

# Adequacy of Laws Relating to Health in India with Special Reference to Physiotherapy

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**Abstract:** With emerging economic scenario and added consciousness about health and well being, physiotherapy is becoming a profession to reckon with. This paper examines the adequacy of law relating to health in India with special reference to physiotherapy because when we say health is wealth then it's our prime duty to protect our health from quacks to protect our wealth. Various education institutes run physiotherapy courses in India without any uniform rules and regulation and many physiotherapy professionals are providing their services without any registration. Due to lack of laws and legislations many quacks are increasing day by day in the field of physiotherapy that plays with the health of common public. Many states as well as national associations already working to stop all these things but in absence of central physiotherapy council it's not possible to regulate the profession in a proper way. Focuses given to physiotherapy, physiotherapists and importance of physiotherapy present status of physiotherapy in India, physiotherapy council, its definition, duties and need to save physiotherapy profession in India by protecting the fundamental right to health of its citizens.

**Index Terms:** Health, Physiotherapy, Physiotherapists, Importance of physiotherapy, Physiotherapy associations, Council.

## I. INTRODUCTION

Since its inception, evolution has made the human race more and more concerned for its own health and safety. Immemorial sayings like '*Health is Wealth*' are burning examples of how important as well as pre-existing the concept of primacy of health is. Such human concerns are well-reflected in number of Health related legislations across various legal systems around the world.

Talking about the Indian scenario therein, the Constitution of India guarantees Right to Health to every person as a fundamental right. The Constitution incorporates provisions guaranteeing everyone's right to the highest attainable standard of physical and mental health. Article 21 of the Constitution guarantees protection of life and personal liberty to every citizen. The Supreme Court has, in a number of cases including *Paschim Banga Khet Mazdoor Samity and ors. Vs. State of West Bengal and ors*, dragged the right to health and basic healthcare into the ambit of Right to life under article 21 of the Constitution.

The Supreme Court has held that the right to live with human dignity, enshrined in Article 21, derives from the directive principles of state policy and therefore includes protection of health (*Bandhua Mukti Morcha v. Union of India*, 1984). Further, it has also been held that the right to health is integral to the right to life and the government has a constitutional obligation to provide health facilities (*State of Punjab v. Mohinder singh chawla*, 1997).

Failure of a government hospital to provide a patient timely medical treatment results in violation of the patient's right to life (*Paschim Banga Khet Mazdoor Smity v. State of west Bengal*, 1996). Similarly, the Court has upheld the state's obligation to maintain health services (*State of Punjab v. Ram Lubhaya Bagga*, 1998).

Also, the constitution emphasises the duty of state to maintain public health in the territory under various Directive Principles of State Policies.

In the recent past, many complaints of alleged medical negligence and deficient service by private and government hospitals and medical professionals have been filed with the national or state Human Rights Commissions (Mathiharan k.,2003). However, unfortunately, there are still many important fields of medical jurisprudence that the Indian legislations have failed to cover. Such an ignored arena is Physiotherapy.

### **What is Physiotherapy, Physiotherapist & its importance?**

According to the WCPT (World Confederation for Physical Therapy), it is defined as the area of health responsible for promoting, developing, maintaining and restoring people's maximum movement and functional ability throughout their lives. The main interest of it is to identify and maximize the quality of life. It also improves the movement of each person in areas promotion, prevention and rehabilitation in health.

As per (International Standard Classification of Occupations ISCO Code 2264)"Physiotherapists assess, plan and implement rehabilitative programs that improve or restore human motor functions, maximize movement ability, relieve pain syndromes, and treat or prevent physical challenges associated with injuries, diseases and other impairments. They apply a broad range of physical therapies and techniques such as movement, ultrasound, heating, laser and other techniques. They may develop and implement programmes for screening and prevention of common physical ailments and disorders" (Anonymous, 2010).

Thus a physiotherapist plays an important role in minimizing or eliminating pain and misery in human life on account of ailments, impairments and disturbed physiological functions.

### **The Physiotherapist:**

When a person's function or mobility is affected by pain, aging, injury, disease, disability or long periods of inactivity. The physiotherapist is the health professional qualified to complete a full medical check-up of the patient. This check-up focuses on the person as a whole, that is, the physiotherapist will consider not only the physical but also the psychological, emotional and social well-being of each patient. With the view to reaching a diagnosis and developing the most appropriate treatment plan with the help of their in-depth anatomical and physiological knowledge of the body and movement. The physiotherapist promotes well-being, mobility, and independence in people of all ages.

