

Queering reproductive justice: Framing reproduction of gay men from a transnational perspective—Taiwan as a case

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Abstract

This article uses Taiwan as an example to argue that reproductive justice for gay men should be conceptualised within social, legal, and political contexts. Taiwan is the first Asian country to legalise same-sex marriage, yet the law favours heterosexual couples and denies LGBTQ+ reproductive rights. Thus, Taiwanese gay men seek third-party reproduction overseas to become parents. This article exemplifies gay men's unequal conditions from a non-Western perspective. I re-examine scholarly literature on the interlocking concepts of reproductive justice, stratified reproduction, and queer reproduction to answer what reproductive justice gay men need and how their injustice position situates within and beyond the nation-state borders. Drawing on the reproductive justice framework and studies of queer reproduction, this article proposes a transnational perspective to understand queer reproductive justice through the case that elucidates the specific context of Taiwanese gay men. This article aims to make two contributions. Firstly, it reconsiders the reproductive framework from a transnational perspective to argue that gay men's reproductive justice should be conceptualised at the intersection with other dimensions of injustice. Secondly, this article suggests that the transnational

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approach could be applied as a critical lens for future research in queer reproduction and reproductive justice.

KEYWORDS

queer reproduction, reproductive justice, stratified reproduction, Taiwanese gay fathers, transnational approach, transnational reproduction

1 | INTRODUCTION

Gay men have been accessing third-party reproduction, including the utilisation of assisted reproductive technologies (ARTs), donated eggs, and surrogacy to become fathers for the last 2 decades (Bergman et al., 2010; Blake et al., 2017; Nebeling Petersen, 2018; Smetana, 2019). Across the globe, only a few countries provide surrogacy services for foreigners with different levels of legal regulations (legal, no legal regulation, and uncertain regulation), either commercial (the US, Ukraine, Russia, Georgia, Kenya, and Cambodia) or altruistic (the UK and Canada). Among them, very few are accessible for non-heterosexual individuals. The US is the most popular reproductive destination for intended gay fathers, where surrogacy service has become a mature commercial industry that attracts overseas commissioning parents—regardless of their sexuality and marital status, albeit at a relatively high financial cost. Other options for gay men, such as Ukraine, Russia, and some Southeast Asian countries (Thailand before 2016 and Cambodia), though less expensive, are commonly considered risky and uncertain in terms of the lack of legal protection or the LGBTQ+ friendly social atmosphere.

Taking Taiwanese gay men's reproductive trajectories as an example is not an arbitrary decision. Taiwan can exemplify the application of a transnational perspective on whether gay men need reproductive justice based on three statements. First, after the lifting of Martial Law in 1987, the budding democracy in Taiwan provided a foundation for social movements and human rights advocacy to flourish. Among Asian countries, Taiwan is considered relatively LGBTQ+ friendly, and its LGBTQ+ rights have thrived in the past 2 decades, though still held back by traditional values, such as familism (Cheng et al., 2016). Taiwan became the first country in Asia, and the 27th in the world to legalise same-sex marriage. As the LGBTQ+ beacon of Asia, the annual Pride held in Taiwan attracted tourism from wider Asian societies. In November 2021, Taiwan was elected to host World Pride 2025, which will not only boost the leading role Taiwan played in advocating LGBTQ+ rights in Asia but also bring Taiwan onto the global stage (Yen, 2021). Secondly, the open attitude towards LGBTQ+ people in Taiwan also attracted Men Having Babies, the largest association that provides intended gay fathers information and connections to US-based fertility clinics and surrogacy agencies, which chose Taiwan as the only site in Asia for its annual event since 2019.¹ This iconic move indicates that Taiwan has the potential to become the hub of Asia for future transnational reproductive industries targeting non-heterosexual intended parents. Thirdly, in terms of the legal situation, although Taiwan has been celebrating the victory of marriage equality, non-heterosexual reproductive rights are still limited and regulated by separate laws from their heterosexual counterparts (Welfare, 2007). This shows that even in an LGBTQ+-friendly country like Taiwan, the state's power over queer reproduction and the ambiguous social acceptance of queer families are obstacles for queer people trying to start a family.

1.1 | LGBTQ+ family-building

Beyond the Taiwan context, LGBTQ+ people have been building up kinship and families in various ways, including co-parenting, adoption, and other forms of alternative kin ties. Aaron Goodfellow (2015) and Lewin (1993, 2009) explored gay fathers' families and their adopted children. Aaron Goodfellow (2015) pointed out that the disturbances

going through the legal procedure of adopting non-biological children indicated a lack of reproductive justice for gay men. Similarly, Kath Weston (1991) indicated in *Families we choose: Lesbians, gays, kinship*, that LGBTQ+ people applied creative ways to start their families, which were beyond the assumed conventional biogenetic kin ties. Other scholars also observed these emerging new forms of family-making and argued that we should revisit the meanings of biological connections in making queer kinship (Weeks et al., 2001). The alternative ways of building families do not only refer to non-genetic kin-like ties as in Kath Weston's (1991) work but also to the cases of gay fathers and their surrogacy-born children.

The thriving field of assisted reproductive technologies (ARTs) has changed how people understand kinship and families. Scholarly literature has investigated how ARTs transform people's understanding and practices of human reproduction (Clarke, 1998; Franklin, 2013; Ginsburg & Rapp, 1995; Thompson, 2005). In the cases of queer reproduction, lesbians applied low-tech methods, such as DIY (do-it-yourself) self-insemination at home, with the help of known sperm donors, to pursue motherhood or in vitro fertilisation (IVF) procedures in fertility clinics (Grzanka, 2011; Nordqvist, 2012; Power et al., 2020). Gay men went through comparatively medicalised third-party reproduction, including the use of donated eggs from either known or unknown donors, the IVF procedure, and gestational surrogacy services to pursue fatherhood. For example, Joshua Gamson (2015, p. 4) elucidated the feeling of becoming gay fathers through surrogacy, and he depicted the moment of fertilisation and implantation as if the gay couples were 'conceiving their daughter.' However, there exists a research gap on gay fathers via surrogacy studies (Norton et al., 2013), which is also relevant to the lack of research on men in general, as the sociologist Rene Almeling (2020) pointed out. Despite that, in recent years, there have been a growing number of gay father studies.

