

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 3

2024

© 2024 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Collective Responsibility of Ministers under the Indian Constitution

SHIVIKA SHARMA¹ AND ARSHEYA AASHNA SAGAR²

ABSTRACT

"The resilience of a team lies within the unique contributions of its members, while the collective effort of each member bolsters the team as a whole." The council of ministers, in a democracy, are the representatives of the citizens and, in turn, decision-makers of the country. As the cabinet ministers form the majority government, they are collectively responsible for all the policies and their implementation. Through this paper, the authors have studied the essence of the constitutional provision of collective responsibility of the cabinet ministers and attempted to explore the facets or features of this customised responsibility of the majoritarian council of ministers. The features of collective responsibility include Ministers acting as a unit aligned with the majority view, maintaining secrecy, and accountability to the citizens. The paper stipulates constitutional provisions that have vested the council of ministers with collective responsibility. The authors have also compared and contrasted the stipulated provision in the Indian constitution with the individual responsibility of the ministers. In the latter part of the paper, the authors have analysed & interpreted the provision of collective responsibility. The references of this paper include a combination of primary and secondary resources -- books, research articles, case laws, and constitutional provisions. In conclusion, the authors have encapsulated the discourse by addressing the contemporary relevance of the constitutional provision of collective responsibility within a democratic framework, alongside emphasising the importance of ministerial accountability to the parliament. Ultimately, "The accountability of leaders acts as the cohesive force uniting dedication to achieving results, thus reflecting the caliber of leadership."

Keywords: council of ministers, accountability, transparency, public secrecy, unity of public.

I. INTRODUCTION

The concept of collective responsibility of ministers stands as a cornerstone of the parliamentary democracy enshrined in the Indian Constitution. It represents a fundamental principle that shapes the dynamics of governance, accountability, and decision-making within the Indian

¹ Author is a student at National Law University, Jodhpur, India.

² Author is a student at National Law University, Jodhpur, India.

political system. This research paper aims to provide a comprehensive examination of the collective responsibility of ministers under the Indian Constitution. The main focus of this research paper is to address the research problem: To what extent does the principle of collective responsibility effectively ensure governmental accountability and coherence within the Indian parliamentary system?

This research problem raises several research questions and dimensions related to the principle of collective responsibility in the Indian Context. The research questions are based on the broad heads of the content as to how these topics and principles encompass the principle of collective responsibility. By tackling this research issue, the article aims to improve our comprehension of how the Indian parliamentary system operates, the function of collective responsibility in government, and the wider ramifications for democracy and accountability. It seeks to pinpoint situations where collective responsibility is used well and poorly.

First the research paper introduces the principle of collective responsibility to the readers and then it comes down to the main aspects and dimensions of collective responsibility, which are all interconnected to each other. Under the aspects, first we will discuss the cabinet decisions and policy implementation, which would briefly contain some facet of resignation, which would again be discussed later on in the paper, which would then lead us to the unity of ministers in public and how it important for maintaining collective responsibility. Next, we would like to explain cabinet secrecy and its implications, and then to parliamentary accountability. Lastly, we will discuss the resignation of the cabinet ministers due to either disagreements or a vote of no confidence. After explaining these sub-heads under the principle of collective responsibility, we would provide an analysis and conclusion for the research paper that would establish that the research problem has been addressed beyond reasonable doubt.

(A) What is collective responsibility of ministers?

Collective Responsibility at first, in very simple terms is the “crux” of Parliamentary Democracy in India. Joint minister liability or responsibility is the cornerstone of parliamentary democracy. The principal idea is that the Council of Ministers, headed by the Prime Minister, operates as a collective entity responsible for the governance of the country. Each minister is individually accountable to the Parliament, but collectively they share responsibility for the decisions and actions of the government, same goes for the Council of Ministers headed by the Chief Minister in the states, the ministers are collectively responsible to Legislative Assembly of the State. This is what is meant by Collective Responsibility under the Indian Constitutional Framework, this is the basis for this principle which has also been interpreted in a wider sense

and contains many other connotations which we will later talk about in this research paper.

So, from where do we get this principle of collective responsibility? The concept of collective responsibility is enshrined in Article 75(3) of the Indian Constitution, which states that “*The Council of Ministers shall be collectively responsible to the House of the People.*” This provision is concerned with the Council of Ministers being collectively responsible to the Lok Sabha in the Parliament and it is for the ruling party at the centre. There is a similar provision working for the states in India as well. That provision is enshrined in the Article 164(2) of the Indian Constitution which reads, “*The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.*” This whole concept is based on the Westminster style of Parliamentary Democracy as followed by Britain which is called Cabinet Collective Responsibility in which members of the cabinet are required to publicly endorse all decisions made by the government in Cabinet, even if they hold differing opinions privately.

