LEGITIMIZING FEMALE COSMETIC GENITAL SURGERY

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ABSTRACT

Physicians enjoy considerable liberty in the creation of entrepreneurial ventures in the new frontiers of medicine. The FDA is not involved in new procedures that do not involve implants. Professional societies may opine about a new procedure but professionals may feel free to ignore their counsel as well. The case of female cosmetic genital surgery (FCGS) is used to discuss this method of new venture creation. We discuss the ethics and legitimacy of the service and how one can use theory to analyze whether or not it is a legitimate business.

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In sociological literature, there are three kinds of legitimacy that are considered relevant to the viability of a new line of business: cognitive, normative, and regulatory. Cognitive legitimacy is about whether stakeholders are aware of the needs supposedly to be filled by the proposed business; normative legitimacy is about whether the proposed business conforms to the ethical opinions upheld by the majority of the stakeholders; regulatory legitimacy is about whether regulatory agencies approve the proposed business. More often than not, normative legitimacy decouples from regulatory legitimacy. In the other words, a new line of business that is involved with ethical controversies may be unregulated or even endorsed by regulatory agencies. Consequently, entrepreneurs in this new line of business should focus on perfecting their products or services and on educating stakeholders about the utility of the products or services. In this article, one case about a new medical service referred to as FCGS is discussed, and a legitimizing strategy is proposed.

The Second Global Symposium on Cosmetic Vaginal Surgery [1] was held on September 23-25, 2010 in Las Vegas. Will sheer numbers in the marketplace determine what's accepted? What role do the professional societies play in determining what's acceptable? What will the courts decide once claims for malpractice and damages become common? Will advocacy groups play a role? The numbers are hard to determine because the American Society of Plastic Surgeons doesn't yet break out statistics on vaginal rejuvenation in their reports. Malpractice suits will no doubt occur. Advocacy groups, including the New View Campaign [2], have begun to make their voices heard. At least one professional society in the US has expressed its opposition.

The American College of Obstetricians and Gynecologists cautioned against "vaginal rejuvenation," "designer vaginoplasty," "revirgination," and "G-spot amplification" procedures. It stated that they are "are not medically indicated, nor is there documentation of their safety and effectiveness" and that "it is deceptive to give the impression that any of these procedures are accepted and routine surgical practices." It warned of "potential complications, including infection, altered sensation, dyspareunia (pain), adhesions, and scarring." The report indicated that there was wide variation in the external appearance of female genitalia. ACOG was "concerned with the ethical issues associated with the marketing and national franchising of cosmetic vaginal procedures. A business model that controls the dissemination of scientific knowledge is troubling" [3].

Liao and Creighton [4, p. 1091] discussed women's requests for female cosmetic genital surgery: "... our patients sometimes cited restrictions on lifestyle for their decision. These restrictions included inability to wear tight clothing, go to the beach, take communal showers, or ride a bicycle comfortably, or avoidance of some sexual practices. Men, however, do not usually want the size of their genitals reduced for such reasons." The authors referred to the current market orientation as a demand for "designer vaginas." They pointed out that in their study of 50 premenopausal women there were significant variations in the size, shape, length, color, folds or wrinkles, and symmetry of the various parts of female genitalia. Yet women approached the physician with a standard view as though they were going to a salon for a hair cut; they brought along images (usually from advertising or pornography) of what they regarded as desirable.

One letter following the Liao and Creighton article in BMJ, from the editor of *Reproductive Health Matters*, stated: "If a woman (probably African) asks for her own or her daughter's genitals to be excised for traditional reasons, it is refused as a criminal offense. Yet if a woman thinks her own genitals are an abnormal shape or size, the surgery is provided" [5, p. 1335].

When a new technology, FCGS in this case, lays a foundation to a potential new line of business, strategic entrepreneurs need to learn about how to deal with issues peculiar to the embryonic stage of an industry. Furthermore, a technology is not always value neutral, but can involve ethical controversies. Entrepreneurs should assess the ethical implications of the technology and formulate strategies to shape the institutional environment to their advantage.

Technology in an embryonic stage, the earliest stage of the life cycle of an industry, is usually immature. Entrepreneurs need to focus on improving and eventually perfecting the technology to provide quality products or services. In the case of FCGS, regardless of ethical controversies, the technology is far from mature. Peer reviewed published studies have not been done. Failure to deliver what plastic surgeons promise would definitely compromise the viability of FCGS. Furthermore, if women are harmed lawsuits could result as well as regulatory action.

In the embryonic stage of an industry, there is usually a low demand for a new product or service. Potential customers tend to be unaware of or unfamiliar with the product or service. Entrepreneurs need to invest heavily in marketing. In addition, lacking the economies of scale, the price of the product or service tends to be high, which suppresses demand. Women may be aware of this new service yet remain unconvinced of its importance; perhaps they don't watch enough pornography to have adopted a standardized view of genitalia or they simply accept individual differences in this private matter.

As an immature technology, FCGS may not serve a customer's needs well. Since results are not necessarily guaranteed, prospective patients could face practical or emotional dilemmas; if the procedure doesn't work, they may experience constant or intermittent pain and discomfort in sexual relations, perhaps requiring additional surgeries and procedures, at great personal expense.