### **Importance of Physiotherapy & Physiotherapists:**

- Physiotherapists are treating without using drugs and their evaluation is solely based on physical diagnosis. Thus their independent practice will help, in a way to minimize the rate of diseases due to over usage of drugs. Also it will help to reduce the expenses in this regard. Even surgeries can also be avoided by proper application of physiotherapy.
- Physiotherapists are giving home service to patients who are immobile and aged. In most cases, this will be a long term procedure. If independent status is denied to the physiotherapists, it will turn to be a violation of Disability Act.

- In India, it is reported that more than 150,000 people are killed each year in traffic accidents. That's about 400 fatalities a day and far higher than developed auto markets like the US, which in 2016 logged about 40,000. (Sanjai P. R., 2018) and around 60,000 persons were fractured in road accidents in the previous year. In order to provide proper and continuous treatment to these patients, Physiotherapists need independent status. Thus, physiotherapists are competent to both diagnose and differential diagnose.
- Physiotherapists have determining role in sports medicine as well as health tourism.
- Reduce or eliminate pain. Therapeutic exercises and manual therapy techniques such as joint and soft tissue mobilization or treatments such as ultrasound, taping or electrical stimulation can help relieve pain and restore muscle and joint function to reduce pain. Such therapies can also prevent pain from returning.
- Avoid surgery. If physical therapy helps you eliminate pain or heal from an injury, surgery may not be needed. And even if surgery is required, you may benefit from pre-surgery physical therapy. If you are going into a surgery stronger and in better shape, you will recover faster afterwards in many cases. Also, by avoiding surgery, health care costs are reduced.
- Improve mobility. If you're having trouble standing, walking or moving, no matter your age physical therapy can help. Stretching and strengthening exercises help restore your ability to move. Physical therapists can properly fit individuals with a cane, crutches or any other assistive device, or assess for orthotic prescription. By customizing an individual care plan, whatever activity that is important to an individual's life can be practiced and adapted to ensure maximal performance and safety.
- Recover from a stroke. It's common to lose some degree of function and movement after stroke. Physical therapy helps strengthen weakened parts of the body and improve gait and balance. Physical therapists can also improve stroke patients' ability to transfer and move around in bed so that they can be more independent around the home, and reduce their burden of care for toileting, bathing, dressing and other activities of daily living.
- Recover from or prevent a sports injury. Physical therapists understand how different sports can increase your risk for specific types of injuries (such as stress fractures for distance runners). They can design appropriate recovery or prevention exercise programs for you to ensure a return to your sport.
- Improve your balance and prevent falls. When you begin physical therapy, you will get screened for fall risk. If you're at high risk for falls, therapists will provide exercises that safely and carefully challenge your balance as a way to mimic real-life situations. Therapists also help you with exercises to improve coordination and assistive devices to help with safer walking. When the balance problem is caused by a

problem in one's vestibular system, Physical therapists can perform specific manoeuvres that can quickly restore proper vestibular functioning, and reduce and eliminate symptoms of dizziness or vertigo.

- Manage diabetes and vascular conditions. As part of an overall diabetes management plan, exercise can help effectively control blood sugar. Additionally, people with diabetes may have problems with sensation in their feet and legs. Physical therapists can help provide and educate these patients on proper foot care to prevent further problems down the road.
- Manage age-related issues. As individuals age, they may develop arthritis or osteoporosis or need a joint replacement. Physical therapists are experts in helping patients recover from joint replacement, and manage arthritic or osteoporotic conditions conservatively.
- Manage heart and lung disease. While patients may complete cardiac rehabilitation after a heart attack or procedure, you also may receive physical therapy if your daily functioning is affected. For pulmonary problems, physical therapy can improve quality of life through strengthening, conditioning and breathing exercises, and help patients clear fluid in the lungs.
- Manage Women's Health and other conditions. Women have specific health concerns, such as with pregnancy and post-partum care. Physical therapists can offer specialized management of issues related to women's health. Additionally, PT can provide specialized treatment for: Bowel incontinence, breast cancer, constipation, fibromyalgia, lymphedema, male pelvic health, pelvic pain, avoids pre term related risks and urinary incontinence.

