

JOHN D. ASHCROFT, FORMER ATTORNEY GENERAL, *et al.*, PETITIONERS *v.* JAVAID IQBAL, *et al.*, RESPONDENTS

on writ of certiorari to the United States Court of Appeals for the Second Circuit

Decided November 30, 2009

---

This action was brought by the respondents in the United States District Court for the Eastern District of New York alleging governmental discrimination in violation of the 1st and 5th Amendments to the United States Constitution. The petitioners filed a timely motion to dismiss for failure to state an actionable claim pursuant to Rule 8 of the Federal Rules of Civil Procedure. The District Court subsequently denied the motion on the grounds that, if taken as true, the factual allegations set forth in the respondents' complaint were sufficient to state a claim for governmental discrimination. On interlocutory appeal, the United States Court of Appeals for the Second Circuit affirmed the District Court's decision. We granted certiorari, and now affirm. The pertinent facts of the case sufficiently appear in the opinion of the Chief Justice.

POSITIVIST, C. J. In the wake of the September 11, 2001, terrorist attacks on New York and Washington, D.C., the Federal Bureau of Investigation (FBI), along with certain specialized entities within the Department of Justice, embarked upon an extensive investigation to identify the perpetrators in an effort to prevent them from instituting additional attacks on the United States. During the initial stages of the investigation, the FBI questioned a number of individuals with suspected links to the terrorist attacks and to terrorism in general. Of those individuals, a large portion were subsequently detained by the federal government on immigration charges; and in addition, roughly twenty-five percent of those detained were deemed to be "of high interest" to the investigation. Individuals "of high interest" were detained in the Administrative Maximum Special Housing Unit (ADMAX SHU) within the Metropolitan

Detention Center located in Brooklyn, New York. During their detention in the ADMAX SHU, these individuals were subjected to severe restrictive conditions in order to prevent them from communicating with other detainees or the general public. The respondent, Javaid Iqbal, a Pakistani Muslim, was among the group of "high interest" individuals detained in the ADMAX SHU following the FBI's investigation into the September 11, 2001, terrorist attacks.

Following his eventual release from the ADMAX SHU and his subsequent removal to Pakistan, the respondent filed a complaint in the United States District Court for the Eastern District of New York alleging that, while detained in the ADMAX SHU, he was subjected to severe discriminatory treatment at the hands of both prison officials and personnel. For instance, the respondent's complaint alleges that prison guards, without justification, "picked him up and threw him against the wall, kicked him in the stomach, punched him in the face, and dragged him across the room," an incident that happened on the day he was first transferred to the ADMAX SHU. Likewise, over the course of his detention in the ADMAX SHU, the respondent was (i) repeatedly denied immediate medical attention and adequate food, (ii) subjected to unjustified strip and body cavity searches, (iii) verbally berated as a "terrorist" and "Muslim killer," and (iv) impeded from accessing counsel and engaging in prayer and religious study.

In addition to the alleged acts of discrimination at the hands of the ADMAX SHU officials and personnel, the respondent adamantly maintains that he was also subjected to discrimination at the very highest levels of federal law enforcement. The respondent's complaint alleges that the FBI, under the direction of the petitioner, Robert Mueller (Director of the FBI), instituted a discriminatory policy by deeming the respondent, along with numerous other Arab Muslim men, a person "of high interest" solely because of his race, religion, and national origin. Moreover, the complaint alleges that the petitioner, John Ashcroft (United States Attorney

General), having met with Mr. Mueller in the weeks following the September 11, 2001, terrorist attacks, was the "principle architect" behind the policy of detaining "high interest" individuals under highly restrictive conditions. Accordingly, the petitioners "each knew of, condoned, and willfully and maliciously agreed to subject" the respondent to harsh conditions of confinement "as a matter of policy, solely on account of [his] religion, race, and/or national origin and for no legitimate penological interest."

In response to the respondent's complaint, the petitioners, asserting the defense of qualified immunity, moved to dismiss on the grounds that the complaint lacked the sufficient factual matter needed to support an action for governmental discrimination. The District Court denied the petitioner's motion to dismiss holding that, given the truth of the complaint's factual allegations, "it cannot be said that there [is] no set of facts on which [the respondent] would be entitled to relief as against" the petitioners. Consequently, the petitioners filed an interlocutory appeal in the United States Court of Appeals for the Second Circuit; the Court of Appeals subsequently affirmed the holding of the District Court. We granted certiorari. The issue before us is whether the respondent's complaint contains the sufficient factual matter needed to state a claim for purposeful and unlawful discrimination as against the petitioners pursuant to Rule 8 of the Federal Rules of Civil Procedure (FRCP). Given the current standards applicable under federal law, I am compelled to answer the issue in the affirmative.

Rule 8 of the FRCP is a rule that governs the primary standard of conduct for individuals who desire to file a sufficient legal claim in federal court. Underlying this primary rule, however, is a secondary rule—a rule of recognition—which is accepted by legal officials as conferring legal validity to Rule 8. The secondary rule underlying Rule 8 is spelled out in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). A complaint must contain a "short and plain

statement of the claim showing that the pleader is entitled to relief." *Id.* at 555. Moreover, although the complaint's factual allegations must not be sufficiently detailed, they must, when accepted as true, "state a claim to relief that is plausible on its face." *Id.* at 570. A claim is facially plausible when the factual allegations, viewed in the context of the specific case, allow a court to draw a reasonable inference as to the liability of the defendant to the complainant, an inference facilitated by the reviewing court's experience and commonsense. *Id.* at 555-56. Thus, a complaint must provide the sufficient factual matter needed to create a reasonable inference between the factual allegations and the legal conclusions in order for it to survive a motion to dismiss.

Of course, interpretations of reasonableness with respect to inferences are as varied as the colors in a spectrum. For example, it may be reasonable for a complaint to merely show how the factual allegations lead to the asserted legal conclusions; alternatively, it may be reasonable to require that the complaint contain verifiable allegations. A rule of adjudication will essentially provide the adjudicatory method for determining which interpretation of the rule of recognition is valid with respect to its reasonableness standard. The rule of adjudication, in this case, is uniquely suggested by the corresponding rule of recognition found in *Twombly*. Namely, the rule of recognition is valid when the reviewing court, viewing the case in its specific context and relying on experience, commonsense, and sound policy, infers from the facts that the defendant is liable to the complainant. *See id.* at 555-56. In applying the rule of adjudication in this case, it is clear that the factual allegations contained in the respondent's complaint support a reasonable inference which bridges the gap between its factual allegations and legal conclusions. To hold otherwise would seemingly fly in the face of judicial experience and commonsense.