Physical and psychological inconvenience and moral ambiguities tend to suppress demand from potential customers. Some women clearly want designer vaginas but other women don't share a uniform view as represented by the exposed porn star.

Women seeking FCGS have been influenced by a standard view of female genitalia. Since one doesn't readily observe various examples one has to assume that pornography was used to set the standard, though plastic surgeons now show before and after photos on the Internet that are representative of what they regard as

standard. Yet, the aesthetic taste of the public may be fickle. A fashionable view of genitalia may cease its popularity after a short while. The fluidity of taste poses a risk to women that select permanent changes.

To leap over the customer demand hurdle, entrepreneurs need to help customers to overcome the fear of physical and psychological uneasiness related to FCGS.

There is no federal or state legislation that prohibits or limits FCGS as yet in the United States. However, the FDA intervened in the case of breast implants. Because FCGS is a procedure there is less oversight. However, there is no assurance that federal or state legislatures won't regulate or even ban it in the future. Since these practices are ethically controversial, representatives from various feminist groups may eventually voice their objections and be heard. Ethical controversies cast doubts on the legitimacy of the FCGS business. There is no consensus about FCGS; plastic surgeons performing FCGS don't feel constrained but the ACOG recommended against the practice, as mentioned above.

An ethical view in favor of FCGS reasons that it is implied in a constitutional right to privacy. A person has a right to express oneself with one's body. Eventually, the legality of FCGS will depend on how a regulatory body or a court responds to claims of harm.

It may be plausible that public opinion disapproves of FCGS. However, it is not clear whether the opinion can translate into the regulations that ban the practice. Political entrepreneurs who intend to solicit support from religious groups or conservative constituents may raise an issue on the FCGS business to gain political capital. However, even if there are federal or state regulations that proscribe the FCGS business, plastic surgeons and some patient advocacy groups can still challenge the legitimacy of any future ban in courts.

It's difficult for a new business to be accepted as legitimate when it contradicts ethical beliefs held by part of the society. As federal or state legislatures may regulate or ban the business, entrepreneurs need to pay institutional costs, lobbying for changes in legislation in their favor or challenging a ban in court by resorting to rights protected by the constitution. Furthermore, the entrepreneurs need to frame or reframe their business in favorable ethical, philosophical, or even religious principles or terms. It would seem difficult to frame support for FCGS in this context.

To legitimate the FCGS business, plastic surgeons need to analyze opportunities and threats in the external environment and identity their own strengths and weaknesses. They need identify major stakeholders who are important to legitimate the FCGS business. In terms of a SWOT analysis, one can observe the following:

- The surgeons' strengths are their experience and successful outcomes in FCGS. The current customer base of satisfied plastic surgery patients for other procedures could also be considered a strength, since they might opt for additional services.
- A weakness is the industry reliability of the technology. As mentioned earlier, the technology is not really mature enough for plastic surgeons to claim legitimacy from the medical establishment.
- Another weakness is that the plastic surgeons practicing FCGS may not have time or resources to forge coalitions with the interest groups that may be important in defending the practice if opposing parties mobilize to ban FCGS. However, a fledgling professional society called the International Society of Cosmetogynecology has held two professional meetings, one in Orlando and the other in Las Vegas.
- One opportunity in the external environment is the potential of the new market. Nearly 300,000 women opt for breast augmentation each year. Not that many will be concerned about the porn star standard for female genital appearance but some obviously are concerned enough to seek out the procedures.

- The existing plastic surgeons have become early movers in the new market segment. They might build up customer loyalty and enjoy price premiums.
- Major threats include technological uncertainty, lack of customer demand, threat of regulations, and ethical controversies.

Marketing

The FCGS customer pool is rather small. The entrepreneurs need to advocate for the business, informing prospective parents of its availability. Again, they should resort to universal ethical and legal principles to develop and promote discourses that help legitimate their business, such as a right for privacy.

Preemptive Defense

As the plastic surgery community divides on the ethics of FCGS, current practitioners and sympathizers could mobilize and consolidate their support base. To avoid banning by federal or state legislatures, they need to hire political lobbyists to advocate for their interest. They probably need to forge coalitions with other social movement groups to gain political, financial, and moral support. If the ban becomes a reality, they could hire competent attorneys to challenge its legality in courts of various levels. It is not clear who would be willing to shoulder the cost of legitimating the FCGS business - individual practitioners, collectivities of practitioners, social movement groups, or corporations with a financial stake in the business.

Ethical issues

There are several problems with FCGS – a lack of peer reviewed studies that analyze assorted techniques and outcomes and the feminist critique that women are subjugated to men on yet another front – vaginal appearance.

Strategic Plan

A strategic plan to legitimate the FCGS business could involve the following steps:

1. The first step is to perfect the technologies, a pre-requisite to the legitimacy of the business.
2. Entrepreneurs need to promote customer need.
3. They need to identify, develop, and disseminate ethical and legal theories to enhance the moral legitimacy of their business.
4. They need to ally with other interest groups to lobby elected officials and legislatures to fend off damaging policies and regulations.
5. With reliable revenue from customers, moral support from ethical theories, and protection from laws and governmental policies, the business would be legitimate.