1.2 | Studies on gay fathers

In psychology, there are scholarly works on gay father parenting and the wellbeing of their surrogacy-born children (Green et al., 2019); gay fathers and the relationships with surrogates and egg donors (Blake et al., 2016; Carone et al., 2017); gay fathers and their families-of-origin (Bergman et al., 2010; Blake et al., 2017); the comparison between gay father families, single father families, and heterosexual families through surrogacy (Carone et al., 2020). In social work studies, the research investigated the motivations to pursue surrogacy for gay fathers (Fantus, 2021) and their relationship with surrogates (Fantus, 2021). There was research that depicted the transnational trajectories of gay fathers' reproductive travels, including but not limited to commercial and altruistic surrogacy in Australia and abroad (Dempsey, 2013, 2016), German gay men's reproduction in Czechia and Spain (Bergmann, 2011), gay men from Europe accessing surrogacy and donated oocytes in the US (Allahbadia et al., 2008; Smietana, 2019). However, the abovementioned literature focused on the Western context, and there is a lack of empirical research on non-Western contexts, especially Asian gay fathers' reproduction.

The phenomenon of gay men accessing surrogacy to starting a family has been raised among scholars who are dedicated to the sociology of reproduction and queer reproduction studies. These relevant topics appear in both empirical research and conceptual discussions, including but not limited to (1) family and parenthood studies on gay men and their children via surrogacy (Murphy, 2016; Nebeling Petersen, 2018; Norton et al., 2013), (2) relationship between intended gay parents and surrogates (Fantus, 2021; Ventura et al., 2019), and (3) the conceptualisation of queer reproduction and its interrelation with reproductive justice (Smietana et al., 2018; Stacey, 2018). The conceptualisation of reproductive justice and its interrelations with other concepts such as stratified reproduction and queer reproduction, have also been significantly discussed in a *Symposium: Making Families—Transnational Surrogacy, Queer Kinship, and Reproductive Justice*. Smietana et al. (2018) listed the intersections of the three main concepts (reproductive justice, stratified reproduction, and queer reproduction) and elaborated on potential insights for future research from these intersectional frameworks. The reason to analyse gay men and their accessibility to surrogacy from a transnational perspective is to include diverse gay communities in the discussion and depict the transnational trajectories of their reproductive journeys, which, hopefully, could provide an alternative way to understand their situations

rather than distinguishing them into the dichotomous categories of either enjoying 'reproductive tourism' with affluent resources or leaving as 'reproductive exiles' without rights (Inhorn & Patrizio, 2009; Matorras, 2005).

This article uses Taiwanese gay fathers' reproductive travels to elucidate the importance of applying the reproductive justice framework from a transnational perspective to understand queer reproduction. Firstly, it will look at the current scholarly literature on the interlocking concepts reproductive justice, and stratified reproduction in the context of studying queer reproduction. Secondly, this article points out the research gap in Taiwan, a country that just legalised same-sex marriage in recent years but whose reproductive rights are still on hold. By addressing the legal constraints of Taiwanese gay men's reproduction, I aim to examine the contributions and limitations of current literature on queer people's reproduction and propose a transnational approach to the existing reproductive justice framework. Thirdly, following the employment of the transnational approach, this article argues that Taiwanese gay men, as an example, illustrate the importance of analysing queer reproduction beyond the dichotomies of Western and non-Western.

2 | THE INTERSECTION OF QUEER REPRODUCTION, REPRODUCTIVE JUSTICE, AND STRATIFIED REPRODUCTION

Reproductive justice is rooted in activism to acclaim the rights of all humankind, initially focused on women, to have or not to have children, and to raise children in dignified conditions. The transition of discourse from reproductive rights to reproductive justice is prominently contributed by women of colour with an emphasis on positioning individuals' reproductions in the context of colonialism (Ross & Solinger, 2017; Russell, 2018). Loretta Ross and Rickie Solinger (2017, p. 9) define that:

Reproductive justice is a contemporary framework for activism and for thinking about the experience of reproduction. It is also a political movement that splices reproductive rights with social justice to achieve reproductive justice. The definition of reproductive justice goes beyond the pro-choice/pro-life debate and has three primary principles: (1) the right not to have a child; (2) the right to have a child; and (3) the right to parent children in safe and healthy environments.

The core tenet of reproductive justice is to build up an alliance that consists of women of colour and other counterparts to 'imagine a world, in which people's human rights are respected and protected when they make decisions about whether to become a parent' (Ross & Solinger, 2017, p. 9). From here, we can see that the historical roots of reproductive justice are derived from marginalised groups of women seeking solidarity with others to extend the belief in human rights to the rest of the world as well as applied in the analysis of how reproduction is often privatised and de-politicised and how reproductive decisions and actions are governed and regulated. The inclusivity and compatibility of the reproductive justice framework go hand in hand with other minoritised groups, such as non-normative reproductive subjects, providing them with the knowledge and activist fuel to strive for access to reproduction.

Most of the feasible means to become a gay father, such as adoption and surrogacy, require huge amounts of effort, time, financial costs, and self-preparations for fatherhood, which excludes those who have fewer or lack resources. This results in the limited thinkability of reproduction and reproductive injustice. The ethnography written by Aaron Goodfellow (2015) described the adoption process in the US, where gay men had to secure a relatively well-paid job to be proved as 'qualified parents' and had to be well-educated in order to deal with the complicated paperwork and pass the interview with a social worker. From Aaron Goodfellow's work, we can also see that reproduction is economically selective and intersects with class, as well as relevant to their educational background and their capability of parenting judged by heteronormative social standards.

