Good Injuries

Anne Bloom, *Berkeley Law*
Marc Galanter

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INTRODUCTION

Pain is associated with injury, but not all pain signals injury. Consider the following practices: body building, corseting, head/neck-shaping, foot binding, circumcision, dieting, piercing, tattooing, plastic surgery, sterilization, and castration. Each of these bodily practices involves pain, but the results are not always viewed as injurious. Depending on the setting, the results of these practices are sometimes read as “injury” and other times as “enhancement” or cure.

These arguably “good” injuries can be sorted along several dimensions, including temporary/permanent; reversible/irreversible; public/invisible; decorative/restorative; and signifying/masking. Some “good” injuries can also be understood as a formative experience or marker of a stage of life. Not uncommonly, whether injuries are viewed as harmful or enhancing is also influenced by fashion or religious obligation. Where either is at play, we tend to view the result of such practices – like circumcision, piercing, tattooing – as “enhancement” rather than “injury.” The key point is that the construction of a particular event as “injury” is very much an interpretive event. Consent or a desire for the result of the ostensibly injurious practice plays a role in this interpretive process, but so do many other factors.

In this chapter, we examine how cultural perceptions of “injury” have changed over time in connection with two practices: tattooing and plastic surgery. We suggest that the increasing frequency of each practice may be associated with a category shift from “injury” to
“enhancement.” We argue that this shift is influenced by one or more factors: (1) the role of professional gatekeeping; (2) the extent to which the practice is viewed as a form of identity construction/presentation; and (3) the perceived curative aspects of the practice. In the analysis that follows, we demonstrate how these factors have influenced a shift in the perception of “injury” in the realms of tattooing and plastic surgery, such that some practices previously considered “injurious” may now be considered “enhancing.”

Although our analysis complicates the notion of injury, we do not mean to minimize the suffering that is experienced by those who are injured. But we do wish to call attention to the role of social and cultural forces, including law, in shaping these experiences. In the setting of tattoo practices and plastic surgery, we are struck particularly by the influential role of professional gatekeepers – the tattoo artists and plastic surgeons – in determining when an injury has occurred. One of the questions raised by this essay is whether practices that emphasize individual construction of identity – like tattooing and plastic surgery – pose a challenge to the role of professionals in determining when an injury has occurred. More broadly, our analysis interrogates legal frameworks that rely on the establishment of an “injury” as a predicate for regulation or compensation.

The well-known dispute pyramid, for example, begins with the perception of injury (Felstiner et al. 1980). As a result, it does not address a significant portion of the interpretive activity that precedes the point at which an individual perceives that an injury has occurred. The root of the word “injury” – injuria – implies a wrongful source of pain. As we know from the dispute pyramid, some of these wrongs come to be pursued and others do not. But what the dispute pyramid does not consider is the earlier processes by which some experiences of pain come to be understood as wrongful and others do not. Our analysis suggests that gaining a better appreciation of these interpretive processes may improve our understanding of how disputes come to be litigated.

While our focus in this essay is on the interpretive move from “injury” to “enhancement,” it is clear that a categorical shift in the perception of the meaning of inflicted pain may also go in the other direction. The results of the practices of corseting and foot binding, for example, seem to have moved categorically from enhancement to injury as the practices became less common and were no longer viewed as valuable or necessary for the construction or presentation of female identity. We note, too, that some practices seem to be caught in an ongoing injury/enhancement
debate. Circumcision, for example, began as a practice of a religious culture, which was then medicalized and became considered enhancement. Today, however, circumcision is increasingly viewed as injury. How law and other cultural discourses intersect to influence these shifts in perception deserves much greater attention.

**TATTOOING AS A “GOOD” INJURY**

Tattoos provide an excellent example of arguably “good” injuries. The process of obtaining a tattoo is inevitably painful, yet the result of the practice is often viewed as an “enhancement,” rather than an “injury” that should be prevented or compensated by law. In contemporary legal practice, however, the distinction between “enhancement” and “injury” remains an important one. Legal regulation of tattoo practices that lead to perceived “enhancement” tends to focus on hygiene, qualifications, and professional standards, as well as age or ability to consent. Legal regulation of tattoo practices that result in “injuries,” on the other hand, generally focuses on prohibiting the practices entirely and on awarding tort damages. Our analysis of the history of tattoo practices, however, casts doubt on the meaningfulness of this distinction, suggesting that a different regulatory approach may be in order.

