ISSUES IN JEWISH CONTEMPORARY SOCIETY

TATTOOS AND BODY PIERCING

A] WHAT IS A TATTOO?

Today, tattoos are created by injecting ink into the skin. Injection is done by a needle attached to a hand-held tool. The tool moves the needle up and down at a rate of several hundred vibrations per minute and penetrates the skin by about one millimeter.

What you see when you look at a tattoo is the ink that's left in the skin after the tattooing. The ink is not in the epidermis, which is the layer of skin that we see and the skin that gets replaced constantly, but instead intermingles with cells in the dermis and shows through the epidermis. The cells of the dermis are remarkably stable so the tattoo's ink will last, with minor fading and dispersion, for an entire life!

The tattoo needle inserts ink into the skin's dermal layer. Today, a tattoo machine is an electrically powered, vertically vibrating steel instrument that resembles a dentist’s drill. It is fitted with solid needles that puncture the skin at the rate of 50 to 3,000 times a minute. The sterilized needles are installed in the machine and dipped in ink, which is sucked up through the machine’s tube system. Then, powered by a foot switch much like that on a sewing machine, the tattoo machine uses an up-and-down motion to puncture the top layer of the skin and drive insoluble micrometer-sized particles of inks into the second (dermal) layer of skin, about one-eighth inch deep. (from www.howstuffworks.com/tattoo)

B] THE TORAH SOURCES

In this verse, the Torah prohibits making gashes on the body in grief for the dead and, also, as a separate prohibition, tattooing which is called ‘ketovet ka’aka’. Ketovet is writing - what is ‘ka’aka’?

Rashi explains that ka’aka means thrust deep into something - ie writing that is deep below the skin and is indelible. Rashi uses the wording ‘leolam’ - permanent. So that mean for life or just ‘a long time’?

The Minchat Chinuch understands that the roots of the prohibition lie in idol worship and ‘marking’ oneself for service of another force.
The Sforno understands that the roots of the prohibition lie in avoiding an impure route to service for G-d and also recognizing that the body itself is sanctified, especially by the presence of the brit milah.

King Yohoyakim is singled out for criticism for the fact that he slept with his mother and he had tattoos.

The Mishna brings two opinions. The first opinion is that the Torah prohibition is only if one has writing & punctures the skin. Either one without the other is not a Torah prohibition (the Mishna does not deal with the question of Rabbinic prohibitions). The second opinion (of R. Shimon ben Yehudah) is that the Torah prohibition of tattooing is only to tattoo ‘the Name’.

The gemara here clarifies that R. Shimon ben Yehudah’s opinion relates to tattooing the name of an avoda zara rather than the Name of Hashem. From the fact that the gemara debates his view, some commentators have suggested that the halacha follows him. The consensus of all poskim is however that the halacha is like the Tana Kama - the first opinion.

The prohibition is two-fold - upon the person writing the tattoo and the person receiving the tattoo.

Rav Malkiya said in the name of Rav Adda bar Ahavah: A person is forbidden to put ashes on his wound because it appears like tattooing ... Rav Bibi bar Abaye was careful even on the puncture made by a lancet. Rav Ashi said: wherever there is a wound, the wound proves it.

Some questions arising out of the analysis so far include:-

• does the Torah prohibition relates only to tattoo letters or also to pictures. If only letters are prohibited min haTorah is there a Rabbinic prohibition on pictures. What about mere marks? Is that the debate between Rav Adda and Rav Bibi?
• does the Torah prohibition require an order to puncturing and writing or will either order be prohibited. Again, what about derabbanan
• what about merely writing on skin which will rub off. Is that totally permitted
• how permanent must the tattoo be to be assur min haTorah?
The Rambam rules like the mishna we saw above, although (unlike Rashi) he understands that ‘ka’ata’ is the puncturing and ‘ka’aka’ is the writing with ink. Does this imply that the Rambam understands that the order must be (i) puncture then (ii) write but that Rashi would require writing then puncturing, at least for the Torah prohibition?