But we discuss the FCGS business as though we were developing a new approach to whitening teeth. Surely it is more than that and the ethical issues have to be addressed. Just when African nations shifted to a view of female genital cutting as wrong because of a paradigm shift from cultural relativism to human rights violations, the wealthier and the more well educated women in the world (i.e., Caucasian women, the primary consumers of plastic surgery, in the US and the UK) are opting for FCGS. Let's look at the African case to see what lessons can be learned.

WORKING WITH AFRICAN VILLAGES TO END FEMALE GENITAL CUTTING

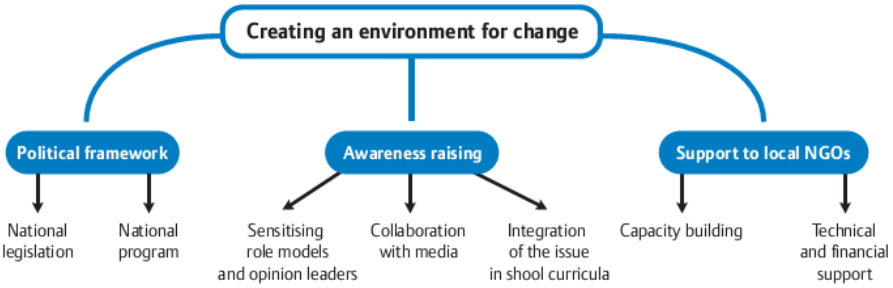
Stefanie Conrad, Plan International Communications Director, West Africa [6] commented on the practice of female genital cutting (FGC) explaining how sensitive and nuanced the issue was even though most outsiders viewed it as a clear human rights violation. According to Stefanie:

> Indeed, FGM/FGC [7] is … prevalent in many countries across the globe, and predominantly in Africa. In countries like Guinea almost all of the female population has undergone the harmful traditional practice. … Plan has … programs to fight FGC. As FGC takes many different forms, has different reasons …, FGC programming requires a thorough understanding of the specific context. In other words: what works in Guinea might not work in Mali or Sierra Leone.

Plan International [8] is a non-governmental organization active since 1937 in child welfare. It works with more than 3,500,000 families and their communities in 48 countries. It has no religious, political or governmental affiliations. Plan spent €452,000,000 (roughly $550 million) in 2008-2009.

How to Work with Communities Practicing a Human Rights Violation to Encourage Change?

When dealing with controversial topics Plan tried to create a climate for change by working on three different fronts: political framework, awareness raising and support to local NGOs as shown below in figure 1:
Figure 1: Working on three fronts [9]



Cultural Relativism versus Human Rights

The American Academy of Pediatrics [10] (Committee on Bioethics, 1998, revised 2010) stated its unequivocal opposition to FGC due to the related health risks for children and women. It also encouraged educating immigrant populations about the risks of FGC and its illegal status in the US. There had been debate whether or not FGC was an example of cultural relativism or a human rights issue. Under cultural relativism FGC was acceptable in cultures that approved of it even though external observers from another culture didn't approve. If one adopted a human rights perspective, girls that were subjected to FGC were not giving their informed consent because they often felt powerless in the face of familial or community pressure to undergo FGC, which made FGC a human rights violation. Prior to the passage of laws by African nations outlawing it, one could have made the argument that abandonment of FGC was a project of white people, which was where the cultural relativism argument developed. For the purposes of this analysis we adopted the human rights perspective: FGC was wrong and generally illegal [11]; most African governments that previously permitted it no longer do so.

WHAT CAN ACTIVISTS LEARN FROM THE AFRICAN EXPERIENCE?

Activists combating FCGS could use figure one above to map out a strategy for channeling their rage. For the activist the political framework is certainly one avenue. What can be done? Awareness raising can be approached in ways comparable to what Plan did: sensitize opinion leaders, work with the media, and educate women against FCGS. Supporting other activist groups is also important in terms of capacity building and technical and financial support. People can influence or even reshape institutional structures, such as

regulations, laws, and morality, in favor of their own interests. By developing discourses combating the FCGS business and lobbying for potential legislative restrictions, activists might foster regulatory oversight. There are no doubt other approaches such as the Southern Poverty Legal Center [12], which tracks people they object to (e.g., hate groups) and then finds innovative ways to sue them.

MANAGEMENT THEORIES USEFUL TO THE CREATION AND DEVELOPMENT OF FCGS

Three management and sociological theories are relevant here: industry life cycle model [13], embeddedness theory [14], and institutional entrepreneurship theory [15]. The industry life cycle model depicts the various stages in an industry's evolution over time, from embryonic, growth, shaking-out, mature, and eventually to a decline stage. The embeddedness theory emphasizes that economic activities such as commercializing a new technology are embedded within relational and cultural contexts. The institutional entrepreneurship theory indicates the possibility that actors can take strategic action to influence or shape institutional structures or cultural beliefs to create a benign environment for their business. The successful entrepreneur will consider all three in introducing the new service such as FCGS.

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