Tattooing has flourished since the final decades of the twentieth century. A Harris Poll of 2,225 US adults, surveyed online in October 2015, found that some 29 percent of Americans reported having at least one tattoo (seven in ten of these reported having two or more) (The Harris Poll 2016). The presence (and number) of tattoos has been increasing with each successive generation, from 10 percent among those aged 70 or more to 47 percent among those 18–35. Acceptance of tattoos in various occupational and social settings has increased correspondingly, if unevenly.

Not only are more people tattooed, but there has been a marked change in the class and gender of who is tattooed. No longer is tattooing confined to working class males. The “tattooed lady” was once a sideshow attraction (Mifflin 1997, Osterud 2014), but now women are the majority of people acquiring tattoos. While reported tattoos among males have increased from 16 percent in 2003 to 27 percent in 2015, the percentage of tattooed females has more than doubled over this period from 15 percent to 31 percent. Women have also become a prominent and growing portion of tattoo artists.
With the increase in tattoo prevalence has come increased regulation. Maine initiated the first statewide tattoo regulation in 1978. By 1995, 29 states regulated tattooing and by 2011, 41 states had at least one statute regulating tattooing practice, with the nine states without statutes leaving regulation to local governments (Carlson et al. 2012). This move to regulate followed a 1999 publication of a model code for tattoos by the National Environmental Health Association that was expressly designed to assist state legislatures in developing health regulations for tattooing. Many of the model regulations focused on restrictions on tattooing minors and ensuring that the tattoo recipients have fully consented to the procedure. Soon thereafter, the states began to adopt similar restrictions.

By 2012, fully forty-five states in the United States had regulations controlling the tattooing of minors (National Conference of State Legislators 2012). Of these forty-five states, twenty-eight allowed tattooing of a person under the age of eighteen with the consent of a parent, guardian or custodian, and fifteen states banned tattooing those under the age of eighteen almost completely. Here we see how the age of the tattoo recipient marks a clear transition from “injury” to “enhancement,” even when the physical result of the practice is exactly the same. But among adults too, a failure to provide consent can transform the result of the practice from “enhancing” to “injurious.”

Many states require tattoo artists to obtain written consent from clients before performing tattoo procedures. Some states also require the client to attest by signature that he or she “is not intoxicated or under the influence of drugs or alcohol.”¹ As these regulations make clear, the question of consent is legally significant for purposes of determining whether an injury has occurred in this setting. This is not surprising. But, importantly, consent is just one of many considerations that influence whether tattoo practices are viewed as enhancing or injurious. Even where consent exists, and the tattooing is not of a minor, the regulations convey a great deal of concern about the potentially injurious results of tattoo practices.

A closer look at tattoo regulations, for example, suggests that the consent requirement is a vehicle for warning would-be tattoo recipients about the potential health risks associated with obtaining a tattoo. Most states, for example, require the consent form to include a statement of the risks associated with tattooing and the distribution

of aftercare instructions. Oklahoma goes even further and requires the consent form to include a list of medical conditions that the clients should disclose, along with recent consumption of food. It is also interesting to note that, of the various categories of tattoo regulation, hygiene and sanitation were the most exhaustive and detailed. Generally, states regulate the minimal hygiene standards for the tattoo procedure itself, the equipment, the tattoo artists, and the building in which the tattooing takes place. This extensive emphasis on health and sanitation in the regulation of tattooing suggests the extent to which public officials view tattooing as a potentially injurious practice and even perhaps believe that it is a practice indulged in by people who are impulsive and require protection.

More than half of the states in the United States also require tattoo artists to register, be certified, or obtain a license before engaging in tattooing. There are various requirements a tattoo artist must meet in order to be registered, certified, or licensed. Generally, artists must complete blood-borne pathogen training, be at least eighteen years of age, complete an application, and pay a fee (usually less than $100). The tattoo artist must typically renew the application each year. Some states also impose educational and training requirements. For example, a high school diploma or equivalent is required to practice tattooing in Iowa, Kansas, Nebraska, and Oregon. And some states, such as Minnesota, require a specific amount of supervised experience. Similarly, almost all states require the tattoo parlor itself to be licensed. This emphasis on regulating the businesses themselves is indicative of the extent to which regulators view tattooing as a consumer choice – not unlike other consumer choices that involve bodily enhancement – that is potentially injurious, if proper protocols are not followed.