Derived from reproductive justice, scholars suggest that queer reproductive justice specifies that sexual minorities' reproduction and queer kinship-making are matters of social justice (Smietana et al., 2018; Stacey, 2018). Queer

reproductive justice signifies that all non-heterosexual individuals should have the right to have or not have children, including the right to adoption and access ARTs, the right to raise children with sufficient support, in terms of the social welfare system and a friendly social environment, and the rights of all stakeholders who are involved in the process of reproduction, for example, birth parents in adoptions, gamete donors and surrogates in third-party reproduction (Smietana et al., 2018). In terms of what kinds of queer reproductive justice framework gay men need, it is useful to draw on the multi-dimensional 'reproductive constraints' suggested by Marcia Inhorn and Paul Farmer (2023, p. 206–207): legal prohibitions; sociocultural issues; and resource considerations (economic aspect). Socially and culturally, gay men lack social recognition as qualified parents (Goodfellow, 2015; Stacey, 2011). Financially, some LGBTQ+ people lack the economic resources to access parenthood (Smietana et al., 2018). From the legal aspect, heteronormativity results in a lack of power and representation in setting agendas, for example, for LGBTQ+ people's full legal rights to children and rights to reproductive means (Smietana et al., 2018). The following sections will focus on these dimensions of justice to discuss the intersection of queer reproduction, reproductive justice, and stratified reproduction.

2.1 | Queering reproduction in heteronormative society

The interlocking of queer reproduction and reproductive justice emerged in the sociocultural context of LGBTQ+ people conceiving reproductive consciousness even before they embark on their reproductive journeys. Take gay men as an example:

They [gay men] lack the biological equipment, the social training, and the conventional institutional and legal resources for forging families. As males, gay men do not receive formal socialisation in the feminine labour of 'love and ritual'—kin work, emotion work, domestic labour, childcare, and nurturing. Because they are gay, they cannot rely on women to perform these services for them.

(Stacey, 2011, p. 15)

The quote from *Unhitched: Love, Marriage, and Family Values from West Hollywood to Western China* by Judith Stacey (2011) well illustrates why gay men are hardly perceived as reproductive subjects and parents. It is not only because of the biological factors and limited resources but also of the assumption from the society that it is women, rather than men, who are assumed to be the primary caretaker. In family-making, women are thus unequally expected to be responsible for reproduction, including care work, kin work, emotional work and domestic labour, which is normalised in heteronormative society. Studying gay men's reproduction, Dana Berkowitz (2008, p. 162) argued that 'consciousness is not merely something going on in people's heads; rather it is produced by people and is a social product' and gay men's procreative consciousness thus links to 'the institutions that create, maintain, challenge, and eventually change how gay men have historically imagined fatherhood and families.'

In heteronormative society, both heterosexual and queer people are configured in the heterosexual matrix, which implies that gender and sexuality are inextricably linked (Butler, 1990, 1993). As Judith Butler (2002) argues that 'kinship is always-already heterosexual,' in the assumption of dominant heterosexual reproduction, gay men feel the disjuncture of experiences between being men, having desires for men, and becoming fathers. Their struggles in dealing with legal, social, and financial issues in their reproductive processes reflect the institutional constructions of a social system that favours heterosexual reproduction and parenting. Thus, queer reproductive consciousness is created in compulsory heterosexuality (Rich, 1980) where the society privileges heterosexual intimacy, marriage, reproduction, and paternality and marginalises non-heterosexual individuals.

2.2 | A reproductive hierarchy derived from the legalisation of same-sex marriage

To elaborate on the sociocultural aspect of Taiwanese gay men's encountering reproductive injustice, it is crucial to examine the legalisation of same-sex marriage, since it resulted in not only the separation of marital laws depending

on sexuality but also reflects how the social system favours heterosexual marriage, reproduction, and parenthood in Taiwan. Tracing back to the legalisation of same-sex marriage in Taiwan, this milestone of achievement left unfinished tasks which are related to queer reproduction. On the bright side, the legalisation of same-sex marriage indicates the changing attitude toward homosexuality in public and the accounts on human rights and marriage equality. However, the denial of placing same-sex marriage in the Civil Code along with heterosexual marriage, but in the 'Interpretation No. 748', implies that society still has concerns about same-sex couples sharing identical legal recognition and rights with their heterosexual counterparts. This results in structural injustice for the LGBTQ+ people who are eager to have children and start their families.

The history of the same-sex marriage campaign in Taiwan traced back to 1986, when Chia-Wei Chi, an activist, and the first gay man to come out in public, made the first appeal to Legislator Yuan after he applied for a marriage licence with his same-sex partner at the Taipei District Court notary office and was rejected. From then on, NGOs and individual activists, along with support from politicians, have been dedicated to campaigning for same-sex marriage rights. After decades of advocacy, on 24 May 2017, the ruling by the Grand Justices, Judicial Yuan declared that the Civil Code, which excluded same-sex marriage, is unconstitutional. Judicial Yuan demanded the Legislator Yuan and relevant authorities amend the laws within 2 years. In November 2018, a multi-question referendum was held on the same-sex marriage amendment. Among three referendums relevant to same-sex marriage, two anti-LGBTQ+ ones proposed by the Alliance for Next Generation's Happiness opposed to same-sex marriage: 'Do you agree that marriage defined in the Civil Code should be restricted to the union between one man and one woman?' and 'do you agree to the protection of the rights of same-sex couples in cohabitation permanently in ways other than changing of the Civil Code?' were accepted. The pro-LGBTQ+ referendums proposed by the Taiwan Alliance to Promote Civil Partnership Rights (TAPCPR),² 'do you agree to the protection of same-sex marital rights with marriage as defined in the Civil Code?' were vetoed. Considering the results against amending Marriage Law under the Civil Code, the authority decided to legalise same-sex marriage under the Act for Implementation of Judicial Yuan Interpretation No. 748, which legalises marriage for same-sex couples with a specific law that is separate from the Civil Code for opposite-sex marriage.

The result of the referendum shows that the Taiwanese public still holds ambiguous attitudes towards LGBTQ+ people. On one hand, people gradually changed their hostile attitude towards non-heterosexuals to acceptance (Cheng et al., 2016) and agree that same-sex marriage should be legalised on the account of equality for all individuals. Also, at the geopolitical level, the legalisation of same-sex marriage spotlights Taiwan as the first in Asia and draws Taiwan closer to the Western-centred discourse of progressing modernity by showcasing the pro-LGBTQ+ legislation and democracy, which earns international recognition and signifies its place distinguishing from other Asian countries (Chen & Fell, 2021). On the other hand, domestically, Taiwan society is not ready to embrace LGBTQ+ people fully and considers same-sex marriage should be separated from heterosexual marriage. As a result, regulations regarding reproduction, such as the accessibility to ARTs, still exclude non-heterosexual couples. The reproduction governed and regulated by state power indicates the injustice hierarchy that favours married heterosexual-couple families over non-heterosexual-couple families. The legal position—legalisation of same-sex marriage in a separate law that limits the rights to adoption and ARTs—makes Taiwan a case that is not only different from the Western contexts but also stands out in Asia, where no other country legalises same-sex marriage law today. The legal framework also reflects the fact that Taiwanese society still hold back on the rights for non-heterosexual reproduction.