The respondent's complaint alleges that he was the subject of governmental discrimination on account of his race, religion and national origin. In support of this legal conclusion, the respondent's complaint details the discriminatory treatment he received during his stay as a "high interest" individual in the ADMAX SHU. The complaint goes on to allege that petitioner Ashcroft was the "principle architect" behind the policy of detaining "high interest" individuals, while petitioner Mueller was instrumental in effecting the policy against the respondent. Moreover, the petitioners each knew that the policy was being carried out in a discriminatory manner. Given the pleadings and the unique context in which the case is situated, experience and commonsense dictate a reasonable inference towards liability.

First, given that the petitioners are afforded a level qualified immunity, it would have been almost impossible for the respondent to plead the details surrounding the petitioners' knowledge of discrimination in a more adequate manner. The information would not have existed, aside from a complete confession. Experience and commonsense dictate that the respondent is, at least, entitled to discovery in order to flesh out the truth in greater detail. Secondly, although the allegation concerning the petitioners' knowledge can be viewed as conclusory, the specific context of the case, along with the other allegations in the complaint, suggests that it should be treated as a factual matter incumbent on the whole. Rather than asserting an allegation of general knowledge, the complainant's allegation indirectly references the petitioners' specific knowledge of the discriminatory treatment through the local officials' implementation of a discriminatory policy. Experience and commonsense, again, dictate that the respondent's complaint should survive a motion to dismiss. For the foregoing reasons, I affirm the decision of both the District Court and the Court of Appeals. The petitioners' motion to dismiss is denied.

NEO-THOMIST, J. I concur with the opinion offered by the Chief Justice. Before hastily applying the strictures imposed by human law, including those imposed by Rule 8, it is exceedingly important for us to reflect upon the nature of the individuals governed by that law. Human beings live in a universe governed by the laws of nature—laws to which, by virtue of being human, they are eternally subject. It would be foolish to believe that human beings could follow a law that ran counter to natural principles, even assuming that they had a burning desire to do so. Natural law demands that human beings promote natural principles—i.e. the underived basic goods such as knowledge, bodily life, and practical reasonableness. To do otherwise would simply be foolish—e.g. if we chose to starve rather than eat. Thus, it is our duty, as officials of the law, to weigh our judgments against the laws of nature in order to ensure that they conform to these natural principles.

In assessing Rule 8 in light of the current case, the Chief Justice correctly notes that we have reached an impasse in the law, and thus must choose between two interpretations of the rule in question. Moreover, he asserts that the law demands that we use our judicial experience and commonsense in formulating a just decision. I partially agree. Experience and commonsense must be used in adjudicating disputes in so far as they are the primary tools of practical reason. By using experience and commonsense, judges promote the virtue of practical reasonableness demanded by the law of nature. By promoting this virtue, society is better equipped to realize the additional virtues of natural law. Thus, as suggested in the Chief Justice's factual analysis, judicial experience and commonsense dictate that the petitioners' motion to dismiss be denied because, in doing so, practical reasonableness is greatly promoted in society.

In addition to practical reasonableness, the denial of the petitioners' motion to dismiss advances the virtues of knowledge and life. The virtue of knowledge is advanced because, by

endorsing an interpretation of Rule 8 that allows numerous complaints to proceed, we further the pursuit of knowledge through discovery. Likewise, the virtue of life is promoted when we allow complaints to proceed because we create a deterrence mechanism for those who (i) wish to cause the body harm to others and (ii) would resort to self-help in order to right a wrong. Thus, denying the petitioners' motion to dismiss decidedly promotes the natural principles in our society. For the foregoing reasons, I affirm the decision of the Court of Appeals.

CLASSICAL UTILITARIAN, J. I respectfully dissent. In assessing the sufficiency of the respondent's complaint under Rule 8 of the Federal Rules of Civil Procedure (FRCP), I must base my decision on that which will promote the greatest good for the greatest number of people. In doing so, I must compare the utility of allowing the respondent's complaint to proceed with the utility of granting the petitioner's motion to dismiss. I think the best way to proceed is to begin by assessing the utility calculus with respect to the individuals most directly affected by my decision—i.e. the litigants and legal officials. It is important to note that the utility calculus will reflect the intensity, duration, certainty, remoteness, and extent of the perceived good and harms. I will begin with assessing the utility of allowing the respondent's complaint to proceed.

For the sake of proportionality, let us assume that our society contains 1000 individuals. Over the course of a lifetime, 200 of these individuals will litigate a dispute and ten of them will work in the legal profession. Given these numbers, if the complaint is allowed to proceed, plaintiffs are potentially: happy due to the chance of being heard and the fair administration of justice (192 points); unhappy due to the overwhelming cost of discovery and the time it takes to litigate (82 points). Alternatively, defendants are potentially: happy due to the fair administration of justice (30 points); unhappy due to their liability to the plaintiff and the time it takes to litigate (184 points). In addition to litigants, individuals in the legal profession are

potentially: happy due to an increase in jobs to handle paperwork (7 points); unhappy due to increasing paperwork resulting from increased litigation (2 points). Lastly, the general public is potentially: happy due to their confidence in the legal system (895 points); unhappy due to increased taxes used to cover litigation costs (834 points).

Correspondingly, if the motion to dismiss is granted, plaintiffs are potentially: happy due to saving on the time and cost of litigation (32 points); unhappy due to lack of the fair administration of justice (186 points). Alternatively, defendants are potentially: happy due to their lack of liability to the plaintiff (195 points); unhappy due to the lack of the fair administration of justice (19 points). In addition to litigants, individuals in the legal profession are potentially: happy due to decreasing paperwork resulting from a decrease in litigation (2 points); unhappy due to a decrease in jobs resulting from a decrease in litigation (9 points). Lastly, the general public is potentially: happy due to a decrease in taxes resulting from a decrease in litigation (956 points); unhappy due to their lack of confidence in the legal system (803 points).

