

From Forked Tongues to Tinkerbell Ears: Can Biopolitics Explain the Apathy Towards Regulation of the Alternative Body Modification Industry?

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Abstract— The criminal law of England and Wales currently deems that a person cannot consent to the infliction of injury upon their own body, where the level of harm is considered Actual or Grievous. This renders the defence of consent of the victim as being unavailable to those persons carrying out an Alternative Body Modification procedure. However, the criminalisation of consensual injury is more appropriately deemed as being categorised as an offence against public morality and not one against the person, which renders the State's involvement in the autonomous choices of a consenting adult, when determining what can be done to one's own body, an arbitrary one. Furthermore, to recognise in law that a person is capable of giving a valid consent to socially acceptable cosmetic interventions that largely consist of procedures designed to aesthetically please men and, not those of people who want to modify their bodies for other reasons, means that patriarchal attitudes are continuing to underpin public repulsion and inhibit social acceptance of such practices. Analysis will draw upon the work of Giorgio Agamben to suggest that the biopolitical climate in the UK, which places the optimisation of the perfect, healthy body at the centre of political concern, means that those persons who wish to engage in Alternative Body Modification are treated as the 'Exception' to that which is normal, rather than giving a legal voice through regulation. It will examine the conflict in law between traditional cosmetic interventions for enhancement such as breast, lip and buttock and, modifications described as more outlandish such as earlobe stretching, tooth filing and transdermal implants to create horns and spikes under the skin. It will assert that ethical principles relating to the psychological impact of this method of cosmetic intervention is used as a means to exclude person's seeking such a procedure from receiving safe and competent treatment via a registered clinic. Instead, these increasingly popular surgical procedures are being performed in Tattoo parlours throughout the UK which are legitimised by the extension to other socially acceptable forms of self-modification such as piercings. Finally, it will contend that only by 'inclusive exclusion' will those 'othered' through ostracisation be welcomed into the fold of normality and this can only be achieved through regulation which can assist in refocusing the political landscape by erring on the side of liberty rather than that of biology.

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