Collective responsibility operates on several levels within the Indian political structure. Firstly, as iterated above, the council of ministers are collectively responsible to the Lok Sabha, which basically means that decisions taken by the government are owned collectively by all ministers, irrespective of their individual roles or portfolios. Secondly, expanding on the cabinet collective responsibility which extends to the cabinet, which is a smaller group of ministers selected by the Prime Minister to make key policy decisions and these cabinet ministers are the heads of the different departments under the central government. Cabinet decisions are binding on all ministers, and even if there is a difference of opinion among ministers during cabinet meetings, once a decision is made, all members are expected to support and defend it publicly. This principle fosters unity and coherence within the government, ensuring that it speaks and acts with one voice. Thirdly, collective responsibility also plays a big role in the resignation of the entire council of ministers, that is if the government fails to prove their majority on the floor of the house during a floor test or a vote of no confidence. So, in a way, collective responsibility not only promotes accountability which prevents individual ministers from deflecting blame or shirking accountability for failures or mistakes. but also helps in upgrading the efficiency and effectiveness of governance by promoting collective decision making and coordination among the ministers.

Moreover, maintaining the notion of parliamentary sovereignty depends heavily on common accountability. The Parliament grants the Council of Ministers its authority, and as such, the representatives of the people are the body to whom it ultimately answers, as the Lok Sabha to which the ministers are accountable represents the will of the people. Collective responsibility contributes to the protection of the democratic values entrenched in the Constitution by

exposing the government to legislative inspection and investigation.

In conclusion, a key component of the Indian constitutional system is the idea of ministers' common accountability. By guaranteeing that the Council of Ministers functions as a unified and responsible body that is jointly accountable to the Parliament and the people, it exemplifies the idea of parliamentary democracy. Collective responsibility is essential to maintaining democratic values and guaranteeing the smooth operation of the government since it fosters unity, accountability, and parliamentary sovereignty and ultimately serves as a tool for building consensus among the council of ministers. The goal of collective responsibility is to establish the collective identity of all those holding ministerial positions, or, in other words, "*vicariously responsible for such acts of the others as are referable to their collective violation so that, even if an individual may not be personally responsible for it, yet, he will be deemed to share the responsibility with those who may have actually committed some wrong.*"³ This was cited in a Supreme Court decision of *State of Karnataka v. Union of India* to explain how the common law doctrine of vicarious liability can be attracted to the ministers and they can be considered secondary liable because the ministers are considered as one unit and they are collectively accountable and responsible for their acts. Now that we know what the collective responsibility of the ministers means and entails, we will move on to the intricacies of the topic and will see the various aspects and nuances related the collective responsibility held by the ministers under the Indian Constitution.

To further substantiate the collective responsibility of the ministers under the Constitution in India, we will refer to a news article published by National Daily newspaper, the Hindustan Times which published a letter of our Former Indian Prime Minister, Jawaharlal Nehru⁴ who explained the principle of collective responsibility in the context of the State Governments:

"A Government after the parliamentary model, is one united whole. It has joint responsibility. Each member of the government has to support the others so long as he remains in the government. The Minister has to support his other Ministers and the other Ministers have to support each other and the Chief Minister. It is quite absurd for any Minister to oppose or give even the impression of opposing a colleague of his. Opinions may be freely expressed within the Cabinet. Outside, the government should have only one opinion. There is no question of a member of government being neutral in a controversial issue in which the government is concerned except in the rare cases which we may consider as matters of conscience, where

³ *State of Karnataka v. Union of India*, AIR 1978 SC 68: (1977) 4 SCC 608: (1978) 2 SCR 1.

⁴ Nehru's Letter, The Hindustan Times, June 17 1954

freedom is given.”

II. CABINET DECISIONS AND POLICY IMPLEMENTATION

The cabinet is headed by the Prime Minister and the highest decision-making body in the executive branch of the government. The council of ministers are the heads of individual departments and its their duty to implement policy decisions in their own department. The cabinet meetings happen to deliberate on serious matters like that of governance, policies, national security, and various other matters of national importance. In the cabinet meeting, various discussions happen before arriving at a decision of policy, the ministers engage in discussions and debates and give inputs about their viewpoints and insights, provide the advantages or disadvantages of the particular point of discussion before arriving at a collective decision. This is part of consensus building process.