Evaluating the utility calculus, it is clear that allowing the respondent's complaint to proceed will result in 1124 points of happiness versus 1102 points of unhappiness, resulting in an overall happiness of 24 points. In contrast, granting the petitioner's motion to dismiss will result in 1185 points of happiness versus 1017 points of unhappiness, resulting in an overall happiness of 168 points. Therefore, it is clear that Rule 8 of the FRCP should reflect that the respondent's complaint is insufficient, and thus will not survive a motion to dismiss. I reverse. The petitioners' motion to dismiss is granted.

FASCIST, J. I adamantly dissent. It is clear; the foundation of our noble society is the State, rooted in tradition and triumphant in the struggle. It must be protected. The legal system



was forged to protect our traditions and to ensure that we, as a people, triumph in the struggle to take back what is rightfully ours. There are no rights; individuals are seen by the law only insofar as they further the ends of our institution. The system suppresses dissent, punishes betrayal, and protects the loyal. Anything else done by the law is an abuse, and should be destroyed. The case before us is a prime illustration of the abuse that must be rooted out.

When interpreting Rule 8 of the Federal Rules of Civil Procedure (FRCP), or any law for that matter, individuals are only relevant to the degree that they present the State's argument. By filing a complaint against the State, Mr. Iqbal is certainly not presenting an argument advanced by the State. In fact, he is not a member of the State; he has declared himself an enemy of the State. As an enemy, Mr. Iqbal is not privy to the protection of the State; he is an outsider. The treatment he received while detained in the ADMAX SHU was a justified function of the State, a function to protect the State from its enemies. It is appalling that the Court of Appeals could have made such an egregious error against the State. Thus, the State's motion to dismiss is granted, for Mr. Iqbal's complaint does not meet the pleading standard required under Rule 8 of the FRCP. The decision of the Court of Appeals is hereby reversed.

CRITICAL, J. I concur with the opinion of the Chief Justice, albeit for far different reasons. As a member of this distinguished panel, I am asked to adjudicate the dispute between differing interpretations of Rule 8 of the Federal Rules of Civil Procedure (FRCP). However, in doing so, I find myself deeply troubled as I map the grave injustice that has brought us to this juncture. It is clear that the legal system has betrayed those of whom it was forged to protect: the weak; the innocent; the disadvantaged. The case before us speaks to this atrocity. In the weeks following the September 11, 2001, terrorist attacks, numerous branches of federal law enforcement launched an investigation to flesh out those responsible for the attacks. As a result

of the investigation, Javaid Iqbal, a Pakistani Muslim, was picked on immigration charges, detained and brutally tortured, seemingly on account of his race, religion and national origin. These unspeakable events were deemed justified in the interest of national security. However, Mr. Iqbal was never charged in connection with the attacks; instead, he was released and deported. It is preposterous to think that the legal system should support the torture of innocent human beings. The system has failed us; we must trash the system.

As a consequence of the horrendous conditions he faced during his stay in the ADMAX SHU, Mr. Iqbal filed a complaint against the United States. As a result, I find myself in the position of deciding whether Rule 8 of the FRCP should be interpreted to allow his complaint to proceed or to forever be quashed by the State's motion to dismiss. A number of my esteemed colleagues would have us shut the door on this grave injustice. However, Mr. Iqbal's complaint must be allowed to proceed in order to illustrate the horrendous flaws of the system. Thus, the State's motion to dismiss is denied. I affirm.

FEMINIST, J. I concur. In determining whether Javaid Iqbal's complaint is sufficient under Rule 8 of the Federal Rules of Civil Procedure (FRCP), it is patently important to consider the effects of the law from the perspective of individuals within marginalized groups. These perspectives are essential in creating a keen awareness of the injustices that have been historically upheld by the law. Moreover, it is exceedingly important for the individuals within these groups to relate the effects of the law on their lives. To be precise, it is important for these individuals to learn their story; and, it is important for their narrative to be heard.

Mr. Iqbal's story is a tragic one; it begins on the day he entered the United States. Though the record is insufficient in some respects, we can imagine that Mr. Iqbal arrived on a plane from Pakistan with high hopes of making a better life for his family here in the United States. As a

Pakistani Muslim, an outsider in a foreign land, Mr. Iqbal knew that his new life would be very challenging; he embraced the challenge. However, he never expected for the challenge to chew him up and swallow him whole. On one fateful day in late September, Mr. Iqbal was picked up on immigration charges and detained by federal law enforcement, seemingly on account of his race, religion and national origin. He was informed that he was being investigated in connection with the September 11, 2001, terrorist attacks on New York and Washington D.C. He was subsequently transferred to the ADMAX SHU where he was held in isolation and seemingly tortured by federal officials. Eventually, after having been cleared of the charges relating to the attacks, Mr. Iqbal was released and deported to Pakistan. Again, we can imagine an innocent man being hauled off by federal officials, disgraced, as his co-workers look on in astonishment. Moreover, we can imagine a family waiting days, months, even years, for their father—their livelihood—to return home. In sum, this is a tragic story of a family that has been marginalized and abused by the law.

As a result of these grave injustices, Mr. Iqbal, after returning to Pakistan, filed a complaint against the United States in federal court. The case now stands before us; the issue is whether Mr. Iqbal's complaint is sufficient to survive a motion to dismiss under Rule 8 of the FRCP. I must answer in the affirmative. Mr. Iqbal must be allowed to tell his tragic story; Rule 8 demands it. Cutting Mr. Iqbal off before he is allowed to learn his story would be a further injustice. In order to learn his story, he must be allowed to tell it. For the foregoing reasons, I affirm the ruling of the Court of Appeals.

RACE CRITICAL, J. I, too, concur with the opinion of the Chief Justice. In determining the sufficiency of Javaid Iqbal's complaint under Rule 8 of the Federal Rules of Civil Procedure (FRCP), it is important to consider the effects of the law from the perspective of individuals

within marginalized groups—i.e. groups, such as discreet racial groups, that have been notoriously disfavored by the law. These perspectives are essential in creating a keen awareness of the discrimination and injustice that has historically plagued our system of law here in the United States. Moreover, it is exceedingly important for the individuals within these groups to relate the effects of the law on their lives. To be precise, it is important for their narrative to be heard so that the system of injustice, being made aware of its failures, will be armed with the tools to cure itself.

