2016).

² *Id.* at 365.

³ Scott Shane, *Drone Strikes Reveal Uncomfortable Truth: U.S. Is Often Unsure About Who Will Die*: THE NEW YORK TIMES, April 23, 2015, http://www.nytimes.com/2015/04/24/world/asia/drone-strikes-reveal-uncomfortable-truth-us-is-often-unsure-about-who-will-die.html?_r=0(last visited March 24, 2016).

⁴ SHANE, *supra* note 3.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Philip Alston, *The CIA and Targeted Killings Beyond Borders*, NEW YORK LAW JOURNAL, (September, 2011), <http://ssrn.com/abstract=1928963>.

⁹ *Id.* at 29.

¹⁰ *Id.* at 30.

¹¹ The Department of Defense Dictionary of Military and Associated Terms 579, *Joint Publication 1-02*, (April 12, 2001) (amended Oct. 17, 2008)(last visited March 24, 2016).

¹² O'CONNELL, *supra* note 9 at 2-3.

¹³ *Id.* at 3.

¹⁴ *Id.*

¹⁵ *Id.* at 4.

¹⁶ *Id.* at 5.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ U.S Air Force, *Predator Drone Fact Sheet publication*, (September 23, 2015), <http://www.af.mil/AboutUs/FactSheets/Display/tabid/224/Article/104469/mq-1b-predator.aspx>(last visited April 10, 2016).

²¹ *Id.*

²² *Id.*

²³ U.S. Air Force, *supra* note 4.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ O'CONNELL, *supra* note 9 at 10.

²⁸ U.S Air Force, *Reaper Drone Fact Sheet publication*, (September 23, 2015), <http://www.af.mil/AboutUs/FactSheets/Display/tabid/224/Article/104469/mq-1b-predator.aspx>(last visited April 10, 2016).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ O'CONNELL, *supra* note 9 at 4.

³⁴ *Id.* at 5.

³⁵ Christian Nwachukwu Okeke, *The 23rd Annual Fulbright Symposium Conference Report on Controversial Issues of Contemporary International Law in a Multipolar World*, GOLDEN GATE LAW JOURNAL (April 12, 2013).

³⁶ O'CONNELL, *supra* note 9 at 10.

³⁷ ALSTON, *supra* note 7 at 35.

³⁸ Jane Meyer, *The Predator war, What are the risks of the C.I.A.'s covert drone program?* THE NEW YORKER, (October 26, 2009), <http://www.newyorker.com/magazine/2009/10/26/the-predator-war>(last visited March 24, 2016).

³⁹ Lev Grossman, *They fight and spy for America abroad. But what happens when drones return home?* TIMES MAGAZINE, (February 11, 2013), <http://content.time.com/time/magazine/article/0,9171,2135132,00.html>(last visited April 10, 2016).

⁴⁰ Rosa Brooks, *Drones and the International Rule of Law*, Scholarship @ GEORGETOWN LAW, (2013), <http://scholarship.law.georgetown.edu/facpub/1287>.

⁴¹ *Id.*

⁴² *Id.*

⁴³ O'CONNELL, *supra* note 9 at 5.

⁴⁴ *Id.*

⁴⁵ Peter Maurer, *The use of armed drones must comply with laws*, INTERNATIONAL COMMITTEE OF THE RED CROSS, (October 5, 2013), <https://www.icrc.org/eng/resources/documents/interview/2013/05-10-drone-weapons-ihl.htm>(last visited March 24, 2016).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ Jean-Marie Henckaerts & Louise Doswaldbeck, *Int'l Comm. of the Red Cross [ICRC], Customary International Humanitarian Law: RULES* (2005) [hereinafter ICRC RULES], Rule 70 and Rule 71.

⁵⁴ *Id.*

⁵⁵ United Nations General Assembly, *Extrajudicial, summary or arbitrary executions: Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*. 68th SESSION OF THE PROVISIONAL AGENDA, (September, 13, 2013), <https://www.justsecurity.org/wp-content/uploads/2013/10/UN-Special-Rapporteur-Extrajudicial-Christof-Heyns-Report-Drones.pdf>.

⁵⁶ *Id.* at 7.

⁵⁷ *Id.*

⁵⁸ *Id.* at 10.

⁵⁹ *Id.*

⁶⁰ *Id.* at 9.

⁶¹ O'CONNELL, *supra* note 9 at 18.

⁶² BROOKS, *supra* note 42 at 91.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.* at 96.

⁶⁶ Carsten Stahn, '*Jus ad bellum*', '*jus in bello*' . . . '*jus post bellum*'? –Rethinking the Conception of the Law of Armed Force, EUROPEAN JOURNAL OF INTERNATIONAL LAW, (2006), <http://ejil.oxfordjournals.org/content/17/5/921.full#xref-fn-22-1>.

⁶⁷ O'CONNELL, *supra* note 9 at 27.

⁶⁸ O'CONNELL, *supra* note 9 at 16

⁶⁹ *Id.*

⁷⁰ ALSTON, *supra* note 7 at 18.

⁷¹ *Id.*
⁷² O'CONNELL, *supra* note 9 at 16
⁷³ *Id.*
⁷⁴ *Id.*
⁷⁵ BROOKS, *supra* note 42 at 96.
⁷⁶ *Id.*
⁷⁷ ALSTON, *supra* note 7 at 30.
⁷⁸ *Id.*
⁷⁹ *Id.*
⁸⁰ *Id.*
⁸¹ *Id.* at 33.
⁸² *Id.*
⁸³ *Id.* at 34.
⁸⁴ *Id.* at 42.
⁸⁵ *Id.* at 51, 56.
⁸⁶ *Id.* at 6.
⁸⁷ *Id.* at 8.
⁸⁸ *Id.* at 12.
⁸⁹ *Id.* at 45.
⁹⁰ *Id.* at 81.
⁹¹ *Id.* at 78.
⁹² *Id.* at 79.
⁹³ *Id.*
⁹⁴ *Id.* at 78.
⁹⁵ *Id.* at 79.
⁹⁶ *Id.*
⁹⁷ *Id.*
⁹⁸ *Id.*
⁹⁹ *Id.* at 79.
¹⁰⁰ *Id.*
¹⁰¹ *Id.* at 80.
¹⁰² *Id.*
¹⁰³ *Id.*
¹⁰⁴ *Id.*
¹⁰⁵ *Id.*
¹⁰⁶ *Id.*
¹⁰⁷ *Id.*
¹⁰⁸ *Id.*
¹⁰⁹ *Id.*
¹¹⁰ *Id.*
¹¹¹ *Id.*
¹¹² *Id.* at 81.
¹¹³ *Id.*
¹¹⁴ *Id.*
¹¹⁵ *Id.*
¹¹⁶ *Id.*