After a consensus is reached and a decision is made, it is binding on all the ministers, irrespective of their personal opinion, conflicts, and reservations. The nature of this is binding and the ministers or a particular minister, even if he or she disagrees with the decision made, has to defend the decision publicly and show support for the government and the policy decision made in the cabinet meeting. This is to show unanimous support of the cabinet decision so once a decision is made, all ministers are expected to present a united front in support of the government's stance. This demonstrates solidarity and cohesion within the government, projecting an image of strength and stability to the public.

In case a minister, does not agree with the policy decision and decides to strongly show his disagreement then there is the option of resignation available to him. However, this is considered a last resort, and ministers are generally expected to adhere to the principle of collective responsibility and support Cabinet decisions. Some examples include: -

- **Arun Shourie' Resignation:** Arun Shourie, who served as the Minister of Disinvestment and later as the Minister of Communications and Information Technology in the National Democratic Alliance (NDA) government, resigned from his position in 2004. Shourie's resignation came after the defeat of the NDA in the general elections of 2004. He expressed his disagreement with the policies and functioning of the government and chose to resign from his ministerial post.
- **Jagdish Tytler and Buta Singh's Resignations (1984):** Following the anti-Sikh riots in 1984, Jagdish Tytler and Buta Singh resigned from their ministerial positions in the government led by Prime Minister Rajiv Gandhi. Their resignations came amid allegations of their involvement or mishandling of the situation, demonstrating

accountability for the government's actions.

- **Yashwant Sinha's Resignation (2002):** Yashwant Sinha, who served as the Finance Minister of India, resigned from his position in 2002 in protest against the handling of the Tehelka expose by the magazine Tehelka, which involved allegations of corruption in defence deals. Sinha disagreed with the government's response to the scandal and chose to step down from his ministerial post.
- **Morarji Desai:** who was the Deputy Prime Minister and Finance Minister in the Cabinet headed by Indira Gandhi, resigned in July 1969 in protest against the action of the Prime Minister in taking away the Finance portfolio from him without giving him an idea that she was adopting that measure.

These were some rare instances when ministers resigned from their position when they were in strong opposition of a decision taken by the Cabinet on a matter of principle or conscience, they may choose to resign from their position. Resignation of the ministers would be covered in more detail later in the research paper as well.

The other aspect that we have to talk about after the cabinet decision of the ministers is the **Policy Implementation:**

Every minister in the council of ministers or the COM oversees the working of a major department or Ministry. After a decision is made in the cabinet, each minister is in charge of carrying out the policies and instructions pertaining to their ministries when a decision has been made. Although their departmental management is autonomous, they are nonetheless required to coordinate their efforts with the Cabinet's overarching goals. This guarantees coordination and coherence in the execution of government projects and activities.

With relation to the cabinet and policy implementation we can refer to the words of Lord Salisbury who explained the principle of collective responsibility. He explained that, "*For all that passes in the Cabinet, each member of it who does not resign is absolutely irretrievably responsible, and has no right afterwards to say that he agreed in one sense to a compromise while in another he was persuaded by his colleagues.*"⁵

We can even take a look at the Gujarat High Court decision which stated that, "*Collective responsibility means all Ministers share collective responsibility even for decisions in which they have taken no part whatsoever or in which they might have dissented at the meeting of the Council of Ministers. Collective Responsibility means the members of Council of Ministers*

⁵ Life of R.B. Salisbury, Vol. II, pp. 219-220.

express a common opinion. It means unanimity and confidentiality.” This was said and established in the case of ***Dattaji Chirandas v. State of Gujarat***.⁶

Moreover, in the implementation of the policy, collective responsibility also means that the success and failure of any certain policy is the sole responsibility of the ministers themselves. This is one of the meanings of collective responsibility as cited in a landmark case revolving around the topic of euthanasia, which we will discuss in the next aspect of collective responsibility.

III. UNITY IN PUBLIC

Collective responsibility also entails the aspect of the unity of the ministers in public forums. It's because the decisions of the cabinet are considered as the decisions of the whole government and a minister is not supposed to voice his or her personal opinion or disagreement in public, so it is barred for the minister to speak against government policy in public, once a decision has been reached and agreed to in the cabinet meeting. A united front of the government is to be shown to the public at large so as to maintain unanimity.

A very important landmark judgment that we have to refer to understand this aspect of collective responsibility in the Indian context is the case of ***Common Cause v. Union of India***⁷ in which the Supreme Court of India provided the meaning of collective responsibility. The Supreme Court came up with two meanings of collective responsibility:

1. First, all the ministers are unanimous in the support of a policy in public.
2. Second, it is the ministers themselves who are responsible for the success and failures of a policy.