With the surge in regulation and the number of people obtaining tattoos, we also see the increased presence of tattoos and tattooing in the media and, with these developments, the expressive component of tattooing has also changed. To some extent, there were always tattoo norms governing the copying of designs, placement of tattoos

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(on the face, etc.), obscenity, and objectionable symbols and slogans. Increasing regulation formalized some of these norms, but also seems to have changed the nature of the practice itself. In the 1960s, professionally educated and trained artists began to enter the field, for example, the now well-known artist Ed Hardy. Both tattoo artists and their clients became better organized, with tattoo conventions and various media devoted to discussing and documenting the practice. Both developments also raised the status of tattoo professionals and may have helped tattooing become more socially acceptable as another normal form of consumption. As one Las Vegas tattoo shop advertised, “You can change your décor ... design a wall, your car, the appearance of your house, or your flesh” (emphasis added) (Benson 2000: 245).

After the 1960s, the location of tattoo parlors also began to change. Instead of being located in the sleazier parts of urban areas, tattoo parlors began to appear in more desirable parts of the communities and even in shopping malls. Some places also became “appointment only” – emphasizing the professionalized and artistic nature of the work. Meanwhile, more women became tattoo artists and, increasingly, tattoo artists have attended art school as part of their training. And of course, at this time, the customer base also began to change, with women and members of the middle class obtaining tattoos in increasing numbers.

The changes in demographics correspond with changing motivations for obtaining tattoos. Historically, tattoo practices were often tied to marking or commemorating specific life cycle events. They have also been employed to mark group identity, as in gangs. Increasingly, however, tattoo practices are closely connected with the individual construction of personal identity. Indeed, contemporary tattoo practices are increasingly understood in terms of self-realization, especially for women (Caplan 2000).

For some, tattooing is a means of enhancing the body to make it more physically attractive in response to cultural demands, much like exercise or plastic surgery. As one tattoo recipient explained:

I went through plastic surgeries, diets, and exercise programs in the last five years to get my body in the best looking and feeling shape possible ... So I thought, hey, a tattoo artist is a kind of aesthetician. He could help make me beautiful, like the doctor who surgically raised my brow, or the trainer who brought out my stomach [muscles] (Atkinson 2004: 134, quoting “Rachael”).

190
It is important to note, however, that tattoos are quite different from most other forms of bodily expression. Unlike clothing, make-up, henna or even “fake” or temporary tattoos, “real” tattoos demand the commitment of permanence and unerasability. While fashion plays a part, more deep-seated identity aspirations also seem to be at play. For example, some women obtain tattoos as a way of reclaiming their own bodies in response to rape, harassment, or abuse.

Moreover, tattooing continues to have strong links with resistance or rejection of mainstream culture in the minds of tattoo professionals and their clients, and in culture more broadly. To quote another tattoo recipient:

I put on this armor [tattoos] and show how I won’t lie down and be a victim. It’s like drawing a line in the sand and saying, I might be at risk but you can’t cross this line. Right here is where I make my stand (Atkinson 2004: 138, quoting “Regina”).

This is an example of the tattoo serving as both a marker of resistance and a carapace or protective shell. If anything, the expansion of tattoo practice seems to have expanded the opportunity to engage in this kind of resistance to a much broader audience. There is also a perception, compared with the past, of greater autonomy on the part of the tattooed subject, who now plays a larger role in choosing a designer and proposing or modifying the design, rather than picking from a limited set of options on the wall.

There is also growing recognition of the potential role that tattooing may play in healing injuries. For example, in recent years, tattoo artists have begun to provide nipple tattoos to women who have undergone a mastectomy and reconstruction of a breast. Typically, doctors with very little training or experience with tattooing have performed this procedure. But, increasingly, tattoo artists are sought out to perform the procedure as well. In some instances, tattoo artists have even formed formal partnerships with plastic surgeons to provide the service to the surgeon’s patients. This type of alliance suggests a curative dimension of tattooing.

