

# 新冠肺炎痊癒者 受歧視問題之解決

Problem-Solving of the Discrimination  
Against COVID-19 Recovered

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## 摘要

據報載，許多新冠肺炎痊癒者飽受歧視，使他們感到受傷。本文認為，新冠肺炎痊癒者與其他身心障礙者一樣，所需要的社會福利不只是經濟安全、保護服務、社區與住宿生活支持服務，更是反歧視、社區參與和無障礙環境的提供，以及廣大社會全然的同理心。本文基於以問題解決為導向之法政策學研究理念而提出以下建議：為保障新冠肺炎痊癒者其於憲法上所賦予之平等權益，並消除社會之成見與歧視，宜透過「身心障礙者權益保障法」或「傳染病防治法」之修法，授權主管機關將嚴重傳染病在流行期間之確定染疫患者於其痊癒後之適當期間內，列為「身心障礙

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者權益保障法」中所定義之「身心障礙」範圍，使其受「身心障礙者權益保障法」體系全盤之福利保障。

According to reports, many people who have recovered from the COVID-19 suffer from discrimination, which has caused them to feel hurt. This article believes that people who have recovered from COVID-19, like other people with disabilities, need social welfare not just economic security, protection services, community and residential life support services, but anti-discrimination, community participation, and the provision of barrier-free environments, and the vast total empathy in society. Based on the problem-solving oriented legal policy research philosophy, this article proposes: In order to protect the equal rights and interests granted by the constitution for people who have recovered from COVID-19 and to eliminate social prejudice and discrimination, it is advisable to pass the amendment of “People with Disabilities Rights Protection Act” or “Communicable Disease Control Act” to authorize the competent authority to list certain patients who are affected by the epidemic period of severe infectious diseases as the scope of the “disability” defined in the People with Disabilities Rights Protection Act within an appropriate period after recovery for gaining fully protection from the disability rights protection legal system.

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## 壹、前言

從2020年開始，新冠肺炎肆虐全球，然而據報載，許多新冠肺炎痊癒者好不容易從鬼門關回來，卻飽受鄰居和親友歧視，使他們感到受傷，遇到就業、居住歧視問題。罹病經歷對

於患者原本就是一痛苦事件，其出院後所受的歧視又會進一步對他們生活產生負面影響；親友、社區、同事的有形與無形的歧視，對他們帶來難以言喻的痛苦和困擾，更會降低他們的自尊。因此，歧視所衍生出更進一步的問題，便是造成人們由於擔心被貼上標籤而抗拒就醫，這也會對疫情的防治工作造成不良影響，加重社會經濟負擔。無論是對於個人還是社會，解決新冠肺炎痊癒者受歧視之問題，乃是迫在眉睫的任務。

## 貳、問題解決導向

新冠肺炎痊癒者受歧視問題之解決，依法學界之傳統研究途徑，可能將著重於對歧視行為之規範。然而，本文認為，若僅從對歧視行為所受規範與約束之角度，來看新冠肺炎痊癒者之歧視問題，恐無法真正解決問題。因為，新冠肺炎痊癒者受歧視之現象，乃是一種在重大傳染病流行時的社會問題。人們對於對新冠肺炎痊癒者之歧視，無法簡單地將其視為是一種犯罪或違法之惡行。對新冠肺炎痊癒者之歧視，經常是出於無奈、無知與無能三者之結合。

當社會上之歧視行為，是來自於社會大眾普遍上情緒之無奈、知識上之無知，以及不具足夠能力來排除無奈與無知之情形時，我們就不能只單從法律規範或相關原則去探討歧視之問題，而必須直指問題的核心，並從實際上去解決問題的目標出發。而這樣的途徑，本文界定其為以問題解決為導向之法學研究。

## 參、歧視問題之現象與成因

新冠肺炎痊癒者反應，其生活遇到一些問題，如找工作時不知道該不該揭露曾經感染武漢肺炎；也有康復者可能因疫調