The Supreme Court went on to quote that: *“all members of a government are unanimous in support of its policies and would exhibit that unanimity on public occasions although while formulating the policies, they might have expressed a different view in the meeting of the Cabinet.”*

This takes us to the understanding that the council of ministers should be at total harmony with each other so as to support each other and the decisions of the government in public forms or platforms. The principle of collective responsibility heavily relies on unanimity of the council of ministers.

In case if a minister does not share the views or is strongly against some action of the

⁶ Dattaji Chirandas v. State of Gujarat, AIR 1999 Guj. 48, 59.

⁷ Common Cause v. Union of India, AIR 1999 SC 2979 at 2992: (1999) 6 SCC 667.

government then he can resign but this is to maintain unanimity and harmony among the council of ministers. There has to be party loyalty or loyalty to the coalition in case of coalition government and to the Prime Minister at the centre level and the Chief Minister at the state level.

To ensure that there is collective responsibility, there is even the fact that there is no individual ownership of policies. Ministers are expected to take collective ownership of government policies and decisions, regardless of individual portfolios or responsibilities. This means that even if a particular policy falls under the jurisdiction of a specific ministry, all ministers are accountable for its success or failure, decided in the Common Cause case.

The reason as to why this aspect is added in the principle of collective responsibility is to instil in the minds of the public that the government is well functioning and is cohesive and is capable enough to address the needs of the nation. It serves as a symbol of strength and stability, if on the other hand this aspect was not there then the government would have fell into disarray as the ministers then would not have provided a united front to the public at large, which would have led the people to believe that the government is not a stable one as there is internal dissent among the ministers themselves. Therefore, ministers are discouraged from publicly criticizing each other or the government's policies because this would reduce the credibility of the government itself. Instead, any differences of opinion are generally addressed internally within the Cabinet, through constructive dialogue and consensus-building efforts.

In conclusion, for efficient governance within the Indian framework, members of the Cabinet must be united in public. Ministers exhibit consistency, legitimacy, and stability in government policies and actions by putting up a united front, this is the **Unanimity Principle** which states that the ministers have to speak for the same side as that of the government and they have to be united inside and outside of the Parliament in matters of the policies or the votes given in the parliament. In addition to increasing public trust and support, this unity strengthens the government's authority and capacity to deal with the problems facing the country. Ministers guarantee that the interests of the people are prioritized and pursued with tenacity and coherence by upholding democratic governance principles via collective responsibility and solidarity.

IV. CABINET SECRECY

Cabinet Secrecy means that all the discussions and deliberations done withing the walls of the cabinet are not to be disclosed and are meant to be kept as a secret and as confidential information. This is done to give effect to the principle of collective responsibility because if confidentiality is not maintained then it would be impossible to maintain a united front as the

secrets and discussions of dissent or disagreement would be out in the open to the public. Furthermore, cabinet secrecy provides and fosters a sense cohesion and develops collective responsibility because then the ministers can engage in uninhibited discussions on any policy and can voice their opinion, agreement or disagreement and then can work together to build consensus because they know that their viewpoint will remain confidential.

This cabinet secrecy is a very broad protection and its consequences are very extensive. On this matter, Wade and Phillips⁸ have quoted in their book on Constitutional Law, “*Relying on this protection, Cabinet members are free to voice their opinions without reserve on all subjects which come up for discussion; the motives which have influenced the Cabinet in coming to its decision will not be disclosed; the dissentients can support the corporate policy without being themselves singled out for special attack or having the motives impugned.*” This is called as the **Confidentiality Principle**.

If a Cabinet Minister discloses the contents of a Cabinet discussion to the media, they risk losing their position. The confidentiality of such discussions might be partially lifted if the Minister resigns. In such a case, the Minister has the right to address Parliament and disclose the reasons behind their resignation. This parliamentary privilege allows the resigning Minister to address the public and fellow lawmakers, shedding light on the circumstances that led to their resignation. It serves as a mechanism for transparency and accountability, ensuring that significant developments within the government are communicated to the Parliament and, by extension, to the public.

By granting the resigning Minister the right to disclose the reasons for their resignation in Parliament, the parliamentary system balances the need for confidentiality with the principles of transparency and accountability. It reinforces the idea that ministers are ultimately accountable to the elected the Lok Sabha that represents the will of the people.