Interestingly, this resonates with older conceptions of tattooing. It appears that the very earliest tattoo practices were engaged in for curative reasons. In 1991, some 57 tattoos were found on the so-called “Tyrolean Iceman,” whose bodily tissue is dated as between 5,350 and 5,100 years old (Pabst et al. 2009). Tattoos were also
found on female Egyptian mummies dating from around 211 bc. In each instance, the tattooing appears to have been performed for reasons such as healing arthritis or fostering fertility. Historically, tattoos have also been associated with a protective power that helps to guard the recipient against poor physical and spiritual health (Cortez 2013).

In modern times, however, tattoos have frequently been viewed as a form of self-harm. Yet there is also increasing recognition that tattooing may play a therapeutic role, especially for those with psychological or emotional injuries. Some tattoo practitioners, for example, describe tattooing as a way of externalizing or perhaps sealing against internal pain (Benson 2000). Others view the practice as a means of releasing pain or engaging in a self-transformation in response to past injury. In one study of Chicana tattoo recipients, for example, the researcher found that virtually all of the tattoo recipients had obtained one or more of their tattoos during a stressful or traumatic period in their lives and viewed the tattoos as an essential part of their healing (Cortez 2013). As one recipient explained, the tattoo was “a coping mechanism ... because I felt I hadn’t healed fully yet[without the tattoo]” (ibid.: 177). Moreover, several recipients associated their tattoos with the eventual release of physical symptoms that they associated with trauma, such as head, neck, or stomach pain (ibid: 184–9).

From this perspective, tattooing may be viewed not simply as enhancement, but as a “good injury” that empowers its subjects by making them feel, and perhaps helping them to be perceived as, less vulnerable. Still, tattooing practices necessarily entail the infliction of pain and wounding. For some, however, this temporary pain can be “restorative” or “healing” and allows them to “make something beautiful” out of far more intense internal pain (Cortez 2013: 193–4). In other words, the practice of tattooing becomes a way of discharging other kinds of pain and allowing the healing process to begin.

Regulations on tattoos arguably interfere with some of these attempts to heal and express the self. On the other hand, increased regulation may have helped to legitimate tattoo practices and, in doing so, made the practices more accessible and culturally acceptable. Thus, the relationship between law and culture in this context seems complex. The increasing frequency of tattoo practices appears to be associated with a categorical shift from “injury” to “enhancement.” But, at the same
time, the increased regulation may have lessened some of tattooing’s transgressive – and perhaps expressive – appeal.

PLASTIC SURGERY AS A “GOOD” INJURY

Like tattoos, the results of plastic surgery are commonly perceived as “good” injuries. The processes involved are often even more painful than tattooing, yet the industry is relatively unregulated, with surgical standards, rather than law, largely determining the parameters of what is permissible. As with tattooing, plastic surgery is on the rise. In the last few decades, the number of plastic procedures performed annually has risen dramatically in the United States. To give a few examples, from 1997 to 2016, liposuction procedures increased 134 percent, breast lifts increased 712 percent and tummy tucks increased 434 percent (American Society for Aesthetic Plastic Surgeons 2016). More men are pursuing plastic surgery than ever before: nearly 1 in 10 procedures in the United States in 2016 were performed on men (ibid.). A greater percentage of young people are also undergoing plastic surgery. According to the latest statistics, people aged 35–50 have more procedures performed than any other demographic, with the 19–34 age group not far behind (ibid.). As with tattooing, “injury” has been transmuted into “enhancement.”

In the plastic surgery context, surgeons have played an important role in drawing the line between “injury” and “enhancement,” in response to changing cultural attitudes. Indeed, plastic surgery practices began as a technique for correcting bodies with culturally unacceptable differences. Some of the earliest plastic surgeries, for example, were developed to rebuild the noses of sixteenth-century syphilitics so that the symptoms of the disease would be less visible. Because of this history, the surgery was initially viewed as an expedient to repair injury and not as an injury itself. The surge in plastic surgery that took place after the First World War, when surgeons employed the techniques on injured soldiers, was viewed in a similar way. Even when the surgeries did not succeed, they were widely viewed as a response to injury, rather than injurious in themselves (Taschen 2005).