Queer people's reproduction requires the framework of reproductive justice in both institutional and legal aspects. The legal issues indicate the reproductive injustice that gay men encountered, which also pushed them to seek alternatives in other countries (Norton et al., 2013). With the legal restrictions, Taiwanese gay men encounter multi-fold obstacles in their journey of reproduction. Among the 30 countries that have legalised same-sex marriage, only Taiwan, Ecuador, and some states in Mexico exclude same-sex couples from joint adoption (EQUALDEX, 2021). Until 16 May 2023, the amendment to Article 20, Judicial Yuan Interpretation No. 748, passed the third reading in Judicial Yuan and granted full rights to married same-sex couples to adopt children without biological relation. Before

TABLE 1 Legal norms on LGBTQ+ reproductive rights to Judicial Yuan Interpretation No. 748.

	Adoption			ARTs		
	Single adoption	Second-parent adoption	Joint adoption	Donated gametes	IUI/IVF	Surrogacy
Married different-sex couples	No	Yes	Yes	Only one from the couple allowed	Yes	No
Married same-sex couples	Yes	Gestational/genetically related to the partner	No	No	No	No
Single individuals (regardless of sexuality)	Yes	N/A	N/A	No	No	No

Abbreviations: IUI, Intrauterine insemination; IVF, in vitro fertilisation.

this legal change, joint adoption excluded married same-sex couples (Table 1). Intended gay fathers and lesbian mothers could only access adoption if they remained single. Furthermore, a married lesbian or gay couple could not gain the parental rights of her/his spouse's pre-marriage single adopted child(ren) through second-parent adoption. Therefore, the law leaves many queer families as 'single-parent families' even though they are married and raising their child(ren) together. Second-parent adoption for married same-sex couples only applies if the child is biologically related to one of the two parents.

This is structural reproductive injustice for intended gay and lesbian parents who are excluded from joint adoption and second-parent adoption for their partners' previously adopted children (News, 2021, April 1). As many ongoing appeals to the court are made by gay-father families in which only one party has their children's parental rights, they worry that if the one who has the parental rights encounters any accident or death, then their children will be taken into institutional childcare systems given the fact that another father does not have any legal connection to the child. In everyday life, the father, without parental rights, could not take the child to see a doctor or make any decision for the child when the legal parent-child relationship needed to be proved. To ensure both parents have the parental right to their future children, seeking reproductive technologies and surrogacy to give birth to biologically related children become a preferable choice for queer intended parents. Compared to their lesbian counterparts, who could pursue procreation through self-insemination (Grzanka, 2011) or accessing ARTs in local reproductive clinics by strategic passing (Ho, 2014; Wu & Bray, 2017), prospective gay fathers require both ARTs and gestational surrogacy to have children. Considering the fact that any form of surrogacy (commercial or altruistic) is currently illegal in Taiwan, gay men can only access surrogacy overseas, which creates a very different reproductive trajectory compared to those in Western countries, where most gay men and lesbians became parents via adoption (Goodfellow, 2015; Lewin, 1993, 2009).

2.3 | The debates on gay men's reproductive justice

Among all types of queer reproduction, gay men seeking surrogacy raise the most controversial issue given their ambiguous position—on the one hand, they are marginalised for their sexuality and excluded from accessing adoption and/or surrogacy in most countries (Smietana et al., 2018). On the other hand, those gay men who have the financial resources to seek transnational surrogacy—white, high- or middle-class gay men—are in a relatively high socioeconomic status that might be categorised as privileged groups in the cross-border reproductive industry, where commercial surrogacy service often costs a fortune. Also, third-party reproduction is a process that heavily relies on women in terms of donated eggs and the gestational process (Russell, 2018). This has become a continuous debate on the ethical issues of surrogacy and on the question of whether surrogates are exploited (Armour, 2012; Beier & Wöhlke, 2019; Y. Chao, 2016; Deomampo, 2016; Gamble, 2009; Hibino, 2015; Inhorn et al., 2010; Jacobson, 2016; Pande, 2011; Rudrappa, 2016; Spar, 2006). In the ethnography on Indian surrogacy, Sharmila Rudrappa (2016, p. 174)

reflected that: 'If and when surrogate mothers are treated as full human beings, with respect for their emotional, physical, and intellectual well-being, their sense of self, dignity, and body intact, then I am an advocate of commercial transnational surrogacy.' Considering the disparate contexts across the globe, there still exist concerns in the transnational surrogacy industry, given the fact that many countries do not have sufficient regulations to protect the rights of surrogates and commissioning parents. Scholars addressed the diverse moral framework of commercial surrogacy employed in the US, Russia, and India to argue that different locales developed different understandings of gestational surrogacy (Smietana et al., 2021). This article is not going to tackle the ethical and legal issue of surrogacy directly while always keeping it as a crucial reminder that when we are talking about reproductive justice, it is not only about those who struggle to have children but also those who struggle to make a living from it. This article argues that gay men's reproduction should be framed as in need of reproductive justice and the aim of reproductive justice also includes the wellbeing and rights of the surrogates.