V. ACCOUNTABILITY OF MINISTERS

In a democratic governmental setup, the elected representatives (the ultimate sovereign), the ministers, are held accountable and answerable to the Parliament specifically to the Lok Sabha,⁹ which serves as a reflection of the people's mandate. They are obligated to respond to inquiries from Members of Parliament, engage in discussions, and justify the government's policies and decisions. Holding the government collectively accountable is a prerequisite of a parliamentary

⁸ Wade and Phillips, op. cit., 100

⁹ ‘When Does Collective Responsibility of the COM Give Way to a Minister’ (*Legal Service India - Law, Lawyers and Legal Resources*) <<https://www.legalserviceindia.com/legal/article-4641-when-does-collective-responsibility-of-the-com-give-way-to-a-minister-s-individual-liability-.html>> accessed 2 April 2024

government in a democracy. The Cabinet of elected representatives is collectively responsible for the proper administration of the country and is answerable to the legislature for its actions. The legislative branch of the government is empowered to pass legislation, enabling the executive branch to execute and enforce the enacted laws. The government's performance undergoes regular scrutiny by the electorate through elections held every five years. Formed upon securing the majority support of elected members in the legislature, the government remains accountable to the legislative body daily. The discussions on proposed bills, inquiries during Question Hour, resolutions, debates, and motions of no confidence maintain accountability.¹⁰ The government as a whole bears responsibility for the actions and policies of each minister and their respective departments. The government assumes responsibility for the decisions and directives of each minister and their respective departments, thereby establishing a complex web of accountability. This intricate network entails the legislature being answerable to the electorate who bestowed upon them their mandate, while the government, in turn, holds collective responsibility to the legislature. This symbiotic relationship forges a direct connection between the electorate and the government, emphasising their interdependence.¹¹ The government bears collective responsibility for its conduct, with the Council of Ministers being answerable both to the legislature and to the electorate.

Collective responsibility stands as a pivotal element within parliamentary democracies. The provision of collective responsibility is an indispensable principle of Parliamentary government, reflecting the political link between the government and the Parliament. To uphold the principles of collegiality and coherence, the Ministers collaborate closely as a cohesive team. A direct correlation exists between the principle of collective responsibility and governmental accountability. The doctrinal principle of Collective responsibility is multifaceted. Firstly, the ministers work collectively as a whole unit—all the cabinet decisions are obligatory on all the ministers. Secondly, if there are any disagreements between the ministers or if any of the ministers are not aligning with the collective decision of the council, then all the negotiations are supposed to be done in isolation. Ministers maintain unity in voice and support each other in parliamentary proceedings and public statements. Those who cannot align themselves with specific government policies or are hesitant to publicly defend them are required to resign. Conversely, unless overridden, the decisions made by individual Ministers represent the government decisions as a whole. Furthermore, collective responsibility extends to scenarios where Ministers may be unaware of actions carried out by their department's

¹⁰ State (NCT of Delhi) v. Union of India, (2023) 9 SCC 1

¹¹ State (NCT of Delhi) v. Union of India, (2018) 8 SCC 501

subordinate officials.

The principle of collective responsibility serves as the sanction against any governmental action, upheld through the "pressure of public opinion," and particularly manifested through the withdrawal of political support.¹² The concept of collective responsibility stands as a fundamental tenet in contemporary parliamentary democracies. It mandates that the Council of Ministers collectively be held accountable to both the legislature and the electorate. This principle governs the democratic framework by making the Government accountable for all its actions, emphasising its obligation to effectively serve and address the public's interests. It aims to promote transparency in governmental decision-making processes. The essence of collective responsibility lies in the principles of constitutional morality, embodying the ethical standards inherent in the constitution.

Collective responsibility guarantees that the Government presents itself as a unified political entity, bound to serve the elected representatives of the populace. By mandating that the Government remains answerable to the legislature in its decision-making processes, this principle promotes a government that is both responsive and accountable. Regarding its accountability to the legislature, the Government is treated as a single entity in decision-making, ensuring that internal political dynamics and administrative discrepancies do not diminish its responsibility to the legislature as a cohesive political body. This is essential for ensuring that the Government remains attuned to the aspirations of the populace, who hold the ultimate political sovereignty.

Ministers are obliged not to publicly oppose government policies, as doing so undermines the very essence of Collective Cabinet Responsibility, which is crucial for the government's legitimacy. When Ministers vote in alignment with the government, they outwardly signal their support, even if they harbour reservations privately. Abstaining from voting is viewed as a breach of convention, as it fails to demonstrate active support. Additionally, speaking out against government policy presents a more nuanced challenge. In today's era of media manipulation and strategic communication, Ministers may attempt to convey discontent through various channels such as press briefings or leaks. However, it is imperative to recognise that all decisions reflect the collective stance of the government as a whole. Therefore, Ministers must refrain from briefing or leaking against fellow cabinet members, as such actions not only undermine the unity of the government but also erode trust and cohesion within the Cabinet. Therefore, if any minister undermines the unity of the government and erode the trust and

¹² Part III, Collective Responsibility, MP JAIN CONSTITUTION OF INDIA 2

cohesion within the Cabinet then, he is supposed to resign with immediate effect.