After the First World War, plastic surgeons began to distinguish between performing “plastic” surgeries to repair injured body parts and “cosmetic” surgeries that focus on enhancement. Over time, this distinction became very important. Surgical practices gain more cultural currency, and typically qualify for insurance coverage, when they are
characterized as “plastic.” In large part, this is because “plastic surgery” is associated with healing. “Cosmetic” surgery, in contrast, has been historically associated with vanity. The distinction between “plastic” and “cosmetic” surgeries, however, is not always clear (Bloom 2014). The history of “eye lifts” (blepharoplasty) provides an interesting example (Shirakabe et al. 1985). Initially developed by a Japanese physician as an admittedly “cosmetic” procedure to make Japanese eyes appear more Western, the same physician later claimed that the procedure was not “cosmetic.” According to this new narrative, the lids of his Japanese patients were physical “defects” that needed to be corrected. Today, the procedure may be designated as either “plastic” or “cosmetic,” depending on the surgeon’s assessment of the patient’s pre-surgical condition. Because there is essentially no difference between the actual results or surgical techniques employed, however, cosmetic procedures like eye lifts are now increasingly referred to as “plastic.”

For similar reasons, “plastic” surgery today is understood to encompass both cosmetic and reconstructive procedures. In 1999, the American Society of Plastic and Reconstructive Surgeons changed its name to the American Society of Plastic Surgeons to more strongly communicate the message that there is no distinction between the two. At the same time, the terms “plastic” and “cosmetic” continue to play an important role in the demarcation of professionals operating in this field. “Plastic” surgeons are board certified by the American Board of Plastic Surgery, while “cosmetic” surgeons have less training and may include general practitioners. “Cosmetic” surgeons tend to emphasize that “cosmetic” surgery is elective and not medically necessary. “Plastic” surgeons, in contrast, explain their work in terms of ensuring “normal” functioning and appearance. As was the case with eye lifts, however, the standards for what constitutes “normal” functioning and appearance have changed over time.

While plastic surgery was previously a relatively uncommon practice, surgical procedures to address perceived imperfections are increasingly expected, especially for women, almost as a form of bodily maintenance. At the same time, the possibilities for surgical transformation are quite constrained. In the case of aging women, for example, it is not acceptable to undergo surgery to look older (American Society for Aesthetic Plastic Surgeons 2016). Instead, the expectation is that bodies should look “naturally” young, with the help of surgical procedures. Importantly, for the most part, these expectations are determined by men. Some 85 percent of board-certified plastic surgeons are men and
the medical standards governing plastic surgery practices are largely determined by these male surgeons’ aesthetic preferences (Bloom 2014).

Like tattoos, however, the results of plastic surgery practices can also be considered a form of self-expression. Consider the plastic surgery practices of the French artist Orlan, who uses her body as a medium for her art. Orlan has undergone multiple plastic surgeries to make parts of her body look more like the body parts that are portrayed in famous works of art. Instead of making her look younger, however, Orlan’s surgeries were intended to give her the forehead of Leonardo da Vinci’s Mona Lisa and the chin of Botticelli’s Venus. Instead of trying to look “natural,” Orlan views her plastic surgeries as a struggle against nature. In other words, Orlan is deliberately “injuring” herself for artistic reasons that have nothing to do with healing (Davis 2003). In this respect, Orlan might be viewed as a contemporary counterpart of the tattooed ladies of old – a pioneer in the employment of plastic surgery as a form of self-expression (Osterud 2014).

At the same time, Orlan’s artistic practice is similar to that of ordinary plastic surgery consumers. Orlan emphasizes that she views the surgeries as a way of becoming more fully herself. Interviews with plastic surgery consumers indicate that they approach their own surgeries in a similar way (Gimlin 2012). Like Orlan, they view their surgeries as vehicles of self-expression and self-determination. As is the case in tattooing, US women, in particular, have historically described their decision to undergo plastic surgery in terms of an expression of autonomy (Gimlin 2012) and freedom (Davis 2003). For example, a school-teacher in her mid-thirties who underwent facial surgery described her feelings afterward as “It gave me a kick, like, I’ll be damned, but I really did it” (ibid.: 79). More recently, US consumers of plastic surgery have begun to emphasize self-improvement as their primary motivation (Gimlin 2012).