On September 11, 2001, New York and Washington D.C. were heinously attacked by members of a Muslim terrorist organization. Consequently, the attacks were believed to have been coordinated by a number of males of Arab descent. Mr. Iqbal, a Pakistani Muslim, was a male of Arab descent residing in the United States at the time of the infamous attacks. Surprisingly, as a member of this racial minority, Mr. Iqbal—along with numerous Arab Muslim men—was picked up by federal law enforcement on immigration charges in the weeks following the attacks. He was subsequently detained and seemingly tortured for his suspected involvement in the attacks. It is clear that but for the fact that Mr. Iqbal belonged to the discreet racial minority believed to have perpetrated the attacks, he would have never been picked up and detained. Though the record is somewhat incomplete with respect to certain information, it is likely fair to say that Europeans, or Asians for that matter, were not a top priority for the Bureau of Immigration in the weeks following the Sept. 11, 2001, terrorist attacks. That is, Mr. Iqbal was not accompanied by a host of Europeans and Asians during his stay in the ADMAX SHU. Clearly, the law has marginalized and abused Mr. Iqbal on account of his race.

As a result of this grave injustice, Mr. Iqbal, after returning to Pakistan, filed a complaint against the United States in federal court. The case now stands before us; the issue is whether

Mr. Iqbal's complaint is sufficient to survive a motion to dismiss under Rule 8 of the FRCP. I must answer in the affirmative. Mr. Iqbal must be allowed to tell his tragic story in order to demonstrate the flaws of the legal system; Rule 8 demands it. By allowing Mr. Iqbal to tell his story and to participate in open and unimpeded discovery, the system will have taken the first step to righting the wrongs of the past. We will not tolerate racial discrimination any longer. For the foregoing reasons, I affirm the ruling of the Court of Appeals.

PRAGMATIST, J. I strongly concur with the opinion of the Chief Justice. I believe the Chief Justice has correctly framed the issue in this case. The issue is whether the respondent's complaint, when assessed under Rule 8 of the Federal Rules of Civil Procedure (FRCP), contains the sufficient factual matter needed to survive the petitioners' motion to dismiss. In responding to this discreet issue, it is my judicial duty to (i) gather all of the pertinent facts surrounding the case, as many facts as is humanly possible, (ii) consider all of the relevant law pertaining to Rule 8 of the FRCP and (iii) make the best decision possible with respect to the respondent's complaint, given (i) and (ii)—i.e. all of the tools at my disposal.

With that said, it is not my intention here to revisit the facts of the case before me. The Chief Justice has already related all of the pertinent facts in sufficient detail. Moreover, he has correctly noted that *Twombly* is controlling in this case with respect to the sufficiency of the respondent's complaint. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007) (a claim's factual allegations, when viewed in the context of the specific case, must "allow a court to draw a reasonable inference as to the liability of the defendant to the complainant, an inference facilitated by the reviewing court's experience and commonsense"). I would like to make one small note, however, concerning the legislative intent behind the FRCP, and Rule 8 specifically. The purpose of the FRCP is to facilitate a speedy resolution to valid legal disputes. Thus, in light

of the foregoing, and as a result of my many years of judicial experience and use of commonsense, the facts in this case indicate—as noted by the Chief Justice—that the respondent (i) has a valid legal claim as against the petitioners and (ii) could not have plead the facts more adequately given the unique nature of the case. Therefore, taking into account all of the facts before me, including the arguments of my esteemed colleagues, I must interpret Rule 8 of the FRCP in favor of the respondent and allow his complaint to proceed.

On a final note, by allowing the respondent's complaint to proceed, I am not completely shutting the door on the petitioner's motion to dismiss. I am simply allowing the respondent to gather additional facts concerning the case through the discovery mechanisms set forth in the FRCP. These additional facts will likely provide a more adequate picture of the case, empowering later judges to make a more informed decision as to whether the respondent's complaint should be dismissed. Given the unique nature of this case, this seems to be the best approach considering that discovery costs will likely be minimal with respect to the petitioners. For the foregoing reasons, I affirm.

MODERN LIBERAL, J. I concur with the opinion of the Chief Justice. The issue before us today is whether the facts contained in the respondent's complaint are sufficient to survive a motion to dismiss pursuant to Rule 8 of the Federal Rules of Civil Procedure (FRCP). In assessing this issue, we must first decide whether the right to bring a cause of action is a political right, a social good or both. Clearly, the right to bring a cause of action is a social good because it protects individuals in society from being wrongfully harmed. Because the social goods of a society are to be allocated so that they benefit the least advantaged members of that society, there is a strong argument in the case before us that the respondent's complaint is insufficient as against the petitioners. That is, by allowing the respondent's complaint to proceed, we are

harming the least advantaged members of society by depriving them of a degree of executive protection. Thus, in affording the petitioner's an overwhelming amount of protection under the doctrine of qualified immunity, they will be able to provide a great benefit to the least advantaged members of society by protecting those members from external threats.

However, though the right of action is clearly a social good, I also believe that the right of action is a political right that is deeply rooted in the traditions of our legal system. Political rights are those basic rights and liberties, such as the freedom to express oneself, that cannot be denied to individuals within a society so long as they are consonant with everyone in society having similar access to those rights and liberties. Moreover, political rights may not be violated for the sake of securing social goods. As a result, the respondent's complaint must be allowed to proceed under Rule 8 of the FRCP so long as it does not impinge upon the political rights of others—e.g. when it is patently evident that a complainant has filed a frivolous lawsuit. In the case before us, it is clear that Rule 8 of the FRCP should be interpreted in favor of the respondent because he has made a good faith effort to assert one of his political rights. The Chief Justice's statement is correct; "it would have been almost impossible for the respondent to plead the [facts] in a more adequate manner." I affirm; motion denied.