VI. RESIGNATION OF MINISTERS

(A) On disagreements

According to the constitutional principle of Collective responsibility, all the ministers operate as a unified entity, with all cabinet decisions binding on each minister. In cases of disagreement among ministers, then the disagreements are addressed in private. Ministers uphold solidarity in their expressions and back each other in parliamentary debates and public declarations. Those unable to conform to government policies are mandated to resign. The decisions made by the Cabinet are considered as decisions of the entire Council of Ministers and are obligatory for all ministers. As long as a minister holds his position, he cannot neglect responsibility for any Cabinet decision. If a minister is criticising, opposing a Cabinet decision, adopting a neutral stance, or publicly opposing a colleague, he cannot hold his ministerial position. If a minister disagrees with a Cabinet decision on a policy issue and is unwilling to support and defend it, they should consider resigning.

There are various past experiences of ministers' resignations due to disagreements in the cabinet. For instance, Dr. Mathai resigned as the finance minister as a consequence of his disagreement with the Cabinet regarding the matter of the extent and authority of the proposed establishment of the Planning Commission. Another incident of resignation is Minister C.D. Deshmukh's resignation because he dissented from the cabinet on the issue of reorganisation of states particularly, regarding Bombay. On September 5, 1961, Foreign Minister Chagla served his resignation due to his disagreements with the Government's language policy, particularly concerning the position of English. Additionally, various other Ministers have stepped down from the Central Council of Ministers due to disparities with the Cabinet. Nevertheless, there is an established practice that allows a resigning Minister to articulate the nature of their disagreement with the Cabinet in their resignation letter and deliver a resignation speech in Parliament, should they choose to do so.

The principle of collective responsibility is deemed both beneficial and indispensable. In the legal case of *S.P. Anand, Indore v. H.D. Deve Gowda*¹³, it was established that even though a Prime Minister may not hold membership in either house of Parliament, upon appointment, both the Prime Minister and their Ministers become accountable to the House.¹⁴ This principle

¹³ *S.P. Anand, Indore v. H.D. Deve Gowda*, 1996 (6) SCC 734

¹⁴ SRIVASTAVA RR, 'The Concept of Collective Ministerial Responsibility in India- Theory and Practice' (RostrumLegal, 8 April 2023) <<https://www.rostrumlegal.com/the-concept-of-collective-ministerial-responsibility-in-india-theory-and-practice/>> accessed 2 April 2024

governs the democratic process, emphasising the necessity for a cohesive Council of Ministers to effectively govern the nation. The Prime Minister plays a pivotal role in upholding collective responsibility by possessing the ultimate authority to dismiss a Minister. The Supreme Court has affirmed that collective responsibility remains operative as long as the Lok Sabha, the lower house of Parliament, is not dissolved. However, once dissolution occurs, the Council of Ministers naturally loses the confidence of the House of People.

(B) No confidence motion

No confidence Motion is a vote that states that the government is no longer deemed fit to hold a majority, they are failing to carry out obligations or is making decisions that other members feel detrimental. Through this motion, it is proved to the Head of the State that the elected parliament no longer has confidence in the appointed government. A no-confidence motion is moved by the opposition party to compel the majority party to prove its majority on the floor of the House. The motion can only be initiated by a member of the Lok Sabha, providing MPs with a platform to deliberate on the government's performance before deciding on whether the ruling party maintains the "confidence" of the House. This no-confidence motion differs slightly from a motion of confidence, also known as a trust vote, which is introduced by the government itself as a standard motion under Rule 184.¹⁵ As a response to opposition parties, a government can establish its majority by presenting a confidence motion. During the designated day, Lok Sabha members discuss government performance before voting on a motion. The ruling government must secure a minimum of 273 votes to maintain power. Failure to do so necessitates the resignation of the Prime Minister and the Council of Ministers. Additionally, the Prime Minister can suggest dissolving the House before a confidence or no-confidence vote, with the latter possibly targeting the entire government or individual members, such as the Prime Minister. While the Indian constitution doesn't explicitly refer to "no-confidence," Article 75(3)¹⁶ outlines the collective responsibility of the Council of Ministers to the House of the People. This implies that for the Prime Minister and his cabinet to maintain power, they must retain the majority support of Lok Sabha MPs. A motion of no-confidence directed at one Minister can sometimes be interpreted as a lack of confidence in the entire Council of Ministers. However, this principle of collective responsibility isn't always rigid. While Ministers typically consult the Cabinet on significant policy matters, there are instances where a Minister may act independently. If the Minister's decision aligns with Cabinet approval, then collective