The Shulchan Aruch rules that it is prohibited to puncture then write in any indelible ink. He rules like Rav Ashi that ashes on a wound is permitted. Marking a slave so that they will not run away is prohibited but not min haTorah. Note that the Shulchan Aruch did not say that the tattoo must be permanent to be prohibited

The Shach (17C commentary on Shulchan Aruch) here confirms that the order is irrelevant - marking then writing or writing then marking is prohibited. All authorities therefore agree that puncturing then writing is assur min haTorah. Most hold that reversing this order is also assur min haTorah and everyone agrees that this is at least assur miderabbanan

Will writing on skin with ink but without puncturing the skin also be prohibited? The Gemara in Gittin 20a refers to the case of a Get (religious divorce) written onto the hand of a slave

Tosafot rules that the Torah prohibition is broken only when there is puncturing AND writing. However, he adds that there is a Rabbinic prohibition just to write the get on the hand, which he appears to prove from the case of the ash on the wound. What kind of writing is Tosafot referring to?

The Minchat Chinuch in Mitzva 253 writes that the only prohibition will be to write with permanent ink. Thus any writing which will rub off will be permitted. Some other Acharonim do understand Tosafot to be prohibiting temporary markings too but only if they look similar to a tattoo

Applications:-

- Henna tattoos and other temporary tattoos will be permitted according to most poskim but prohibited according to some
- Permanent Make-up is a form of semi-permanent tattooing (also called micropigmentation or dermapigmentation). It lasts around 3 years. Most poskim consider it to be prohibited min haTorah. All agree that it is prohibited at least miderabbanan. Some poskim are lenient to allow cosmetic tattooing for ‘kavod haberiot’ - eg to repair scar damage. A she’ela must be asked
- Marker Stamps on skin - is permitted according to all opinions
- Writing on Skin - is permitted according to all opinions
C] Tattoo Removal

Tattoo removal by laser treatment is permitted. Treatment by the further injection of chemicals may be prohibited. There is no halachic obligation to have a tattoo removed. It is NOT true that a person with a tattoo cannot be buried in a Jewish cemetery. THIS IS A MYTH!

Some poskim have rules that a person should have a tattoo removed (in a permissible way) to avoid reminders of the past infraction of the prohibition. In the case of tattoos from the camps in the Holocaust, Rav Oshry (who lived through the Holocaust and dealt with many of the accompanying halachic issues) ruled that a survivor should wear their tattoo as a badge of pride.

D] FAQs on Tattoo

1. Q Are they only prohibited if done for idol worship?
   A No - they are prohibited even for aesthetic purposes
2. Q What if they are semi-permanent?
   A They are still prohibited min haTorah according to most poskim
3. Q Can I get one done by a non-Jew?
   A No - the prohibition is the same
4. Q What about tattoos which are pictures and not writing?
   A Most poskim consider these to be prohibited min haTorah. All agreed that they are prohibited. Even to make a permanent mark on the body is prohibited
5. Q What about fake tattoos eg henna tattoos
   A Most poskim allow these since are not injected and they wash off quickly. Some are strict in the a case of fake tattoos which look like real tattoos
6. Q Can I write on my skin in pen
   A Yes
7. Q Can a Jew with a tattoo be buried in a Jewish cemetery
   A Yes
8. Q Is permanent make-up allowed?
   A No. Most poskim consider this to be assur min haTorah. All agree that it is prohibited
9. Q What about cosmetic tattooing for treatment of distressing medical skin conditions
   A Some cases may be permitted - a she’elah must be asked
10. Q Should I have a tattoo removed
    A It is not required. Some poskim recommend it

E] Body Piercing

(I) Bal Teshaktzu

Body piercing for aesthetic reasons (eg ear piercing) is not prohibited. How far does this go?

One of the mitzvot is ‘bal teshaktzu’ - not to do anything disgusting. This begs the question of who defines and how objectively we can define what is ‘disgusting’
There is also a prohibition of ‘chukat hagoy’ - following the customs and practices of the non-Jewish world. This also raises the issue of what falls into the category of chukat hagoy.

It is clear from the Rambam’s definition that this mitzva applies particularly to adopting certain styles of hair and dress.

For men there will also be a Torah prohibition of doing anything which is ‘effeminate’. This is also a subjective and changing definition.

Respect for the Human body and concept of Tzelem Elokim

Mikva issues - chatzitza

Health issues