Keeping view of above facts we can easily understand that the physiotherapy is very effective, important as well as necessary for all the age groups not only curative but it's a science of wellness. But there is lack of regulatory authority for such noble profession.

#### **Present situation of Physiotherapy education in India:**

Physiotherapy is involved in the preventive, curative, restorative and rehabilitative branches of the modern medical concept. Though the Physical Medicine and Rehabilitation Department was started in 1972 in Govt. Medical College, the Physiotherapy section had been functioning there since 1960.

At present we have total 911 universities as per updates list of University Grant Commission on 5/07/2019 in which 400 State Universities, 126 Deemed to be Universities, 48 Central Universities and 337 Private Universities are present across India (Anonymous 2019) in which around 390 different-2 institutes were running physiotherapy course in their campus (Anonymous 2019) under UGC. As we can see above in the definition of Physiotherapy & Physiotherapists we can easily understand that it's a profession related to health care system and we have already so many institutes are running Undergraduate (Bachelor of Physiotherapy), Postgraduate (Master of Physiotherapy) with different specializations like Orthopaedics/ Musculoskeletal, Neurology, Sports, Cardio pulmonary etc. and PhD in Physiotherapy across India.

## Regulatory authorities for medical & allied health care professionals

Presently, for medical and allied health care professions like M.B.B.S, B.D.S, B.A.M.S, B.H.M.S, B. Pharmacy we have different-2 councils, boards and ministries like Medical council of India, Dental council of India, Ayush ministry, Pharmacy council of India respectively to regulate and maintain the standards of education by providing affiliation to the institutes and practices by providing registration to the professionals and to take action against fraud and quacks to stop malpractice in good favor of common man's health issues and to full fill the Constitution of India guarantees Right to Health to every person as a fundamental right.

But in case of physiotherapy we have not any central agency like other professional councils in the field of health care systems to regulate the education and practice at present we have only few independent state physiotherapy councils are present like:

- Delhi Council for Physiotherapy and Occupational Therapy (Anonymous, 2019).
- Gujarat Council for physiotherapy (Anonymous, 2019).
- Maharashtra Council for physiotherapy and occupational therapy (Anonymous, 2019).
- In the State of Madhya Pradesh, the physiotherapists have the legal entity to practice independently.

But these few councils are not adequate to control all the things in case of whole nation regarding Physiotherapy that's why a Strong and independent central council is needed to regulate the profession. Legal steps have to be taken to ban the practice of those who are not eligible and qualified for the purpose. Physiotherapists have both supplementary and complementary role in medical practice. Therefore, the service conditions of physiotherapists may be regularized in legal terms considering all the facts explained above.

Lack of legislation relating to Physiotherapists and practice of physiotherapy in India has led to many fraudulent practices being practiced in the name of physiotherapy. Such fraudulent practices, along with disparaging the status of physiotherapy as a science, are also creating hindrances in ensuring public health. The current population of India is 1,369,539,072 as of Tuesday, July 23, 2019, based on the latest United Nations estimates and its equivalent to 17.74% of the total world population. India ranks number 2 in the list of countries (and dependencies) by population (Anonymous, 2019) So, how it can be possible that we can ensure the proper physiotherapy services to this huge number of population without inducing any law and legislation like physiotherapy council at central level for a uniformity in education & practice over the nation.

Practice of quackery in the name of physiotherapy is quite common in India. Talking about quackery, it is the promotion (Barrett Stephen, 2009) of fraudulent or ignorant medical practices. A quack is a 'fraudulent or ignorant pretender to medical skill' or 'a person who pretends, professionally or publically, to have skill, knowledge, or qualifications he or she does not possess'. The term quack is a clipped form of the archaic term quacksalver, from Dutch word *kwakzalver* meaning a hawker of salve (Harper Douglas, 2015) in the middle age the term quack meant shouting and the quacksalvers sold their wares on the market shouting in a loud voice ( German English glossary of idioms, 2010) Common elements of general quackery include questionable diagnoses using questionable diagnostic tests, as well as untested or refuted treatments, especially for serious diseases such as cancer. Quackery is often described as 'health fraud' with the salient characteristic of aggressive promotion (Barrett Stephen, 2009)

However, to keep all above facts in consideration there is a serious need of law and legislation like central physiotherapy council in India as like some other countries to save the health of the community from quacks in the field of physiotherapy.