Scholarly literature on reproductive governance in Taiwan pointed out that due to legal exclusions on non-heterosexuals, they sought ARTs as 'a remedy for social infertility and for justice' (Wu, 2023, p. 149). Taiwanese gay men seeking transnational surrogacy could be understood as proactive actions against reproductive injustice since they are forced to exile in order to access reproductive means. Among some countries that provide altruistic surrogacy, such as Australia, Canada, New Zealand, and the UK, and those that offer commercial surrogacy, including Ukraine, Russia, Thailand, and India,³ the only country that offers low-risk and legal surrogacy services for foreigners regardless of their sexuality and marital status is the US, especially in California.⁴ The cost, however, is relatively high, which is approximately USD 150,000 for a surrogacy baby, including the travel fee, agency fee, clinic fee, lawyer fee, and compensation for egg donors and surrogates.⁵ This echoes the concern suggested by Camisha Russell (2018) that those who can afford transnational surrogacy are considered privileged, and they just fulfil their 'procreative right' rather than 'lack reproductive justice.' However, the research on Danish gay men accessing surrogacy argued that the privileged position of gay fathers should be understood more flexibly and within the context of other factors (Nebeling Petersen, 2018). Considering the lack of legal recognition and accessibility to ARTs, I suggest that gay father-would-be in Taiwan, regardless of their socioeconomic status, are encountering reproductive injustice. While the regulation excludes gay and lesbian couples from reproductive means locally, the only way for gay couples to become legal parents is to seek transnational surrogacy.

As the reproductive justice framework is widely used to examine various reproductive phenomena, it is not hard to find its interlocking with other social dimensions and how these intersections cause inequality and injustice. The concept of stratified reproduction depicts the uneven reproductive landscapes across race, ethnicity, gender, sexuality, and nationality. 'Stratified reproduction' was first termed by Shellee Colen (1995) in her research on West Indian migrant childcare workers, who took up reproductive work for wealthy families in the US while having no choice but to leave their children behind in home country. She termed stratified reproduction as the conceptual tool to examine the transnational hierarchy and the racialisation of reproduction through the uneven distribution of transnational mobiles from peripheries to wealthy host countries in the 'non-flat-world' which forms the 'global care chain' (Colen, 1995). Built on Shellee Colen's work, scholars researching both global reproductive industries (Deomampo, 2016; Rudrappa, 2016) and queer reproduction (Mamo, 2018; Smietana, 2019) took up this concept to elucidate the unequal phenomena in reproductive arenas.

Take queer reproduction in the transnational reproductive industry as an example, it reveals the phenomenon of stratified reproduction, which brings equality among people around the globe into the light (Mamo, 2018; Smietana, 2019; Smith-Cavros, 2010). First, the unevenness between intended queer parents and other stakeholders involved in the procedure, including multiple parties: LGBTQ+ intended parents who seek cross-border reproductive technologies and surrogacy, and those who participate in the procedure—egg donors and surrogates. For example, the transnational reproductive industry creates an alternative way of having children and making a living, as well as the tension between wealthy gay fathers-to-be mostly from Western countries and the poor surrogates in periphery countries, such as India.⁶ Even in the US, surrogacy is conceptualised as 'an exchange of both gifts and commodities, where gift-giving, reciprocity, and relatedness between surrogates and intended parents were the major tropes'

(Smietana et al., 2021, p. 1). It still signifies the distinction between wealthy intended parents and relatively financially insufficient women who become surrogates. This also echoes the criticism by Camisha Russell (2018) that gay men are commonly white and have a relatively high socioeconomic status. Thus, she argues that those who utilise surrogacy in the prosperous reproductive industry in the US should be considered as a matter of procreative rights rather than reproductive justice.

However, these cases in the US context do not represent all gay men. Gay men accessing surrogacy should be understood 'as more flexible and differentiated and include relational and dynamic notions of class, sexuality, mobility, and race' (Nebeling Petersen, 2018, p. 713). The intersection between stratified reproduction and queer reproduction should go beyond Western perspectives to explore the reproductive experiences of gay men in other social, cultural, and political contexts. There is uneven queer reproduction among different individuals. Drawing on the concept sex hierarchy proposed by Gayle Rubin (1992), which argues that sex practices and sexuality have been distinguished in a hierarchal order by drawing the line between normal/abnormal and good/bad, this article suggests that a reproductive hierarchy emerges from the governance over reproduction, which results in the reproductive injustice for gay men. For example, the reproductive regulation in Taiwan favours monogamous married heterosexual couples among other individuals (Wu & Bray, 2017). The intersection of sexuality, gender, and heterosexuality constructs the divisions that result in inequalities among different groups (Jackson, 2004) and thus shapes the reproductive hierarchy. Another example is that gay fathers who had children through surrogacy fled Russia to avoid being arrested for their 'non-traditional sexual orientation' (Merz, 2020). The LGBTQ+-unfriendly regime does not recognise gay fathers' parental status and deprives them of their reproductive rights to raise children in a safe environment. As Loretta Ross and Rickie Solinger (2017, p. 12) suggested, 'we cannot understand these experiences of fertility and reproduction and maternity separate from our understanding of the community—the social context—in which they occur,' thus, we need to consider the legal, social, cultural, and political conditions of each case.

2.4 | Beyond reproductive tourism and exiles: Reproductive travels

While examining the concept of reproductive tourism and exiles, transnational perspective comes into play. Transnational feminist and queer critique questions 'about its (Western values) proliferation and circulation and its production of the global universal subject' (Desai et al., 2010, p. 50) and critiques the Western-centred knowledge production of creating sameness, globalising or imposing Global North values seamlessly to other locals, and to rethink the mobilities within and across borders from 'queer engagements with non-normativity and Global North/Global South hierarchies' (Browne et al., 2017, pp. 1391–1392). By taking the transnational approach, this article attempts to answer the question: what kind of reproductive justice do gay men need and how does their injustice position situate within and beyond the nation-state borders? As Smietana et al. (2018) point out, the construction of queer reproductive justice requires collaboration and solidarity across various groups to study in order to interpret the juxtaposition of queer reproduction and stratified reproduction. Hence, to answer this question, it will take collaborations across the globe to picture a reproductive travel map of gay men who access surrogacy in countries that are either legal, non-regulated, or illegal, gay men from all kinds of social and cultural backgrounds with various levels of LGBTQ+ acceptance, and gay men who are situated in different political climates. However, this article is not suggesting that comparative studies are the only solution to disentangling the myth of gay men and their relations with reproductive justice. Instead, firstly, this article suggests that the transnational approach can served as a lens to see through the blind zone that was once hidden from Western centrism. Secondly, this transnational approach explicates the intersectionality of gender, sexuality, nationality, race, ethnicity, sociality, and culture in cross-border queer reproduction by looking specifically at Taiwanese gay men. This leads to the discussion on why Taiwanese gay men need reproductive justice by elaborating on their transnational reproductive journeys within the debate on reproductive tourism and reproductive travels.

