

UNMASKING MASCULINITY IN NEGOTIATION SCHOLARSHIP

*John Miller**

I. INTRODUCTION

Men and women often experience negotiation differently. In fact, many patriarchal societal inequalities play out during negotiations, particularly when men and women negotiate with each other. Researchers like Linda Babcock, Hannah Riley Bowles, and Sara Laschever, to name just a few, have written extensively about how gendered forces in negotiations act upon women in particular.¹ Not only are women held to different standards of behavior in a bargaining scenario, but women are also subject to implicit biases attached to their initiation of negotiations in the first place.² These gendered attitudes also pervade leadership assessments, dictating that women in command must exhibit some traditionally masculine traits while still maintaining social-expected femininity.³

Once we acknowledge that gender roles are socially constructed, and not biologically inherent,⁴ we begin to see how women and men are trained to play certain gender roles, deviations from which are met with discomfort and even scorn.⁵ Invariably, many scholars' conclusions suggest numerous ways to mitigate the difference between men and women in negotiation outcomes, affording women greater success in negotiations and the benefits that follow.

This line of analysis, and its subsequent conclusions, actually reflects a problem with much gender-based research. In much of the literature on negotiation and gender,

* John Miller is a second year JD student at Harvard Law School.

¹ See generally Linda Babcock et al., *Nice Girls Don't Ask*, HARV. BUS. REV., October 2003, <http://hbr.org/2003/10/nice-girls-dont-ask/>; Hannah Riley Bowles et al., *Social Incentives for Gender Differences in the Propensity to Initiate Negotiations: Sometimes It Does Hurt to Ask*, 103 ORG. BEHAV. AND HUM. DECISION PROCESSES 84, 85 (2007)

² Hannah Riley Bowles et al., *Social Incentives for Gender Differences in the Propensity to Initiate Negotiations: Sometimes It Does Hurt to Ask*, 103 ORG. BEHAV. AND HUM. DECISION PROCESSES 84, 85 (2007)

³ *Id.*

⁴ See Ann C. McGinley, *Creating Masculine Identities: Bullying and Harassment "Because of Sex"*, 79 U. COLO. L. REV. 1151, 1161-62 (2008)

⁵ Bowles, *supra* note 2, at 86

maleness is treated as a measuring stick to compare to women's progress in various positive outcomes. The problems are framed in comparison to male performance, and the solutions are dictated in terms of what women can do,⁶ or when they mention men at all, in terms of what men should do differently to help women.⁷ The advice is certainly useful, but it carries the assumption that masculinity is a unitary constant. Gendered research into masculinity has exposed not one, but a multitude of masculinities, acting upon men in ways unaccounted for in gendered negotiation research.⁸ And many of these masculinities are dominated and subservient to the same organizational patriarchy that feminism seeks to topple.⁹ The problem I seek to identify is a general disregard of men as anything more than a monolithic control group, considering the vast sociological and psychological evidence to the contrary.

This article will begin by explaining the anti-essentialist notion of multiple masculinity theory as it is currently understood, demonstrating the complexity missing from arguments that assume all men to operate under and happily conform to one definition of masculinity. I will then identify various issues of masculinity in negotiation scholarship that are either unexplored or underexplored, and develop why these issues are so important in the on-going conversation about negotiation and gender. The aim is not to belie the underperformance of women in negotiations, but instead to demonstrate how the dialogue must change to account for a more comprehensive view of masculinity and the forces it exerts upon both men and women in negotiation.

II. NEGOTIATING BETWEEN MULTIPLE MASCULINITIES AND HEGEMONIC MASCULINITY

No theory of gender can be complete without holding men and masculinity to the same standards of scrutiny as women and femininity. As argued by Nancy E. Dowd, "[i]n much feminist analysis, men as a group largely have been undifferentiated, even universal. What has been critiqued as essentialist when considering women as a group has been accepted with respect to men."¹⁰ Where feminist research may no longer be dominated by "the experience of a single group of women,"¹¹ and must accommodate the multifarious experiences of women of different race, sexual orientation, socioeconomic

⁶ See Bowles, *supra* Note 2; Linda Babcock et al., *Nice Girls Don't Ask*, HARV. BUS.REV., October 2003, <http://hbr.org/2003/10/nice-girls-dont-ask/>