¹⁵ Pathak K, 'The Concept of "No - Confidence Motion" in India With ...' (*Teaching and Research Associate (Law) GNLU Centre for Constitutional and Administrative Law*) <<https://gnlu.ac.in/Document/content-docs/4625ea07-fdb2-4b85-b24f-2b76073491f6.pdf>> accessed 1 April 2024

¹⁶ INDIA CONST Art. 75(3)

responsibility applies, and each Minister shares liability. Nonetheless, there is some flexibility when a Minister acts without Cabinet endorsement.

The Confidence Principle dictates that a government can continue its tenure only if it maintains the support of the House of people, which is presumed unless challenged and proven otherwise through a confidence vote.¹⁷ In the event of a government losing a confidence motion, it has two options: resign in favour of an alternative government assuming office or pursue dissolution. While prime ministers have historically resigned from office, nowadays they are more inclined to opt for dissolution rather than relinquishing power to the opposition party. Therefore, if the Parliament loses confidence in the ruling party, then the majority party is collectively responsible, and all the ministers are supposed to collectively resign since they lost the confidence of the Parliament. Some significant incidents of no confidence and resignation include - in April 1999, Prime Minister Vajpayee experienced a narrow defeat in a no-confidence motion, with a margin of only one vote. Similarly, Prime Minister Desai resigned on July 12, 1979, following his loss in a vote of no-confidence. Additionally, both V. P. Singh and H. D. Deve Gowda were ousted from office as a result of no-confidence motions. These instances underscore the significant repercussions faced by prime ministers in the wake of such parliamentary defeats, highlighting the pivotal role of confidence in determining the stability and continuity of governmental leadership.

VII. INDIVIDUAL RESPONSIBILITY OF MINISTERS

The ministers are collectively responsible as a unit however, they are responsible in their individual capacity as well since not all decisions are taken by the cabinet collectively. There are certain decisions which the ministers take individually for which they are individually responsible. As per the understanding of the Supreme Court the Cabinet holds accountability to the legislature for all actions undertaken within any ministry, encapsulating the essence of collective responsibility. However, this doesn't imply that every decision must be made collectively by the Cabinet. The political obligation of the Council of Ministers doesn't necessitate individual Ministers to personally undertake all governmental functions. Likewise, each Minister bears responsibility to the legislature for actions carried out or neglected within their respective Ministry. This responsibility remains political in nature and doesn't entail personal liability.

No Minister can maintain their position contrary to the wishes of Parliament. Each Minister

¹⁷ 'Confidence Motions and Parliament' (Institute for Government, 26 March 2024) <<https://www.institutefor.gov.uk/article/explainer/confidence-motions-and-parliament>> accessed 2 April 2024

carries the responsibility of representing and advocating for the government within their designated area of authority. They are obligated to address inquiries regarding the operations of their department and defend their policies and management during parliamentary deliberations. They are accountable for every action or failure within their department and cannot shift this responsibility to any other entity, whether it be an official within their department or another Minister. Each Minister bears personal accountability and shares collective responsibility for their decisions, actions, and policies.

Decisions made by individual ministers stand as decisions of the government unless overridden. However, Article 78¹⁸ empowers the President to present to the council of ministers any matter decided upon by an individual minister for their consideration. In such instances, the Prime Minister is obligated to bring the matter before the council. The council of ministers is not held legally responsible for the alleged criminal actions of one of its members. While ministers' individual decisions may not always lead to collective legal accountability.

If a Minister takes action without obtaining approval from the Cabinet, the entire Council will stand behind the Minister in such situations, but there have been cases where the Minister in question has been either asked or permitted to step down instead of the entire Council. The constitutional practice in this matter is contingent upon the specific circumstances at hand. While there are occasions when the Cabinet feels compelled to support a Minister, there are also instances where the Cabinet opts to remove the Minister in question. When faced with the dilemma of how to address potential criticism of an individual Minister's actions in Parliament, the Cabinet must weigh the options: whether to accept full responsibility and endure criticism collectively or to undergo the abrupt removal of the offending member. However, the Cabinet cannot retain the Minister while shifting all responsibility solely onto them.

