

Taiwan: When Will ARA Amendment Discussions Account For Transgender Reproductive Rights?

Friday 15 March 2024, by [CHEN Yo-Ling](#) (Date first published: 29 February 2024).

This past Wednesday, the [Taiwan Women's Link](#) (TWL) hosted a press conference calling for opening up access to assisted reproduction and decoupling the issue of surrogacy from amendments to the Assisted Reproduction Act (ARA). As part of the press conference, TWL released a [petition](#) calling for prioritizing assisted reproduction access for single women and lesbian spouses, such that “all women who want to reproduce” may do so under a system that “ensures women’s reproductive autonomy.” While the TWL’s petition and press conference helped to raise awareness of reproductive rights in Taiwan, it failed to account for the reproductive rights of transgender people in Taiwan.

Passed in 2007, the ARA currently limits assisted reproduction access to heterosexual married spouses who have a fertility issue. [Efforts to amend the ARA](#) are expected to reach the new legislature later this year, with the DPP, KMT, and TPP unanimously agreeing on the need for legal reform on this issue, as well as smaller parties such as the New Power Party and Green Party Taiwan. A total of 27 organizations signed the TWL’s petition last week, featuring almost all major feminist, gender equity, and tongzhi NGOs such as [The Garden of Hope Foundation](#), [Awakening Foundation](#), [Taiwan Equality Campaign](#), [Taiwan Tongzhi \(LGBTQ+\) Hotline Association](#), [Taiwan Gender Equity Education Association](#), and [Taiwan LGBT Family Rights Advocacy](#). Notably, the [Taiwan Alliance to Promote Civil Partnership Rights](#) (TAPCPR) did not sign TWL’s petition, despite having made [similar calls](#) for immediately opening assisted reproduction access to single women and lesbian spouses and separating these demands from surrogacy legislation.

While there is support across the political spectrum for opening assisted reproduction access, discussions around ARA amendments have largely failed to consider the reproductive rights of transgender people. Taiwan Non-binary Queer Sluts (TWNBQS), the first non-binary organization in Taiwan and also a signee of TWL’s petition, is a rare exception. TWNBQS made a [public statement](#) last week clarifying their position on reproductive rights as a TWL petition signee. The statement calls for “absolute reproductive autonomy,” as well as de-gendering the language used in ARA amendments discussions. TWNBQS explains: “‘using one’s own uterus to reproduce’ is not only a women’s issue and should not be tied to ‘female’ identity. There are a lot of people who have viable uteruses who are not women, such as some transgender men, intersex people, and non-binary people. These groups are also influenced by laws and social attitudes towards reproduction, and they should be acknowledged throughout the ARA amendment process.” The statement also draws attention to the fact that not all women have viable uteruses, such as transgender women and some cisgender women with fertility issues.

TWNBQS’s call for returning reproductive autonomy to “all people with uteruses” is one of only a few public instances where transgender reproductive rights are brought up. To date, the only other acknowledgment of transgender gestation in Taiwan is a [2021 TAPCPR screening](#) of *Seahorse: The*

Dad Who Gave Birth (2019) and [multiple translated news](#) releases by [gender critical feminist organization No Self ID Taiwan](#). Transgender family formation through assisted reproduction is mentioned in [a Taiwan LGBT Family Rights Advocacy podcast episode](#) and [a translated article](#) by *Queer Margins*, which has also published another translated article on [transgender mothers' family formation experiences](#) (ranging from natural conception to surrogacy). This small blip in public discourse around transgender reproductive rights has yet to enter into the larger discussion of ARA amendments happening this year.

Since Taiwan still requires sterilization surgery for changing one's legal gender, technically speaking, explicitly listing "single women" and "lesbian spouses" in an ARA amendment would allow transgender men and non-binary people assigned female at birth who have viable uteruses to access assisted reproduction since their legal gender would presumably be female. Such an amendment, however, would exclude intersex people with viable uteruses whose legal gender was recorded as male at birth.

[As legal consensus for abolishing compulsory surgery grows](#), ARA amendments will need to account for a wider range of transgender reproduction. For instance, a transgender man who has already changed his legal gender to male would not be able to access assisted reproduction with his infertile cisgender gay spouse if the ARA were to only expand access to "single women" and "lesbian spouses." Such limitations would also mean that a non-binary person who was assigned male at birth and has frozen sperm prior to starting gender affirming hormone therapy would not be able to make use of said sperm (either through intrauterine insemination or in vitro fertilization) with their transmasculine spouse if both of their legal genders are male. These are just two examples of transgender reproduction that are likely to occur in the future when compulsory surgery is abolished. Current discussions around ARA amendments have yet to address these possibilities, perhaps because of the faulty cisnormative assumption that gay male couples can only reproduce through a surrogate.

Public discourse on ARA amendments is likely to increase as the issue of reproductive rights inches closer to the legislative floor. Cisnormativity abounds throughout the existing discussion, which plunges transgender reproductive rights further into social inconceivability and legislative oversight. It remains to be seen whether further awareness raising by transgender advocates will help to shift the conversation from prioritizing specific cisgender groups towards reproductive autonomy for all, regardless of marital status, gender, or sexual orientation.

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