The terms 'reproductive tourism' and 'procreative tourism' illustrate the commercialisation of medical treatments in the thriving cross-border reproductive industry in the logic of capitalism-seeking locales with lower costs

(Inhorn, 2011; Inhorn & Patrizio, 2012). Reproductive tourism, similar to the concept 'medical tourism,' refer to those people who intentionally arrange their medical treatments with travel experiences in foreign countries. Whether reproductive tourism is a proper term to depict those who seek medical reproductive assistance overseas is a continuing debate. Some scholars find the term 'reproductive tourism' is rather 'inaccurate and inappropriate' because the word tourism denotes the meaning of travel for pleasure; yet, for the depressed infertile couples, this is just not the case (Inhorn & Patrizio, 2009; Matorras, 2005). It is a controversial issue also for queer people because they might decide to seek reproductive assistance abroad on the account of both eluding legal constraints in their home country and enjoying a short holiday in the destination country. According to the media contents made by an association that aimed to support intended LGBTQ+ parents in Taiwan, prospective gay fathers described their decisions on transnational reproduction as both 'a choice without choice' since they could not access ARTs and surrogacy locally, and as a 'win-win' so that they could arrange some sightseeing during the treatment in the destination country.⁷

'Reproductive travel' is a neutral term that captures both 'reproductive tourism' which describes high-social-class Westerners seeking ARTs and surrogacy in Third World countries, and 'reproductive exile' which indicates people who are forced to access reproductive means overseas (Inhorn & Patrizio, 2009; Matorras, 2005; Smith-Cavros, 2010). For Taiwanese gay men, their transnational travels could be depicted as both reproductive tourism and exile because of their ambiguous positions. They are, indeed, privileged, given that they are in a higher social class; yet they are exiled to seek surrogacy since other options (such as single adoption) are rather insecure and risky. This echoes what Smietana et al. (2018) mapped out: the intersection of queer reproduction and reproductive justice suggests that all queer people should have equal access to reproductive means. From this perspective, gay men who encounter obstacles to accessing reproduction in Taiwan shall be considered to be in desperate need of reproductive justice.

3 | RECONCEPTUALISING QUEER REPRODUCTIVE JUSTICE FROM A TRANSNATIONAL PERSPECTIVE

Queer reproduction indicates two-fold meanings in social science studies. The first is to investigate queer people's reproduction, as discussed in the previous sections, where we considered queer as an inclusive umbrella term referring to LGBTQ+ identities. Also, by addressing the solidarity with relevant others (the egg provider, the surrogates, and other reproductive subjects), queer also indicates a wider group of people that go beyond a single identity—seeking heterogeneous alliances rather than merely identity politics (Sedgwick, 1993: viii). The second meaning of queer that I would like to address in the paper is to consider queer as a verb and to 'queer' reproductive justice.

Furthermore, in sociological studies, the use of queer offers a methodological tool to analyse sex, gender, and sexuality and a critical lens to rethink how sociology could be queerer, in terms of reconsidering the interdisciplinary possibilities by engaging queer theory within and taking reproduction studies as the crux to discuss the core issues, such as social institutions, social changes, and inequality. As Stephen Valocchi claims that 'a queer analysis can benefit from sociology's insistence on the material grounding of the discursive constructions of sexed bodies, masculinity, femininity, and sexual identities' (2005, p. 766), sociology could provide queer theory with its methodology—empirical studies—and sociological imaginations that focus on individuals' lives, experiences, and troubles and analyse them in the wider social and political sphere (Mills, 1959). Following the discussion of the intersection between sociology and queer studies (Gamson & Moon, 2004; Green, 2016; Plummer, 2012; Seidman, 1994, 1996; Valocchi, 2005), the following sections aim to focus on the study of queer reproduction as a case to exemplify its interrelation with specific focuses on queer reproductive justice from a transnational perspective.

3.1 | 'Queering' reproductive justice

This section discusses how queer as a verb enriches the concept of reproductive justice, given that 'queer' contains flourishing meanings, implications, and inspirations for both activists and academics, and offers critiques on sex, gender, sexuality, and beyond.

The propose of using queer as a verb is to cross borders and question the given assumptions of sex, gender, and sexuality. Queer is also employed as a trigger, a motive, and an action to tear down the hegemony of heterosexuality and to expose power relations (Butler, 1993, pp. 173–174). 'For both academics and activists, "queer" gets a critical edge by defining itself against the normal rather than heterosexual, and normal includes normal business in the academy' (Warner, 1993, p. xxvi). Queer can be applied as a tool for both activists in movements and academics in knowledge production, to respond to and resist the normativity of not only the heterosexuality but also of all boundaries set to differentiate and regulate individuals depending on their race and ethnicity, social class, religion, nationality, age, cultural background, and any other categories we could name.

In studying queer reproduction, 'queer as an approach also offers a critical perspective toward normative reproductive arrangements and institutions made visible by LGBTQ+ family making' (Smietana et al., 2018, p. 113). As Laura Mamo (2007, p. 7–8) argued that 'queer reproduction is a critical social theory that engages central questions facing groups of people placed in unequal systems of the political, social, institutional, and historical contest,' queer individuals do not only represent new social actors involved in the reproduction process (Gimenez, 1991), instead, queer reproduction opens up new agendas that are more inclusive in terms of the reproductive subjects (both human and non-human beings) and objects (reproductive technologies) in the debate of reproductive justice.