⁷ Andrew Cohn, *Women and Negotiation: Why and How Men Should Come to the Bargaining Table*, 1 OXFORD LEADERSHIP J. 1, 2 (2010)

⁸ David S. Cohen, *Keeping Men "Men" and Women Down: Sex Segregation, Anti-Essentialism, and Masculinity*, 332 HARV. J. L. & GENDER 509, 521 (2010)

⁹ *Id.* at 522

¹⁰ Nancy E. Dowd, *Masculinities and Feminist Legal Theory*, 23 WIS. J. L., GENDER, & SOC'Y, 201, 204 (2009)

¹¹ *Id.* at 203

status, and nation of origin, it continues to describe men in general terms, almost as interchangeable. While this may be useful for describing women's collective experience when up against entrenched male favoritism or implicit bias, it treads dangerously toward generalizing about all men and the character of masculinity.

The concept of one "masculinity" has been largely replaced with the theory of multiple masculinities, which observes that "different people experience and live masculinity differently."¹² Each individual masculinity may contain its own ideals, values, and standards distinct from other understandings of masculinity, and will be potent in shaping the men it acts upon. Just as one group experience does not define women, one group experience does not truly define men. Each of the masculinities is valued, and each is valid as a definition of manhood.

However, these various masculinities all occupy different levels of influence among modern society. The most dominant form of masculinity, the one generally experienced by women and cited by gender theorists, is called "hegemonic masculinity."¹³ Hegemonic masculinity is a valorization of competitive, assertive, and "unfeminine" personality traits, and bundles maleness with power relationships, defined in terms of rules of privileges.¹⁴ Certain traits typically labeled as male, such as assertiveness and competitiveness,¹⁵ are idealized under this standard, while "feminine" characteristics are perceived as weakness. It is through adherence to hegemonic masculinity that men are defined, both amongst themselves and in much gender research focusing on women's experience under patriarchy.

The individual multiple masculinities are therefore the descriptive reality that must contend with the normative imperative of the hegemonic monolith. This process of negotiating masculinity entails finding a comfortable, customized distance from or proximity to the idealized male persona. This is not an easy balancing act, as any deviation from the normative role carries penalties. Hegemonic masculinity is endowed with most, if not all, of the privileges and favorable inequalities assigned to maleness, and distributes this privilege unevenly among the various masculinities depending on their proximity to the hegemonic ideal.¹⁶ A well-cited example of disfavored masculinity is the experience of homosexual men, who often are the subject to harassment and bullying in various forms and across various scenarios and settings.¹⁷ This forced negotiation often makes men feel powerless, as any privilege they might experience

¹² Cohen, *supra* note 8, at 521

¹³ *Id.* at 522

¹⁴ *Id.* at 523

¹⁵ Art Hinshaw & Jess K. Alberts, *Gender and Attorney Negotiation Ethics*, 39 WASH. U. J.L. & POL'Y 145, 146 (2012)

¹⁶ R. W. Connell, *Teaching the Boys: New Research on Masculinity, and Gender Strategies for Schools*, 98 TCHR C. REC. 206, 207 (1996)

¹⁷ McGinley, *supra* note 4, at 1166-67, 70

doesn't manifest in a way they observe or comprehend.¹⁸ As Michael Kimmel notes, "each [man] cuts his own deal . . . as he tries to navigate the passage from adolescence to adulthood without succumbing to the most soul-numbing, spirit-crushing elements that surround him every day."¹⁹ And as a man's values, concept of self, and situation changes throughout his life, he must renegotiate this deal again and again.

To a large extent this negotiation and conflict may be invisible to the outside observer, or indeed to the man himself. Adherence to the hegemonic ideal comes with power,²⁰ while deviation from the ideal carries a feeling of powerlessness that may breed a need for control.²¹ These two may be outwardly indistinguishable, and statistical research that does not account for multiple masculinities may still be generalizable, particularly in creating effective strategies for women to navigate the gendered hierarchy of power relationships. However, more balanced scholarship should be looking at both groups as dynamic convergences of various social factors. Both must perform a role, and both receive rewards and punishments based on that performance, particularly within the realm of negotiation.

