

本期企劃

# 怎麼做、怎麼說都是錯： 精神衛生法 強制住院制度對障礙者 的歧視與人格否定

It Goes Wrong No Matter How to Say or to Do:  
Discrimination and the Negation of the Personality  
of the People with Disabilities under the Compulsory  
Hospitalization According to Mental Health Act

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## 摘要

我國的精神衛生法在2022年全盤大幅修正，改採專家參審制決定嚴重病人有無強制住院的必要，但此一修正面臨換湯不換藥的困境，不但仍舊未解決身心障礙者權利公約認為強制住院制度構成「基於身心障礙歧視」的疑義，且此一制度的審查方式與實際運作，經常流於不論障礙者怎麼做、怎麼說，都常被解讀為行為思想怪異、不能處理自己事務、有自傷或傷人之虞

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而有住院必要性，仍舊無法擺脫對障礙者人格與尊嚴的否定。

Mental Health Act of Taiwan was substantially amended in 2023 to adopt a system of expert participation to determine the necessity of compulsory hospitalization for serious patients. However this amendment fell into a problem of rehashing. Not only does it still fail to solve the doubts of the convention on the Rights of Persons with Disabilities (CRPD) that the system of the compulsory hospitalization might constitute “discrimination on the basis of physical and mental disabilities.” In terms of the manner of examination and the actual practice, the people with disabilities could be considered as the people who have unusual behaviors and thoughts and inability to manage one’s affairs, who are risks of self-harm or injury to others. There is therefore a necessity for hospitalization, regardless of the actions or statements of them. Consequently, the negation of their personality and dignity persists despite amendments to Mental Health Act.

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## 壹、前言

政府列管所有精神障礙者，會定期打電話來，或派有訪員會在家裡附近偷看。這些與其說是騷擾，更像是監控。我知道最安全的做法是演出我很好的樣子，而不是向他們求助。我在學校向諮商中心求助時，被送入了醫院；我打安心專線時，對方替我報警；我和社工說我繳不起房租，對方建議我去住康復之家。任何一個服務，都得用自由來換，那不是幫助，那是交易。我來尋求不同專業的幫助，就是因為我需要醫療