Queer as a critical lens for empirical research, this approach can facilitate clearer and contextualised investigations into reproductive justice and question the normality of reproduction (Fish & Russell, 2018). 'Queering,' intentionally in the continuous tense, signifies its characteristics as a working framework to question heteronormativity. Thus, 'queering' reproductive justice questions who and what has been left out, ignored, and excluded in the claims of reproductive justice. This leads to a focus on marginalised reproductive subjects. To consider the right to have children, it should not only focus on the lack of access and resources but also on the individuals' differentiated social positions. Take transnational gay men accessing reproduction as an example, through a queer lens, it helps us see more clearly who is financially, socially, and culturally capable of affording reproductive technologies. This echoes Camisha Russell's (2018) call for solidarity between Western gay men and women of colour in the reproductive movement based on existing social injustice such as a lack of access to surrogacy or security for the family. Both reproductive justice activists and queer activists attempt to build up the solidarity of diverse marginalised people and hope for a justice and inclusive society for all. Therefore, this article suggests applying queer as a method to rethink and reconceptualise reproductive justice by including queer individuals in the reproductive arena.

3.2 | 'Queering' reproductive justice with a transnational approach

To understand the case of Taiwanese gay men, it is crucial to understand and conceptualise their queerness and their queer reproduction in a transnational setting. Transnational queer critique brings transnationality and sexualities together by examining the global trajectories of both capital and people' mobiles, state power and geographical politics, queerness, and transnational cultural production to visualise the complex local and global processes (Desai et al., 2010). The theoretical approach 'transnational queer sociology' is developed by Travis Kong (2019, 2020) with his two empirical studies on the theoretical encounter between sociology and queer theory and offers a novel perspective on queer studies in non-Western contexts. First, Travis Kong (2019) examines the interlocking queer and national identities in three pan-Chinese societies (Hong Kong, Taiwan, and China) by exploring young gay males' identity formation and civic-political activism. Second, Travis Kong (2020) deepens this theory by offering a historical meta-analysis of the formation of tongzhi⁸ identity in Hong Kong, Taiwan (from 1980s to 1990s) and China (from late 1990s to early 2000s) to emphasise the importance of engaging material and social structural perspectives, which are embedded in sociological traditions, with queer studies that primarily focus on discourse and text analysis. In short, this transnational queer approach attempts 'to create knowledge that works against creating sameness, globalising or imposing Global North ideals/values' (Browne et al., 2017, pp. 1391–1392) and explores 'the (re)emergence of local Asian queer perspectives' from empirical studies, and not only see the specific lived experiences in Taiwan as a case

to validate Western models but to 'locate Asia, and the non-West, within queer studies' (Martin, 2008, p. 2). By looking at the influences on both local and global, it explains why Taiwan as a case is important: it is a democratic country that not only plays a crucial role in advocating LGBTQ+ rights in Asia but also connects to other countries globally through LGBTQ+ organisations, diplomacy, and commercial activities (Chen & Fell, 2021). Taking the annual events held by Men Having Babies as an example, they targeted potential queer parents from the wider Asian gay communities, while choosing Taiwan as the site given that it is the most LGBTQ+ friendly and democratic local. This creates interregional mobilities in Asia, which implies that the value and knowledge transitions are not mono-directional—simply from the West to the non-West.

However, reproductive injustice emerges when biopolitics operates in a transitioning society and results in reproductive injustice to gay men and other non-normative reproductive individuals. This distinguishes Taiwan from other Western countries that legalise same-sex marriage and allow gay men to access joint adoption. Within this special position, Taiwanese gay men who start their families through transnational surrogacy offer a critical perspective to look at the queer reproductive justice framework. Firstly, this framework helps us to analyse the diversities among intended gay fathers. For example, Taiwanese gay men who favour transnational surrogacy over single-parent adoption to sustain their full parental rights to the children before the legal change in 2023; and those who are financially insufficient to afford legal US transnational surrogacy and turn to other destinations that do not have legal protection and with high risk. Secondly, Taiwanese gay men's reproductive trajectories, in terms of their reproductive motivations and decision-making processes, also offer insights into the global reproductive industry from a transnational perspective. For example, the interrelations between fulfilling Taiwanese familial expectations of giving birth to male heirs and the gender selection of embryos; the dynamics between the discourse of 'blending into the Taiwanese society' and the decision on the race and ethnicity groups of egg donors.⁹ Thirdly, the wider reproductive map of Taiwanese gay men accessing surrogacy in different countries can offer a novel perspective on navigating the risk, expectations, and transnational mobility in this global industry.

The conceptualisation of 'transnational' in queer reproduction not only offers implications from trans-regional comparative studies but also examines queer culture, practice, and identity from a critical perspective. This transnational approach aims to disentangle the boundaries of the binary division of Western and non-Western to reveal the mutual creation and transformation of queerness both globally and locally. What are the implications we could learn from the transnational trajectories of these Taiwanese gay men's reproduction and family-making? Drawing on the implications from the sociology of reproduction and queer theory from a 'transnational queer sociology' approach, the future research, for example, on gay men's reproductive trajectories of accessing surrogacy, and their journeys of becoming queer parents can be understood within the complex intersections of the local and the global.

4 | DISCUSSION

What kind of reproductive justice do gay men need? Taking Taiwan as a case, gay men's reproductive justice is an intersection with other dimensions of social justice that involve legal restrictions on reproduction (being excluded from joint adoption before 2023 and ARTs until now), socioeconomic class inequality (being unable to access expensive transnational surrogacy), and a lack of social acceptance (LGBTQ+ families with children being questioned).

In the case of Taiwanese gay men accessing (or failing to access) transnational third-party reproduction, firstly, their social status as citizens is not fully recognised under the double-standard marital legal framework. As Wu et al. (2017) discussed about the reproductive politics in Taiwan, the intersection of gender, sex, and heteronormativity prevents single persons and non-normative reproductive individuals from accessing ARTs, which leads to uneven reproductive accessibility and unequal citizenship status. Gay men, as Taiwanese citizens, are degraded in the reproductive arena compared to their heterosexual counterparts because of their sexuality. Taiwanese gay men's reproductive justice should be placed at the intersection of sexuality, class struggles, and legal limitations, which are regulated in the reproductive hierarchy.

Secondly, many gay men with reproductive intentions lack the financial resources to seek transnational surrogacy. This reflects class inequality among gay communities. It is crucial to notice that not all gay men are in a similar position. The division of the core and periphery in economic development, and the Western and non-Western, is not a concrete line. From transnational feminism's point of view, there are peripheries in the core—the poor and under-represented in the Western world and the core in the periphery—the wealthy and powerful individuals in periphery countries (Grewal & Kaplan, 1994). To understand reproductive injustice, it is important to trace back to their material conditions, social status, and cultural backgrounds (Tambe & Thayer, 2021). This case not only justifies why Taiwanese gay men need reproductive justice but also indicates its intersecting nature.