In examining how masculinity in its various forms affects how and why men negotiate, it is useful to operate under a framework of evaluative factors. Though much negotiation scholarship focuses on descriptive adjectives like "assertive" and "calm," it may be more useful to evaluate masculinity and negotiation through the four basic rules of masculinity as articulated by psychologist Robert Brannon in 1976 and revisited by Michael Kimmel in 2008²². The first rule is "No Sissy Stuff," which is an open rejection of femininity²³. The second rule is "Be a Big Wheel," which prioritizes pushing the envelope and being a rainmaker.²⁴ The third rule is "Be a Sturdy Oak," demanding a lack of emotionality in times of crisis and conflict.²⁵ The fourth rule is "Give 'em Hell," emphasizing risk-taking and boldness in the case of doubt or difficulty.²⁶ Though these rules were formulated in 1976, they are still very descriptive of hegemonic masculinity,²⁷ and serve as a four-factor scale to measure deviation from this powerful norm. To some extent these rules seem self-evident, and map onto ideas and trends noted in most of the negotiation literature on gender. However, these "rules" are actually normative imperatives rather than descriptive traits. Taken together, they illustrate the various

¹⁸ *Id.* at 1165

¹⁹ MICHAEL KIMMEL, GUYLAND: THE PERILOUS WORLD WHERE BOYS BECOME MEN, 7, (2008)

²⁰ McGinley, *supra* note 4, at 1163

²¹ Dowd, *supra* note 10, at 213

²² Kimmel, *supra* note 19, at 45

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 46

tensions and issues men might be expected to experience during negotiations, from basic everyday transactions to negotiations with an employer to the high-stakes professional negotiations.

III. PERFORMING THE MASCULINE ROLE IN NEGOTIATION

Current scholarship says many interesting things about women in the negotiation context. In a recent article titled *It Does Hurt to Ask*, Professor Hannah Riley Bowles illustrates how women are immediately looked upon with disfavor when trying to negotiate for a higher wage, while their male counterparts generally experience no penalty.²⁸ Bowles identifies the problem as one of role fulfillment, whereby adopting masculine behaviors and traits in initiating and bargaining for necessary wage increases actually harms a woman's chances of success, since she is not fulfilling her "feminine role." The cold reception women get when initiating negotiations disincentives women from initiating bargains in the first place.²⁹ This issue has also gotten attention from outside academia due to the pay discrepancy issue that women face in most industries.³⁰

However, negotiation scholarship often does not have many interesting things to say about masculinity. Though the Bowles article purposely limits the scope of the study to prevent unfounded generalizations across "negotiating contexts," and does acknowledge that women may not always experience more resistance or reluctance to negotiate in other contexts,³¹ it is not certain that those other contexts are getting any attention while pay raise negotiations are the hot issue. Though certainly not the fault of Bowles and her colleagues, who are seeking to solve a real problem in the lives of many women, it is disappointing that more men's issues do not get attention.

Even if masculinity may seem generalizable in its various forms, especially in how it is perceived by women and even disfavored men, there is still much negotiation scholarship can learn from examining its intricacies with a more nuanced lens. In the first place, it will dissuade the binary male/female assessment of statistical data, which requires generalizable inferences leaving many subgroups of both men and women unrepresented. Analysis of how various masculinities actually interact with negotiation theory may inform the course of negotiations scholarship, crafting theories that better address how men feel about the prospect of negotiation. Second, this may give more attention to the disfavored or "subordinated" groups of men, encouraging more analysis

²⁸Bowles, *supra* note 2, at 86

²⁹*Id.*

³⁰ Meghan Casserly, *Why American Women Lose at Negotiation – And What We Can Do About It*, FORBES, April 3, 2012, <http://www.forbes.com/sites/meghancasserly/2012/04/03/why-american-women-lose-negotiation-linked-in-career/>

³¹ Bowles, *supra* note 2, at 85

into their difficulties with negotiation, issues important to them, and how best to succeed in a world that favors their more hegemonic masculine counterparts.

IV. MASCULINITY AND THE CHOICE TO NEGOTIATE

Negotiation scholarship often falls into the habit of characterizing men as eager and proficient negotiators. Articles that bemoan the fact that women do not feel comfortable initiating negotiations or asking for raises tend to imply through comparison that men do not experience this problem. However, a recent Forbes article cites that only 40% of men feel comfortable negotiating, as compared with 26% of women.³² The article calls this “an overwhelmingly female problem,”³³ but the numbers tell a different story. Clearly the argument that men are more comfortable negotiating than women is quite misleading.