JOHN D. ASHCROFT, FORMER ATTORNEY GENERAL, *et al.*, PETITIONERS *v.* JAVAID IQBAL, *et al.*, RESPONDENTS

on writ of certiorari to the United States Court of Appeals for the Second Circuit

Decided November 30, 2009

---

This action was brought by the respondents in the United States District Court for the Eastern District of New York alleging governmental discrimination in violation of the 1st and 5th Amendments to the United States Constitution. The petitioners filed a timely motion to dismiss for failure to state an actionable claim pursuant to Rule 8 of the Federal Rules of Civil Procedure. The District Court subsequently denied the motion on the grounds that, if taken as true, the factual allegations set forth in the respondents' complaint were sufficient to state a claim for governmental discrimination. On interlocutory appeal, the United States Court of Appeals for the Second Circuit affirmed the District Court's decision. We granted certiorari, and now affirm. The pertinent facts of the case sufficiently appear in the opinion of the Chief Justice.

HART, C. J. In the wake of the September 11, 2001, terrorist attacks on New York and Washington, D.C., the Federal Bureau of Investigation (FBI), along with certain specialized entities within the Department of Justice, embarked upon an extensive investigation to identify the perpetrators in an effort to prevent them from instituting additional attacks on the United States. During the initial stages of the investigation, the FBI questioned a number of individuals with suspected links to the terrorist attacks and to terrorism in general. Of those individuals, a large portion were subsequently detained by the federal government on immigration charges; and in addition, roughly twenty-five percent of those detained were deemed to be "of high interest" to the investigation. Individuals "of high interest" were detained in the Administrative Maximum Special Housing Unit (ADMAX SHU) within the Metropolitan Detention Center located in



Brooklyn, New York. During their detention in the ADMAX SHU, these individuals were subjected to severe restrictive conditions in order to prevent them from communicating with other detainees or the general public. The respondent, Javaid Iqbal, a Pakistani Muslim, was among the group of "high interest" individuals detained in the ADMAX SHU following the FBI's investigation into the September 11, 2001, terrorist attacks.

Following his eventual release from the ADMAX SHU and his subsequent removal to Pakistan, the respondent filed a complaint in the United States District Court for the Eastern District of New York alleging that, while detained in the ADMAX SHU, he was subjected to severe discriminatory treatment at the hands of both prison officials and personnel. For instance, the respondent's complaint alleges that prison guards, without justification, "picked him up and threw him against the wall, kicked him in the stomach, punched him in the face, and dragged him across the room," an incident that happened on the day he was first transferred to the ADMAX SHU. Likewise, over the course of his detention in the ADMAX SHU, the respondent was (i) repeatedly denied immediate medical attention and adequate food, (ii) subjected to unjustified strip and body cavity searches, (iii) verbally berated as a "terrorist" and "Muslim killer," and (iv) impeded from accessing counsel and engaging in prayer and religious study.

In addition to the alleged acts of discrimination at the hands of the ADMAX SHU officials and personnel, the respondent adamantly maintains that he was also subjected to discrimination at the very highest levels of federal law enforcement. The respondent's complaint alleges that the FBI, under the direction of the petitioner, Robert Mueller (Director of the FBI), instituted a discriminatory policy by deeming the respondent, along with numerous other Arab Muslim men, a person "of high interest" solely because of his race, religion, and national origin. Moreover, the complaint alleges that the petitioner, John Ashcroft (United States Attorney

General), having met with Mr. Mueller in the weeks following the September 11, 2001, terrorist attacks, was the "principle architect" behind the policy of detaining "high interest" individuals under highly restrictive conditions. Accordingly, the petitioners "each knew of, condoned, and willfully and maliciously agreed to subject" the respondent to harsh conditions of confinement "as a matter of policy, solely on account of [his] religion, race, and/or national origin and for no legitimate penological interest."

In response to the respondent's complaint, the petitioners, asserting the defense of qualified immunity, moved to dismiss on the grounds that the complaint lacked the sufficient factual matter needed to support an action for governmental discrimination. The District Court denied the petitioner's motion to dismiss holding that, given the truth of the complaint's factual allegations, "it cannot be said that there [is] no set of facts on which [the respondent] would be entitled to relief as against" the petitioners. Consequently, the petitioners filed an interlocutory appeal in the United States Court of Appeals for the Second Circuit; the Court of Appeals subsequently affirmed the holding of the District Court. We granted certiorari. The issue before us is whether the respondent's complaint contains the sufficient factual matter needed to state a claim for purposeful and unlawful discrimination as against the petitioners pursuant to Rule 8 of the Federal Rules of Civil Procedure (FRCP). Given the current standards applicable under federal law, I am compelled to answer the issue in the affirmative.

Rule 8 of the FRCP is a rule that governs the procedure for filing a sufficient legal claim in federal court. According to Rule 8, a complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Moreover, although the complaint's factual allegations must not be sufficiently detailed, they must, when accepted as true, "state a claim to relief that is plausible on its face."

*Id.* at 570. A claim is facially plausible when the factual allegations, viewed in the context of the specific case, allow a court to draw a reasonable inference as to the liability of the defendant to the complainant, an inference facilitated by the reviewing court's experience and commonsense. *Id.* at 555-56. Thus, a complaint must provide the sufficient factual matter needed to create a reasonable inference between the factual allegations and the legal conclusions in order for it to survive a motion to dismiss.

Of course, interpretations of reasonableness with respect to inferences are as varied as the colors in a spectrum. For example, it may be reasonable for a complaint to merely show how the factual allegations lead to the asserted legal conclusions; alternatively, it may be reasonable to require that the complaint contain verifiable allegations. In order to determine how we, as judges, are to interpret reasonableness under Rule 8, we must look to the law, to precedent, to policy. Surprisingly, the case before us is simple considering that *Twombly* tells us just how to interpret reasonableness. Namely, an inference is reasonable when a reviewing court, viewing the case in its specific context and relying on experience, commonsense, and sound policy, infers from the facts that the defendant is liable to the complainant. *See id.* at 555-56. Given this interpretation, it is clear that the factual allegations contained in the respondent's complaint support a reasonable inference which bridges the gap between its factual allegations and legal conclusions. To hold otherwise would seemingly fly in the face of judicial experience and commonsense.

The respondent's complaint alleges that he was the subject of governmental discrimination on account of his race, religion and national origin. In support of this legal conclusion, the respondent's complaint details the discriminatory treatment he received during his stay as a "high interest" individual in the ADMAX SHU. The complaint goes on to allege

that petitioner Ashcroft was the "principle architect" behind the policy of detaining "high interest" individuals, while petitioner Mueller was instrumental in effecting the policy against the respondent. Moreover, the petitioners each knew that the policy was being carried out in a discriminatory manner. Given the pleadings and the unique nature of the case, experience and commonsense dictate a reasonable inference towards liability.