In addition to clinical practice, other activities encompassed in the physical therapy profession include research, education, consultation, and administration. Physical therapy services may be provided alongside, or in conjunction with, other medical services. Physiotherapy is a science as opposed to discrete and arbitrary medical practices across the world. Physiotherapists often follow an ethical code of conduct, often prescribed by a body for administration of such physiotherapists, in the course of their profession.

### **Physiotherapy associations & societies in India:**

In India, a number of societies and associations do exist which are committed for the furtherance of physiotherapy in the Indian subcontinent. Society of Indian Physiotherapist (SIP), Indian Association of Chartered Physiotherapists (IACP), Indian Association of Physiotherapist (IAP), All India Association of Physiotherapists and different -2 state associations at various states like Gujarat Physiotherapy association (GPA), Haryana Chartered Association of Physiotherapists (HCAP), Jammu & Kashmir Physiotherapy Association (JKPA), All Assam Physiotherapy Association (AAPA), Rajasthan Physiotherapy Association (RPA) and Rehabilitation & Physiotherapy Practitioner Association (RPPA) are some of such dedicated entities which have been possible by coming together of professional certified physiotherapists from across India. These all associations are also regularly demanding about the central physiotherapy council to create uniformity among whole nation in the field of education as well as in the field of practices in physiotherapy as well as to save the autonomy of physiotherapy profession as like other medical and allied health care professions.

### **Inadequacy of law in the field of Physiotherapy in India:**

There has been a negligible effort by the government to further the scope of physiotherapy in India. Lack of any significant legislation to the effect of controlling and enhancing the practice of physiotherapy and education in India has been proved to be a major setback to the growth of genuine physiotherapy practices in India.

Inadequacy of such laws regarding physiotherapy studies has been detrimental to both the science of physiotherapy as well as the promotion of public health in general. Framing of strict laws punishing fraudulent medical practitioners and promoting the growth of genuine physiotherapy practice is the need of the hour in the national interest and its whole sole responsibility of the central government to initiate the process of formation of central physiotherapy council as soon as possible to full fill the request of Indian physiotherapy community and to save this beautiful science of wellness because physiotherapy is not only a science of illness but it's a science of wellness also.

### **What is Council?**

- A body of people elected or appointed to serve as administrators, legislators, or advisors to make decisions or give advice on subject & to represent a particular group of people, or to run a particular organization.
- It's a Quasi Judiciary Body constituted by law of land of state / country to regulate / govern a particular profession.

**Functions of Physiotherapy Council:**

- To regulate Physiotherapy education & practice.
- Give registration & maintain the Registers of recognized Physiotherapists.
- To establish & maintain standards of Physiotherapy education at all levels (eg: UG, PG, PhD etc).
- To regulate the practice of the registered Professionals.
- Protection of public.
- Control over malpractice.
- To recommend the government to grant permission to start new college, new course, increase capacity in all courses.
- To decide criteria for “Recognized qualification”.
- To advice government in matters related to need of human resource in the field of physiotherapy”.
- To assist the Government in regard to continuing education of registered Physiotherapists.
- To take legal action against bogus courses, bogus persons & unregistered professionals.
- To suspend / remove name of such registered members from register & prohibit them from practicing. If found practicing, council can send them behind bars.
- To hear appeals against registered members, & if found guilty punish the member legally.
- To hear & decide on appeals against any decision of Registrar of council.

**Why central Physiotherapy Council is needed in India?**

- India, fast developing country of world.
- Maximum numbers of physiotherapy institutes were offering diploma, degree courses.
- Non uniformity in education across various state of India as well as in state like ITI runs PT technician courses.
- For Better future of Professionals & Students in country.
- For easy differentiation of diploma holder or graduate in states & other parts of country.
- Better autonomy of physiotherapy profession in India.
- Legal protection of rights of physiotherapist in country.
- Legal platform for professional issues.
- Hence, better dignity & identity.
- Representation to various govt. authorities eg: Pay commission Planning Commission of India, UGC, NABH.
- Easy to address political insensitivity.

**Conclusions:**

*Physiotherapy* is an essential science for life and physiotherapists play a wide role in modern health care system but ironically there is no law and legislation like central physiotherapy council to regulate and monitor this profession. This kind of legal inadequacy in the field of health in special reference to physiotherapy is a serious issue for physiotherapy students, professionals and patients who need better physiotherapy services. So, government should take a strong action to preserve this profession in India as well as to preserve our fundamental right to health.

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