This seems in contradiction with the basic understanding of hegemonic masculinity. In theory, hegemonic masculinity is ideally tailored to negotiation.³⁴ Men purposefully eschew the “sissy stuff” that supposedly makes someone a weak negotiator (like emotionality, compassion, and conciliation).³⁵ Additionally, they must be the “big wheel,” pushing the envelope as a breadwinner and rainmaker.³⁶ Therefore, negotiation not only provides a means to acquire new income, benefits, and status, but also conceptually serves as an exhibition field to display masculine traits like assertiveness and aggression. So why might men not feel comfortable negotiating?

One possibility is that hegemonic masculinity is not as descriptive as current negotiation scholarship would have us believe. Many men are not single-minded seekers of glory, but balance a host of values and desires that hegemonic masculinity cannot satisfy. Some men are not so concerned with appearing masculine or “being a big wheel”, since they have carved out their own masculine identity. It might also be true that there is a self-selection sample problem, where men who perform well in negotiations are the sort that would seek them out in the first place. This would certainly explain the results of a negotiation study at the New York University School of Law, where men were generally overconfident about their negotiation performance.³⁷ These men self-selected into a competitive program at a competitive graduate school, which traditionally values the

³² Casserly, *supra* note 30

³³ *Id.*

³⁴ Amy Cohen, *Gender: An (Un)useful Category of Prescriptive Negotiation Analysis?*, 13 *TEX. J. WOMEN & L.* 169, 175 (2003)

³⁵ Kimmel, *supra* note 19, at 45

³⁶ *Id.*; McGinley, *supra* note 4, at 1165

³⁷ Sandra R. Farber & Monica Rickenberg, *Under-Confident Women and over-Confident Men: Gender and Sense of Competence in A Simulated Negotiation*, 11 *YALE J.L. & FEMINISM* 271, 272 (1999)

traits that make them confident negotiators. How the average man feels about negotiation is still unclear.

Another possibility is that, as there is for women, there is a systemic disincentive for men to negotiate in the first place. While for women it takes the form of a ‘goodwill tax,’ for men it may take the form of a high-stakes gamble. While negotiation remains ingrained in the public consciousness as an adversarial process in which hardball tactics and assertiveness are prized, men who cannot measure up in negotiations, or fail spectacularly, may feel like they are ceding some of their masculinity and status in the exchange. This process is likely exacerbated when these men “lose” to a woman,³⁸ a clear inversion of hegemonic masculinity’s domination of femininity. Though theorists Charles B. Craver & David W. Barnes found that men only attract gender-neutral insults for being difficult or a “gunner”,³⁹ men often attract a plethora of gendered pejoratives like ‘pansy’ if they are perceived as weak or ineffectual.⁴⁰ Especially if the other negotiating party is a boss or superior officer, the risks may be too great to gamble on a negotiation.

Lastly, it may be that men do not feel comfortable negotiating because of a stigma attached to the items they want. Negotiating for higher wages is likely not a problem, since as Bowles notes, this behavior is expected of the male role.⁴¹ Other issues, such as time off, special allowances, and paternity leave, might not enjoy the same non-prejudicial status.

Requesting more paternity leave and family time in particular reads like a break from the male role. Being a full-time father, even briefly, requires prioritizing childcare and emotional connectedness. However, these are typically “feminine” traits, and conflict with the “get-ahead” atmosphere of the more “masculine” workplace. Men may have a difficult time justifying paternity leave or personal days for specific family occasions to an employer, or even justifying it to himself depending on the industry.

There may also be a stigma attached to requesting a transfer from dangerous work assignments. Despite comparable employment rates, men suffer 92% of workplace fatalities.⁴² People working in the industry every day likely understand how dangerous some jobs are, or even fear for their lives when working a shift. However, hegemonic masculinity prides a “give ‘em hell” attitude that valorizes bravery and profit motive, not

³⁸ Charles B. Craver & David W. Barnes, *Gender, Risk Taking, and Negotiation Performance*, 5 MICH. J. GENDER & L. 299, 315 (1999)

³⁹ *Id.* at 351

⁴⁰ McGinley, *supra* note 4, at 1166-67.