First, given that the petitioners are afforded a level qualified immunity, it would have been almost impossible for the respondent to plead the details surrounding the petitioners' knowledge of discrimination in a more adequate manner. The information would not have existed, aside from a complete confession. Experience and commonsense dictate that the respondent is, at least, entitled to discovery in order to flesh out the truth in greater detail. Secondly, although the allegation concerning the petitioners' knowledge can be viewed as conclusory, the specific context of the case, along with the other allegations in the complaint, suggests that it should be treated as a factual matter incumbent on the whole. Rather than asserting an allegation of general knowledge, the complainant's allegation indirectly references the petitioners' specific knowledge of the discriminatory treatment through the local officials' implementation of a discriminatory policy. Experience and commonsense, again, dictate that the respondent's complaint should survive a motion to dismiss. For the foregoing reasons, I affirm the decision of both the District Court and the Court of Appeals. The petitioners' motion to dismiss is denied.

FINNIS, J. I concur with the opinion offered by the Chief Justice. In assessing issues that come before us, we must be wary in hastily applying the strictures imposed by the law, including those imposed by Rule 8, for it is exceedingly important for us to first reflect upon ourselves as rational individuals. It is self-evident that reason should guide our judicial

decisions, for it would be foolish to believe that individuals could follow a law that ran counter to the dictates of their own rationality, even assuming that they had a burning desire to do so. Reason demands that individuals act in a rational manner. To act otherwise would simply be foolish—e.g. if we chose to starve rather than eat. Thus, it is our duty, as officials of the law, to weigh our judgments against the dictates of reason in order to ensure that they conform to the bounds of human rationality.

In assessing Rule 8 in light of the current case, the Chief Justice correctly notes that we have reached an impasse in the law, and thus must choose between two interpretations of the rule in question. Moreover, he asserts that the law demands that we use our judicial experience and commonsense in formulating a just decision. I partially agree. Experience and commonsense must be used in adjudicating disputes in so far as they are the primary tools of rational thinking. By using experience and commonsense, judges promote the use of reason demanded by human rationality. By promoting the use of reason, society is better equipped to realize the additional social goods to which human rationality aims. Thus, as suggested in the Chief Justice's factual analysis, judicial experience and commonsense dictate that the petitioners' motion to dismiss be denied because, in doing so, we equip ourselves with the tools to realize the social goods to which human rationality aims.

By denying the petitioners' motion to dismiss through the use of reason, we at once realize that such denial promotes the advancement of both knowledge and life. Knowledge is advanced because, by endorsing an interpretation of Rule 8 that allows a high number of complaints to proceed, we further the pursuit of knowledge through discovery. Likewise, life is promoted when we allow complaints to proceed because we create a deterrence mechanism for those who (i) wish to cause the body harm to others and (ii) would resort to self-help in order to

right a wrong. Thus, denying the petitioners' motion to dismiss decidedly promotes the social goods to which human rationality aims. It is clear; the respondent's complaint is sufficient under Rule 8. For the foregoing reasons, I affirm the decision of the Court of Appeals.

BENTHAM, J. I respectfully dissent. In assessing the sufficiency of the respondent's complaint under Rule 8 of the Federal Rules of Civil Procedure (FRCP), I must base my decision on that which will benefit the nation as a whole. In doing so, I must compare the benefits and burdens of allowing the respondent's complaint to proceed with the benefits and burdens of granting the petitioner's motion to dismiss. I think the best way to proceed is to begin by assessing the benefits and burdens with respect to the individuals most directly affected by my decision—i.e. the litigants and legal officials. I will begin with assessing the benefits and burdens of allowing the respondent's complaint to proceed.

For the sake of proportionality, let us assume that our nation contains 1000 individuals. Over the course of a lifetime, 200 of these individuals will litigate a dispute and ten of them will work in the legal profession. Given these numbers, if the complaint is allowed to proceed, plaintiffs are potentially: benefited due to the chance of being heard and the fair administration of justice (192 points); burdened due to the overwhelming cost of discovery and the time it takes to litigate (82 points). Alternatively, defendants are potentially: benefited due to the fair administration of justice (30 points); burdened due to their liability to the plaintiff and the time it takes to litigate (184 points). In addition to litigants, individuals in the legal profession are potentially: benefited due to an increase in jobs to handle paperwork (7 points); burdened due to increasing paperwork resulting from increased litigation (2 points). Lastly, the general public is potentially: benefited due to their confidence in the legal system (895 points); burdened due to increased taxes used to cover litigation costs (834 points).

Correspondingly, if the motion to dismiss is granted, plaintiffs are potentially: benefited due to saving on the time and cost of litigation (32 points); burdened due to lack of the fair administration of justice (186 points). Alternatively, defendants are potentially: benefited due to their lack of liability to the plaintiff (195 points); burdened due to the lack of the fair administration of justice (19 points). In addition to litigants, individuals in the legal profession are potentially: benefited due to decreasing paperwork resulting from a decrease in litigation (2 points); burdened due to a decrease in jobs resulting from a decrease in litigation (9 points). Lastly, the general public is potentially: benefited due to a decrease in taxes resulting from a decrease in litigation (956 points); burdened due to their lack of confidence in the legal system (803 points).

Evaluating the benefits and the burdens, it is clear that allowing the respondent's complaint to proceed will result in 1124 points of benefits versus 1102 points of burdens, resulting in an overall benefit of 24 points. In contrast, granting the petitioner's motion to dismiss will result in 1185 points of benefits versus 1017 points of burdens, resulting in an overall benefit of 168 points. Therefore, it is clear that Rule 8 of the FRCP should reflect that the respondent's complaint is insufficient, and thus will not survive a motion to dismiss. I reverse. The petitioners' motion to dismiss is granted.

