# Masculinities Theory Helps Understand Employment Discrimination and Could Help Reduce It

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Ann C. McGinley, **Through a Different Lens: Perspectives on Masculinity and Employment Discrimination Law** (Forthcoming 2016, NYU Press)

Ann McGinley has made significant contributions to the legal literature concerning employment discrimination in general and to the social science concerning “masculinities” in particular. In many ways, this book is a culmination of a significant number of articles and a prior book of edited essays on the topic of masculinities and the law. With the new focus on issues of masculinity highlighted in the case of Miami Dolphin football player, Jonathan Martin, who quit the team because of harassment by several of his teammates, there is beginning to be greater general awareness of the multifaceted way in which various masculinity behaviors are used to harass and discriminate against women, people of color, and people perceived as failing to behave in appropriate gender roles.

More recently, there is a focus on the role of stereotypes and masculinity games that have been barriers to women becoming Hollywood directors.[1] So, this forthcoming book is quite timely. It should have a significant impact on how we discuss and resolve questions arising from the role of masculinity games in employment.

The Introduction and first chapter set the background for how masculinities theory works in the context of the workplace. The role of masculinity in employment is very contextual, depending on a variety of situations where masculinity “games” are played. At bottom, despite very different social situations, these games are all about supporting the masculine feelings of the perpetrators while subordinating the victims as weak and incapable. Those contexts in which masculinities play out based on sex, of course, but also race, class and organizational hierarchies can be implicated. Chapter 1 develops in general how employment discrimination law has dealt with, and failed to deal with, the variety of contexts in which masculinity games operate to harm its victims.

Chapters 2 to 4 work out how, at a more detailed level, the law dealing with gender and sex-based harassment has dealt with the masculinities phenomenon. The author traces the strengths and weaknesses of the law in dealing with the issues raised by the social science studies of masculinities. These chapters will be of immediate interest to lawyers and judges in dealing with the issues that masculinity theory present in cases now to be resolved.

Chapters 5 to 8 put the light of careful analysis dealing with masculinities theory on the larger context of the general theories of employment discrimination law. These materials offer a significant critique of these theories in light of the findings of the social sciences, including the implicit bias studies. These studies describe the reality of how employment discrimination operates in the workplace today. The author lays out ways in which employment discrimination law can be developed in light of the social science to the end that the incidence of discrimination could be substantially reduced. Masculinities theory is illuminating as to the shortfalls of conventional employment discrimination law but also as to the potential reforms that are evidence-based and could make a real difference in how protective that law can become.

Chapter 9 returns to the practical aspect of how the social sciences, including masculinities theory, can be utilized to educate judges and juries to better achieve just results in employment discrimination litigation. It also ties back into the more theoretical chapters because it shows how well planned litigation strategies can stretch the present law to better take account of the insights offered by the masculinities social science and, perhaps, develop new ways to protect the victims of employment discrimination.

This book represents the capstone for Ann McGinley's career developing new and important insights into how discrimination occurs in the workplace, how the law deals with it and, especially, how the law can be developed to better protect the victims of employment discrimination. We should all be eagerly awaiting its publication.

*It is with great sadness that Jotwell* notes *the passing of Worklaw co-editor Michael J. Zimmer.*

1. See, Cara Buckley, ACLU Pushes for Inquiry Into Bias Against Female Directors, New York Times, Wednesday, May 13, 2015, C 1.

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