⁴¹ See Bowles, *supra* note 2, at 86

⁴² *Census of Fatal Occupational Injuries*, Bureau of Labor Statistics, US Department of Labor, (2008 & 2013)

prudence about safety.⁴³ It is entirely likely that some percentage of those men knew the risks but felt powerless to make a difference under the structure of their employment.

There may also be a stigma attached to personal requests that deviate from the workplace norm for cultural reasons. Hegemonic masculinity is not kind to groups it perceives as “Other,” often feminizing them or reducing them to caricature. Requests for special allowances such as leave for religious observances, permission to wear certain items of cultural significance or for more vegetarian options in the cafeteria might be taken as signs of “otherness.” These issues may not be as essential to the workplace experience as wage or salary, but they comprise an important part of the worker’s identity, and even their masculine identity. However, these workers may feel silenced by a rigid and unsympathetic sociocultural hegemonic masculine norm.

V. MASCULINITY AND THE DANGER OF BINARY GENDER DIVIDES

Beyond missing crucial men’s issues in the negotiation context, there is also the possibility that a more nuanced view toward masculinity will explain discrepancies in existing data sets and research. The danger of a binary look at gender is that this division separates a sample into two very large, very diverse groups. It becomes difficult to control for variables, making inferential conclusions less useful or more prone to contradiction.

Negotiation ethics scholarship seems particularly fruitful ground for a more nuanced look at masculinity. In their paper *Gender and Attorney Negotiation Ethics*, Professors Art Hinshaw and Jess K. Alberts tested the validity of previous studies finding that women are “more likely to view certain questionable acts as unethical and are less willing to behave unethically,” as many other studies had found no appreciable difference.⁴⁴ A mixed sample of men and women conducted a negotiation simulation, in which one party sues another for giving him a disease that he does not actually have. The ethical behavior tested is whether the knowledgeable party informs the other party during the negotiation, and whether they would classify the behavior as unethical when compared with the Rules of Professional Conduct.⁴⁵

The results did nothing to clear up the divided literature. At first blush, it would make sense that men would be more unethical than women. The “man rules” prescribe that men should have a cavalier, “give ‘em hell” attitude that prizes bold or tactical thinking, and does not place a premium on rules.⁴⁶ Women, on the other hand, are

⁴³ Kimmel, *supra* note 19, at 45

⁴⁴ Art Hinshaw & Jess K. Alberts, *Gender and Attorney Negotiation Ethics*, 39 WASH. U. J.L. & POL'Y 145, 146-47 (2012)

⁴⁵ *Id.* at 150

⁴⁶ Kimmel, *supra* note 19, at 45

perceived as more cooperative and interested in fair play.⁴⁷ However, men actually outperformed the women in detecting unethical behavior and not acting unethically in negotiation. Comparing their results to those of previous studies, Hinshaw and Alberts concluded that though men and women certainly think differently about situations with ambiguous ethical issues, “neither men nor women hold the upper hand concerning ethical behavior,” and that differences in ethical performance are largely situational.⁴⁸

This case illustrates how adopting a more nuanced view of gender can iron out inconsistencies. Hinshaw and Alberts indeed concluded that “both sexes vary along the two continua of masculinity and femininity,” and a better assessment of this continuum of gender would have “allow[ed] a more fine-grained analysis than using sex alone as a variable.”⁴⁹ In the pursuit of broad generalizations about masculinity and femininity, we miss data that would be less generalizable, but perhaps more useful.

VI. CONCLUSION

Unfortunately, it is hard to speak in concrete terms about how men as a diverse societal grouping experience negotiation. Much of the scholarship on masculinity and negotiation, much like this paper, has been inferential, applying theories and findings from sociology and psychology without a background of specific empirical research to back up assertions. Alternatively, inferences must be drawn from traditional male/female binary research which hides individual differences among men behind large statistical numbers and generalizations. This must change if we are to understand anything about how men perceive and internalize negotiations. We must throw aside the measuring stick model of masculinity in negotiations, and instead embrace masculinity as a network of values and contradictory impulses that acts upon all men differently. The binary male/female model is certainly easier. However, the field of negotiation theory as a whole stands to benefit from a more holistic and nuanced analysis of gender in negotiations.

⁴⁷ Bowles, *supra* note 2, at 86

⁴⁸ Hinshaw, *supra* note 44, at 187

⁴⁹ *Id.* at 187