MUSSOLINI, J. I adamantly dissent. It is clear; the U.S. Constitution is the backbone of our great nation, a document forged by our forefathers to protect the values of the American people. To this end, the Constitution affords enormous power to the Executive so that he may protect this great nation "against all enemies, foreign and domestic." *See* U.S. Const. art. II, § 2; Oath of Allegiance, 8 C.F.R. §337.1(a) (2009). Moreover, the Executive, in the execution of his duties, is shielded "from liability for civil damages" to individuals under the doctrine of qualified

immunity "insofar as [his] conduct does not violate clearly established statutory or constitutional rights." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). The case before us is an excellent illustration of this doctrine.

On September 11, 2001, New York and Washington D.C. were heinously attacked by members of a Muslim terrorist organization. The attacks were believed to have been coordinated by a number of males of Arab descent. In response, federal authorities launched an investigation to flesh out those responsible, focusing their efforts on Arab Muslim men within the United States. As a result of the investigation, Javaid Iqbal, a Pakistani Muslim, was picked up—along with numerous other Arab Muslim men—on immigration charges and detained until he could be ruled out as a suspect. The policy of detaining Arab Muslim men "of high interest" to the investigation, a policy emanating from the highest levels of the Executive Branch, was justified in the interest of national security—i.e. a compelling interest, narrowly tailored. Thus, Mr. Iqbal's complaint against the State is insufficient and cannot stand. We must shut the door on Mr. Iqbal for he has failed to meet the pleading requirements under the Rule 8 of the Federal Rules of Civil Procedure. The State's motion to dismiss is granted. The decision of the Court of Appeals is hereby reversed.

UNGER, J. I concur with the opinion of the Chief Justice, albeit for far different reasons. As a member of this distinguished panel, I am asked to adjudicate the dispute between differing interpretations of Rule 8 of the Federal Rules of Civil Procedure (FRCP). However, in doing so, I find myself deeply troubled as I contrast the arguments presented by the United States, in the case before us, with the dictates of the Declaration of Independence and the U.S. Constitution. Clearly, there is an irreconcilable disagreement between the noble truths of these sacred documents and the arguments presented by the State against Javaid Iqbal. According to the



Declaration of Independence, it is "...self-evident, that all men are created equal, that they are endowed...with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness." Mr. Iqbal, however, was unjustly deprived of these unalienable rights by the State.

In the weeks following the September 11, 2001, terrorist attacks, numerous branches of federal law enforcement launched an investigation to flesh out those responsible for the attacks. As a result of the investigation, Mr. Iqbal, a Pakistani Muslim, was picked on immigration charges, detained and brutally tortured, seemingly on account of his race, religion and national origin. These unspeakable events were deemed justified in the interest of national security. However, Mr. Iqbal was never charged in connection with the attacks; instead, he was released and deported. It is disappointing, even chilling, to think that the noble truths of the Declaration of Independence and the U.S. Constitution support the State's treatment of Mr. Iqbal, or any individual for that matter.

Consequently, Mr. Iqbal filed a complaint against the United States for the horrendous conditions he faced while in the ADMAX SHU. As a result, I find myself in the position of deciding whether Rule 8 of the FRCP should be interpreted to allow his complaint to proceed or to forever be quashed by the State's motion to dismiss. Clearly, a number of my colleagues would have us shut the door on this grave injustice. However, Mr. Iqbal's complaint must be allowed to proceed in order to highlight the hypocrisy perpetuated by a system that has forgotten the noble truths upon which it was founded. Thus, the State's motion is denied. I Affirm.

MACKINNON, J. I concur. In determining whether Javaid Iqbal's complaint is sufficient under Rule 8 of the Federal Rules of Civil Procedure (FRCP), it is patently important to consider the effects of the law from the perspective of women, or any group whose unique issues have been generally neglected by the law. As we have seen from the women's rights

movement in the twentieth century, the law has generally turned a blind eye towards issues that have disparate effects upon woman and the family, though some progress has been made. *See generally Reed v. Reed*, 404 U.S. 71 (1971) (concerning the issue of gender equality); *Roe v. Wade*, 410 U.S. 113 (1973) (concerning the issue of a woman's right to privacy with respect to pregnancy). The perspectives embodied in these cases are essential in creating a keen awareness of the important issues, affecting women and the family, that have been historically neglected by the law. Only by remembering these unique issues, and stories of the people whose lives they have affected, will we be able to refrain from ignoring the needs of women, and groups similarly situated, thus allowing them to recognize their full potential under the law. The case before us today presents just such an issue.

Mr. Iqbal's story is a tragic one; it begins on the day he entered the United States. Though the record is insufficient in some respects, we can imagine that Mr. Iqbal arrived on a plane from Pakistan with high hopes of making a better life for his family here in the United States. As a Pakistani Muslim, an outsider in a foreign land, Mr. Iqbal knew that his new life would be very challenging; he embraced the challenge. However, he never expected for the challenge to chew him up and swallow him whole. On one fateful day in late September, Mr. Iqbal was picked up on immigration charges and detained by federal law enforcement, seemingly on account of his race, religion and national origin. He was informed that he was being investigated in connection with the September 11, 2001, terrorist attacks on New York and Washington D.C. He was subsequently transferred to the ADMAX SHU where he was held in isolation and seemingly tortured by federal officials. Eventually, after having been cleared of the charges relating to the attacks, Mr. Iqbal was released and deported to Pakistan. Again, we can imagine an innocent man being hauled off by federal officials, disgraced, as his co-workers look on in astonishment.

Moreover, we can imagine a family waiting days, months, even years, for their father—their livelihood—to return home. In sum, this is a tragic story of a family that has been discriminated and abused by the law.

As a result of these grave injustices, Mr. Iqbal, after returning to Pakistan, filed a complaint against the United States. The case is now before us; the issue is whether Mr. Iqbal's complaint is sufficient to survive a motion to dismiss under Rule 8 of the FRCP. I must answer in the affirmative. Rule 8 demands the sufficiency of Mr. Iqbal's complaint. Cutting Mr. Iqbal off before he is allowed to present a unique issue, affecting him and those similarly situated, would be a further injustice. In order to fully appreciate the issue, he must be allowed to communicate it. For the foregoing reasons, I affirm the ruling of the Court of Appeals.