Ordinary plastic surgery consumers are not presented with the same array of surgical options as Orlan, however. Most plastic surgeons would not agree to do surgeries like the ones Orlan obtained, even for a well-known artist. This is because the particular aesthetic result that Orlan is seeking to achieve does not correspond with the range of aesthetic procedures that are considered acceptable by most plastic surgeons. Not unlike an earlier point in history, when many plastic surgeons in the United States refused to perform surgeries that might allow an individual to fake “race,” today’s plastic surgeons refuse to perform surgeries.
that they consider aesthetically or socially undesirable. Examples of the types of surgeries that plastic surgeons routinely refuse to perform include requests for breasts that are “beyond the normal range,” surgery that causes deliberate scarring, and facial surgery to achieve a “feline look” (Taschen 2005: 304, 310).

Plastic surgeons readily acknowledge that their own cultural preferences play a role in their surgical recommendations. Many consider themselves artists and recommend surgeries that reflect their own “style” (Taschen 2005: 92–3). These aesthetic choices are supported by regulations governing plastic surgery – which defer heavily to professional standards set by plastic surgeons themselves – and by legal standards in tort law that determine “injury” in the plastic surgery context by deferring to the judgments of plastic surgeons. These judgments also restrict the self-expressive choices that plastic surgery consumers can make. As one article advising on legal issues in plastic surgery explained, “[t]he patient who ... has unrealistic expectations for surgical results ... should be avoided before performing surgery” (Shiffman 2005: 212). The same piece also explains that patients with a “dysmorphic” personality – who see defects in their appearance when they are none – should be avoided. In other words, it is the plastic surgeon rather, than the consumer, who determines whether one is sufficiently “injured” or in need of “enhancement.” This stands in stark contrast to tattooing, where consumer choice and involvement in the design are key parts of the practice.

As with tattooing, many recipients of plastic surgery also view the surgeries as a form of healing (Huss-Ashmore 2000). Most people undergoing plastic surgery, for example, say that they are undergoing surgery to feel more “‘at home’ in their bodies” (Davis 2003: 110). It is also not uncommon to see the procedures marketed in terms that relate to health. One columnist, for example, referred to plastic surgery as a “great adjunct to the [recipient’s] health and fitness regime, improving those areas that diet and exercise won’t” (Taschen 2005: 108). Rebecca Huss-Ashmore describes these as “therapeutic” narratives in which the focus is on healing the surgery recipient in ways that allow the individual’s true identity to emerge (Huss-Ashmore 2000).

THE INTERSECTING DIMENSIONS OF GOOD INJURIES

Both tattooing and plastic surgery may be viewed as practices implicated in the construction of identity. Tattoos, once an important
cultural signifier of group identity, are now widely embraced by individuals as expressive of personal choice. Similarly, plastic surgery is increasingly an expression of identity by younger women and others, for whom the surgery is not culturally mandated in the same way that it is for women of a certain age and class. Thus, both practices are popular tools in the catalogue of options for self-presentation. Perhaps more important, what seems particularly distinctive of our time is this sense that you can construct yourself in this way.

It is also interesting to note that there is a minority of (mostly younger) people undergoing plastic surgery who are less interested in looking natural. Instead, in the spirit of Orlan, they are more interested in using the surgery as a form of open self-expression where the presence of the work is obvious. The aim is not to appear natural. In this respect, plastic surgery may be following the path of tattooing, where the subject of the practice plays a more active role in selecting a designer or directing the design, rather than picking from a limited set of options. When this occurs, the subject has greater autonomy and, under those circumstances, the result of the practice looks even more like “enhancement.” At this point in time, however, the medical community exercises much greater control over the enhancement options that are available to plastic surgery recipients than tattoo artists exercise over tattoo recipients.

In any event, the growing cultural emphasis on self-construction – through tattooing, plastic surgery, and other practices – poses a challenge to conventional understandings of injury. Both tattoo practices and plastic surgery necessarily entail wounding and the infliction of pain to achieve the desired transformation. In these contexts, however, the wounding does not result in what we might ordinarily consider “injury.” Like many medical procedures, these practices are typically accompanied by consent, which – in most instances – tends to remove them from the scope of legal injury. Nevertheless, this does not resolve the cultural question of whether an injury or enhancement has occurred, particularly in the case of minors. While certain types of plastic surgeries – such as harelip, nose and double eyelid surgery (on Asian children) – are performed routinely, other types of plastic surgeries on minors are more controversial. Plastic surgery to “normalize” the features of children with Down syndrome, for example, has drawn criticism – even when there is parental consent – as has surgery to construct binary (male/female) sex characteristics on intersex infants. In these instances, the debate over whether the procedure results in injury or enhancement is ongoing.
With both tattooing and plastic surgery, the increasing frequency of the practices seems to be associated with a categorical shift from injury to enhancement. In each instance, however, the increasing frequency also appears to correlate with greater regulation of the practices in the form of professional standards and licensing. At least initially, the emergence of a well-regulated profession appears along with a tremendous expansion of access. There remains the possibility, however, that the professionalization of the practices may limit the freedom to shape one’s own identity and to participate in practices aimed at challenging dominant cultural norms.