The reproductive justice gay men need, however, is different from the original version termed by women of colour who first formulated reproductive justice (Ross & Solinger, 2017) given their differentiated positions. Using queer as an analytical lens, future research could 'queer' the meaning of reproductive justice and apply this framework in various settings, including but not limited to gay and lesbian intended parents, the reproduction of trans people, single intended parents accessing surrogacy, and the coalition between transnational individuals who seek to make a living from gamete donation and gestational surrogacy with intended parents. This also echoes the core value of transnational feminism, which aims to hear the experiences of the locals, examine the complex mobilities of powers between different places, and build up solidarities beyond borders (Russell, 2018). As Maylei Blackwell, Laura Briggs and Chiu Mignonette (2015, p. 4) consider a transnational feminism critique, it is to 'understand or be open to an alternative set of origin stories and the complicated ways diverse people are situated or constructed by the nation, thus destabilising one static notion of the nation-state or what transnational means for multiply marginalised women.' What we could learn from individuals who encounter reproductive injustice is that reproduction is a process that requires multiple parties to be involved. The reproductive justice framework should aim to serve all people who struggle within, such as women of colour, surrogates from lower socioeconomic backgrounds, and those who are excluded because of their identities. Therefore, the conceptualisation of queer reproductive justice should involve wider LGBTQ+ communities across the globe.

5 | CONCLUSION

This article argues that gay men seeking surrogacy to have children should be understood in a reproductive justice framework. By considering multiple aspects of social inequalities and employing queer as a verb to testify to the reproductive justice framework, I suggest that an emerging reproductive hierarchy derives from the intersection of sexuality, bio-citizenship, marital status, and socioeconomic backgrounds that prevents certain reproductive subjects from accessing ARTs to pursue parenthood. This article reconceptualises queer reproductive justice by understanding the reproduction of Taiwanese gay men from a transnational perspective and from a queer approach.

Addressing what kind of reproductive justice gay men need and how their injustice positions situate within and beyond the nation-state borders, this article proposes an approach for analysing gay men's reproductive trajectories from a transnational perspective rather than provide a single answer to this question. Taking Taiwan as a case, it demonstrates how legal restrictions format a reproductive hierarchy that excludes gay men from adoption and forces them into reproductive travels of seeking transnational third-party reproduction. The reproductive injustice that Taiwanese gay men encounter intersects with other aspects of inequalities, in terms of their differentiated socioeconomic status, educational background, and unrecognised citizenship under legal restriction. Utilising Taiwan's geopolitical position with China and Hong Kong as an example, this article also introduced a transnational queer perspective into the process of conceptualising reproductive justice. Taiwan is a democratic country with a high reputation for being LGBTQ+ friendly among other Asian countries and has the potential to become the nexus in Asia for cross-border reproductive activities and industry. It is crucial to examine queer reproductive injustice within Taiwan and beyond to understand how transnational reproductive mobilities and limitations create opportunities for some people to have children but inequalities for others.

This article offers a case that elucidates queer reproductive trajectories outside the Western-centred living world and knowledge production in order to provide an alternative pathway to explore the wider queer reproductive justice framework transnationally. It also introduces a new research field at the intersection of queer studies and the sociology of reproduction in Asia and beyond. Addressing the reproduction of Taiwanese gay men as a case demonstrates how the transnational queer perspective can be employed as a critical lens for future research in queer reproduction studies and for discussion on queer reproductive justice.

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CONFLICT OF INTEREST STATEMENT

I declare that I have no known competing interests or personal relationships that could have appeared to influence the work reported in this paper.

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ENDNOTES

- ¹ Men Having Babies Asia: 2019 Parenting Options for Asian Gay Men <https://www.menhavingbabies.org/surrogacy-seminars/archive/taipei-2019/>.
- ² The Taiwan Alliance to Promote Civil Partnership Rights (TAPCPR) <https://tapcpr.org/english/about-us>.
- ³ Gay fathers went to Thailand before 2016, the year foreign commissioning parents were banned to access local surrogacy. After Russia invaded Ukraine in 2022, no Taiwanese gay men went to Russia for surrogacy.
- ⁴ US Surrogacy Map (2017) Creative Family Connections. www.creativefamilyconnections.com/us-surrogacy-law-map. Accessed: 10 August 2021.
- ⁵ Surrogate cost (2017) How Much Does Surrogacy Cost Gay Men? Gays with Kids. www.gayswithkids.com/2017/03/17/how-muchdoes-surrogacy-cost-gay-men. Accessed: 10 August 2021.
- ⁶ Before 2015, India allowed foreigners, regardless of their sexualities and marital status, to access local reproductive treatments and commercial surrogacy. In 2016, the government banned all foreigners from using Indian surrogate services (Deomampo, 2016; Rudrappa, 2016).
- ⁷ LGBT Family Podcast (Mandarin) Held by an association Taiwan LGBT Family Rights Advocacy. <https://rephonic.com/podcasts/tong-zhi-jia-ting-podcast>.
- ⁸ Borrowing the meaning of companionship and togetherness from the term 'comrade' with the same pronunciation (tóng-zhi) and the same format in written traditional Chinese (同志), *tongzhi* carries the meanings of 'sameness' (同, tong), and 'companionship' (志, zhi). Besides being derived from the term 'comrade,' *tongzhi* is served as an alternative term that stands for 'homosexuality' (同性戀, tóng-xìng-liàn), which means same-sex-love. Since the emerging lgbtq+ movements, *tongzhi* is widely used to arouse collective awareness, and relies on its meaning emphasising 'a group of activists with an identical goal in political revolution' (Chao, 2000). Apart from being employed in movements, *tongzhi* has also been applied in everyday life in Taiwanese society, referring to people identified as gays and lesbians as a neutral term.
- ⁹ There is a lack of empirical research on transnational reproduction of Taiwanese gay men. The data came from the coverages made by the association Taiwan LGBT Family Rights Advocacy.

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