BELL, J. I, too, concur with the opinion of the Chief Justice. In determining the sufficiency of Javid Iqbal's complaint under Rule 8 of the Federal Rules of Civil Procedure (FRCP), it is increasingly important to consider the effects of the law from the perspective of individuals within racial minorities. As the civil right cases throughout the nineteenth and twentieth century demonstrate, racial minorities have been notoriously disfavored by the law. *See generally Plessy v. Ferguson*, 163 U.S. 537 (1986) (upholding the constitutionality of "separate but equal" facilities); *Korematsu v. United States*, 323 U.S. 214 (1944) (upholding the conviction of a Japanese-American who refused to obey an executive relocation order targeting the racial minority to which he belonged). The perspectives embodied in these cases are essential in creating a keen awareness of the racial discrimination and injustice that has historically plagued our system of law here in the United States. Only by remembering these cases, and stories of the people whose lives they have touched, will we be able to refrain from

repeating the injustices of the past and continue on a road to greater equality for all. Surprisingly, the case before us bears a striking resemblance to *Korematsu*.

On September 11, 2001, New York and Washington D.C. were heinously attacked by members of a Muslim terrorist organization. Consequently, the attacks were believed to have been coordinated by a number of males of Arab descent. Mr. Iqbal, a Pakistani Muslim, was a male of Arab descent residing in the United States at the time of the infamous attacks. Surprisingly, as a member of this racial minority, Mr. Iqbal—along with numerous Arab Muslim men—was picked up by federal law enforcement on immigration charges in the weeks following the attacks. He was subsequently detained and seemingly tortured for his suspected involvement in the attacks. It is clear that but for the fact that Mr. Iqbal belonged to the discreet racial minority believed to have perpetrated the attacks, he would have never been picked up and detained. Though the record is somewhat incomplete with respect to certain information, it is likely fair to say that Europeans, or Asians for that matter, were not a top priority for the Bureau of Immigration in the weeks following the Sept. 11, 2001, terrorist attacks. That is, Mr. Iqbal was not accompanied by a host of Europeans and Asians during his stay in the ADMAX SHU. Clearly, the law has discriminated and abused Mr. Iqbal on account of his race.

As a result of this grave injustice, Mr. Iqbal, after returning to Pakistan, filed a complaint against the United States. The case is now before us; the issue is whether Mr. Iqbal's complaint is sufficient to survive a motion to dismiss under Rule 8 of the FRCP. I must answer in the affirmative. Rule 8 demands that Mr. Iqbal be given his day in court. By allowing him to participate in open and unimpeded discovery, we, as a nation, will be able to continue on a path to securing greater equality for all. We will not tolerate racial discrimination any longer. For the foregoing reasons, I affirm the ruling of the Court of Appeals.

JAMES, J. I strongly concur with the opinion of the Chief Justice. I believe the Chief Justice has correctly framed the issue in this case. The issue is whether the respondent's complaint, when assessed under Rule 8 of the Federal Rules of Civil Procedure (FRCP), contains the sufficient factual matter needed to survive the petitioners' motion to dismiss. In assessing this issue, it is my judicial duty to scour the record for all of the facts that are dispositive of the issue so that I may reach the most fitting resolution.

With that said, it is not my intention here to revisit the facts of the case before me. The Chief Justice has already related all of the dispositive facts in sufficient detail. Moreover, he has correctly noted that *Twombly* is controlling in this case with respect to the sufficiency of the respondent's complaint. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007) (a claim's factual allegations, when viewed in the context of the specific case, must "allow a court to draw a reasonable inference as to the liability of the defendant to the complainant, an inference facilitated by the reviewing court's experience and commonsense"). I would like to make one small note, however, concerning the legislative intent behind the FRCP, and Rule 8 specifically. The purpose of the FRCP is to facilitate a speedy resolution to valid legal disputes. Thus, in light of the foregoing, and as a result of my many years of judicial experience and use of commonsense, the facts in this case indicate—as noted by the Chief Justice—that the respondent (i) has a valid legal claim as against the petitioners and (ii) could not have plead the facts more adequately given the unique nature of the case. Therefore, taking into account all of the information before me, including the arguments of my esteemed colleagues, I must interpret Rule 8 of the FRCP in favor of the respondent and allow his complaint to proceed.

On a final note, by allowing the respondent's complaint to proceed, I am not completely shutting the door on the petitioner's motion to dismiss. I am simply allowing the respondent to

gather additional facts concerning the case through the discovery mechanisms set forth in the FRCP. These additional facts will likely provide a more adequate picture of the case, empowering later judges to make a more informed decision as to whether the respondent's complaint should be dismissed. Given the unique nature of this case, this seems to be the best approach considering that discovery costs will likely be minimal with respect to the petitioners. For the foregoing reasons, I affirm.

RAWLS, J. I concur with the opinion of the Chief Justice. The issue before us today is whether the facts contained in the respondent's complaint are sufficient to survive a motion to dismiss pursuant to Rule 8 of the Federal Rules of Civil Procedure (FRCP). In assessing this issue, we must first decide whether the right to bring a cause of action is a fundamental right protected under the U.S. Constitution, or rather, simply a value, such as wealth, that is highly prized in our society—more so, of course, for those of us who are able to secure it. Clearly, the right to bring a cause of action is highly prized in our society because it seemingly protects individuals from being wrongfully harmed—i.e. it provides a means to redress. However, as a highly prized value, we are not entitled to the right of action because, in many instances, public policy considerations outweigh the assertion of that value. For instance, in the case before us, there are strong equitable, as well as policy, arguments against allowing the respondent to assert a cause of action against the petitioners. Namely, because it would cause more harm than good. The petitioners, shielded from the respondent's cause of action, are able to benefit society to a greater degree through the unimpeded execution of their duties.

The aforementioned point is mute, however, because the right of action is a fundamental right protected under the U.S. Constitution. Like the freedom assembly or the freedom of expression, the fundamental right of action is deeply rooted in the traditions of our legal system.

Thus, the right of action may not be impinged save for a compelling state purpose, narrowly tailored. As a result, the respondent's complaint must be allowed to proceed under Rule 8 of the FRCP, for the State has failed to narrowly tailor its detention policies at the ADMAX SHU. Though the State may have had a compelling interest in detaining the respondent, the policy of torturing detainees was not narrowly tailored to that purpose. Thus, in the case before us, Rule 8 of the FRCP should be interpreted in favor of the respondent. I affirm; motion denied.