Professionals play a key gatekeeping role in both practices, primarily by limiting choices and shaping what is permissible. Tattoo artists, for example, usually will not tattoo faces and the backs of hands because they view the result as potentially posing too much of an “impairment” for purposes of socializing and employment. Similarly, most plastic surgeons decline to do horns or other modifications that they think are a mistake. Both tattoo artists and plastic surgeons also have signature looks, which tend to emphasize the artistry of the professional more than the distinctiveness of the recipient. Professionals in both fields tend to impart their artistic values to the recipients of their services.

We also note the recent emphasis in both practices on the role of these apparently “good injuries” in promoting healing. For people who have been damaged, physically or psychically, tattoos and plastic surgery seem to take on a curative dimension, especially for women. Specifically, in some instances, the results of the tattooing or plastic surgery seem to help the subject to feel less vulnerable. The emphasis on the potentially therapeutic role of these practices, in turn, may help to facilitate an understanding of these “good injuries” as “enhancement.” At the same time, the designation of the practice as “enhancement” seems to generate a different perception of the subject, who is now perceived as less vulnerable as a result of the practice.

Mass media depictions of tattooing and plastic surgery reflect, and perhaps help to construct, these changing perceptions. Indeed, it is notable that, while tattooing and plastic surgery practices have become increasingly normalized in the mass media, other body modification practices, such as piercing, continue to be negatively framed in the media as potentially injurious (Adams 2009). A recent survey of articles about tattooing, for example, suggests that tattooing is now widely associated with fashion, identity and art rather than social deviance (ibid.: 110). Similarly, articles on plastic surgery commonly draw upon
the institutional legitimacy of medicine to frame the practice in terms of health and wellness (ibid.: 112). Piercing, in contrast, continues to be portrayed as a health hazard, with an emphasis on the perceived absence of professional oversight and regulation in the piercing industry (ibid.: 116). And, while recipients of tattoos and plastic surgery are now largely portrayed as mentally healthy individuals engaging in self-expression or self-improvement, the pursuit of other kinds of bodily modifications, such as piercing, continues to be viewed as an indicator of antisocial behavior or mental illness (ibid.: 116). These studies highlight the extent to which the construction of a particular body modification experience as “injury” is very much an interpretive event. While consent plays some role, so do many other factors – including the perceived curative aspects of the practice and the perceived legitimacy of the individual’s interest in controlling the terms of their own identity presentation.

The relationship between law and cultural perceptions of injuries in the tattooing and plastic surgery contexts is plainly complex. On the one hand, the increasing regulation and resulting professionalization of both practices seems to be associated with a categorical shift from “injury” to “enhancement.” On the other hand, the growing cultural emphasis on self-construction and the increasing emphasis on the therapeutic and expressive value of these practices for individuals also seem to pose a challenge to the role of professionals in determining the scope of options to be made available to consumers and the boundaries imposed.

The implications of these developments seem especially significant for women, who are increasingly choosing to undergo plastic surgery at younger ages and have gone from being a tiny minority of the tattooed population to a majority, and the fastest growing demographic of tattoo consumers. While, in some instances, the presentation choices appear to conform to conventional constructions of femininity, the uptick in activity might also be read as an expression of the desire for self-assertion that has accompanied the drive for equality. Many American women, for example, now view plastic surgery as a form of self-improvement that will help them to become more successful in the marketplace (Gimlin 2012). And many women also report that they obtain tattoos as a form of resistance to dominant gender codes (Atkinson 2002: 233). As more and more women engage in these practices, it seems likely that they will also seek to play a larger role in negotiating the terms of regulation.
References