When Ministers are implicated in misconduct or corruption, they typically resign individually rather than the entire Council of Ministers. Examples include K.D. Malaviya in 1963 and T.T. Krishnamachari in 1965, who resigned following inquiries led by Supreme Court Judges. The case of *State of Karnataka v. Union of India*¹⁹ argues against holding the entire Council responsible for individual Ministerial actions, emphasising personal accountability. The concept of individual Ministerial responsibility, underscored in *Secretary, Jaipur Development Authority v. Daulat Mal Jain*²⁰, stresses that public office holders must be answerable for their conduct. Ministers carry both personal and collective responsibility for their decisions, though

¹⁸ INDIA CONST, Art. 78

¹⁹ *State of Karnataka v. Union of India*, 1978 AIR 68

²⁰ *Jaipur Development Authority v. Daulat Mal Jain*, 1997 (1) SCC 35

they face public scrutiny for their actions while serving.

VIII. ANALYSIS AND CONCLUSION

"The unity of purpose among leaders, driven by accountability, binds their dedication to achieving results and ultimately reflects the caliber of their leadership, much like the combined strength of individual contributions fortifies the resilience of a team."

In conclusion, the collective responsibility of the council of ministers stands as a fundamental pillar of India's parliamentary democracy. This principle underscores the unity and shared accountability of the government in serving the Parliament and the nation at large. Led by the Prime Minister, the council operates as a cohesive unit responsible for governance, with each minister individually answerable to Parliament while collectively sharing responsibility for government decisions and actions. Integral to this concept is the cabinet's role as the highest decision-making body, where discussions and debates foster consensus-building and informed policymaking. Cabinet secrecy ensures open discourse while maintaining confidentiality, essential for fostering unity and collective responsibility among ministers. A landmark judgment, exemplified by *Common Cause v. Union of India*, elucidated the meaning of collective responsibility, emphasising unanimity in public support for policies and shared responsibility for their outcomes.

The intricate network of accountability extends from the government to the electorate, with ministers collectively responsible for the administration of the country. Upholding the constitutional principle of collective responsibility, ministers operate as a unified entity, with cabinet decisions binding on each member. Disagreements are addressed privately, fostering solidarity in parliamentary debates and public appearances. While the Indian constitution does not explicitly mention "no-confidence," Article 75 outlines the collective responsibility of the Council of Ministers to the House of the People. The Confidence Principle dictates that government tenure depends on maintaining the support of the House, with failure resulting in resignation or dissolution. In essence, the principle of collective responsibility embodies the essence of democratic governance, ensuring accountability, unity, and effective decision-making within the Indian parliamentary system.

Analysing the merits of the constitutional provision of collective responsibility it can be deduced that Collective responsibility serves as a mechanism to prevent conflicts between the Council of Ministers and the cabinet, thereby ensuring cohesion and alignment within the government. This fosters political loyalty and strengthens the party of the Prime Minister, as all members are expected to support decisions made collectively. Moreover, collective

responsibility streamlines the policymaking process and facilitates the passage of legislation by promoting consensus among Ministers.

Moreover, establishing the government's collective responsibility and its obligation to be answerable to Parliament exemplifies a core tenet of parliamentary governance. In a democratic state, ministers serve as representatives of the citizens, necessitating the government's possession of majority support in Parliament for effective functioning. Consequently, if the government fails to maintain this support, it bears collective responsibility and is compelled to resign. Individual ministerial resignations also occur when ministers refuse to align with government policies, underscoring their individual responsibility. Despite collective responsibility for cabinet decisions, ministers retain individual accountability for their respective departments. Thus, in cases of corruption, ministers are individually held accountable and are required to resign promptly. This constitutional provision ensures the preservation of accountability, transparency, and the legitimacy of government in a democratic nation such as India.

However, the demerits associated with collective responsibility are - it can be perceived as undermining the essence of democracy, as it requires cabinet ministers to publicly endorse decisions made by the Prime Minister, potentially stifling dissenting voices within the government. This centralised decision-making process may also diminish the autonomy of individual ministers, leading to a prioritisation of party initiatives over personal initiatives. Additionally, the requirement for consensus-building may result in delays in addressing urgent issues, as thorough deliberation and agreement among Ministers are necessary, which could impede swift action.

Therefore, while collective responsibility offers benefits such as political cohesion and streamlined decision-making, it also presents challenges related to democratic participation, individual autonomy, and timely responsiveness to pressing matters. Striking a balance between collective unity and individual agency is crucial for effective governance within the framework of collective responsibility.
