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Article 293: Borrowing Power of the States

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Article 293: Borrowing Power of the States

Imagine a State that has run short of money. It wants to borrow more, but it already owes the Union a large loan. Article 293 says it needs the Union's consent. This lesson covers the four clauses, the Kerala case, and how Articles 292 and 293 differ.

At a glance

Four key facts on this topic

01 **293(3)** Consent needed if Union debt is outstanding.

02 **3% of GSDP** Kerala's 2023-24 ceiling, about ₹32,442 crore.

03 **Art. 131** Kerala's suit, filed 8 December 2023.

04 **5 judges** Constitution Bench from 1 April 2024.

What do the four clauses of Article 293 say?

1 The Four Clauses

1.1 What can a State borrow on its own under Article 293(1)?

A State may borrow without asking anyone, as long as it borrows inside India. The loan is secured on the **Consolidated Fund of the State**, which is the State's main account.

The same clause lets the State give **guarantees**. A guarantee is a promise to repay a loan if the borrower fails. Both powers work within limits.

1.2 Who sets the limits on a State's own borrowing?

The **State Legislature** fixes them, by law, if it chooses to. The text says “such limits, if any”. So the first limit on a State comes from its own Legislature, not from the Union.

Note the words “within the territory of India”. A State cannot borrow abroad under this Article.

1.3 What does Article 293(2) let the Union do?

The Government of India may make **loans to any State**. It may also give guarantees on loans a State has raised.

Loans follow conditions that Parliament lays down by law. Guarantees have one more check. The limits fixed under Article 292 must not be crossed. The sums needed are charged on the **Consolidated Fund of India**.

1.4 What do clauses (3) and (4) say about consent?

Clause (3) is the one exams love. A State **may not raise any loan without the Union’s consent** while part of a Union loan or guarantee is still outstanding.

The bar also covers a loan from the **predecessor Government**. Clause (4) lets the Union attach conditions. So consent is not a blank cheque.

Article 293 clause by clause

Clause	What it does
293(1)	State borrows inside India on its own Fund, within limits set by its Legislature
293(2)	Union may lend to States or guarantee their loans, within Article 292 limits

Clause	What it does
293(3)	No State loan without Union consent while Union debt is outstanding
293(4)	Union may attach conditions to its consent

Drawn from Part XII of the Constitution.

> **Quick check 1.** True or false: Under Article 293(1), a State may borrow from abroad on the security of its Consolidated Fund. *(True or False?)* See answer ↓

Sources: constitutionofindia.net; cdnbbsr.s3waas.gov.in

Why does the Union get a say in State borrowing?

2 Why Union Holds the Key

2.1 Why does the Union get a say in State borrowing?

Think of a parent who has already lent money to a child. Before the child borrows more, the parent wants a say. That is clause (3) in plain words.

When the Union lends to a State or guarantees its loans, it shares the risk. If the State fails to repay, the Union is hurt too. So the Constitution gives the Union a voice before more debt is added.



Timeline: the Net Borrowing Ceiling letter of 27 March 2023 to the Constitution Bench reference of 1 April 2024.

2.2 When does the consent rule actually apply?

Only while some Union loan or guarantee is still outstanding. A State with no such debt does not need consent. The rule protects the Union as a creditor.

Kerala made this very point in court. It said the consent mechanism mainly protects the Union's position as a creditor. It said the clause does not give the Union wide power to regulate State borrowing.

> 8. **Think it through:** Who limits a State's own borrowing, and when does the Union step in? See answer ↓

2.3 What is a Net Borrowing Ceiling?

The **Net Borrowing Ceiling (NBC)** is a yearly cap that the Union fixes for a State. The Union imposed it on Kerala through a letter.

The Union counted every source of borrowing in the ceiling. These included open market borrowings, loans from financial institutions, and liabilities from the State's Public Account.

- **Open market borrowings:** loans raised from the market.
- **Institutional loans:** money from banks and financial institutions.
- **Public Account liabilities:** money held in trust.

> **Quick check 2.** True or false: A State that owes the Union money needs the Union's consent before raising a fresh loan. *(True or False?)* See answer ↓

Sources: scobserver.in

What did Kerala ask the Supreme Court?

3 Kerala Goes to Court

3.1 What did the Union's letter of 27 March 2023 do?

On **27 March 2023**, the Union wrote to Kerala imposing a Net Borrowing Ceiling for 2023-24. The ceiling was **three percent** of Kerala's projected Gross State Domestic Product (GSDP).

That worked out to **₹32,442 crore**. The projected GSDP was ₹10,81,412 crore. The Union later consented to open market borrowing of ₹1,330 crore. The total open market borrowing allowed for the year was ₹21,852 crore.

3.2 How did Kerala challenge it?

On **8 December 2023**, Kerala filed an Original Suit. It is listed as **Original Suit No. 1 of 2024**. The suit came under Article 131 of the Constitution.

Article 131 gives the Supreme Court original jurisdiction. That means disputes between the Union and a State come straight to the Court. Read more in Article 131 of the Constitution.

3.3 What happened in February and March 2024?

On **15 February 2024**, the Union offered borrowing consent for ₹13,608 crore. It made ₹11,731 crore of this conditional on Kerala withdrawing its suit. The Court said the Union could not insist on withdrawal as a condition.

The Court tried to find a solution before the financial year ended on 31 March 2024. The Union then gave consent in parts: ₹8,742 crore and ₹4,866 crore, together ₹13,608 crore.

3.4 What did the Supreme Court decide on 1 April 2024?

The Court refused interim relief. It said Kerala had not shown a prima facie case, balance of convenience and irreparable injury. It referred the suit to a **five-judge Constitution Bench**.

Kerala had asked for interim relief of ₹26,226 crore. The Court noted that Article 293 had never been interpreted by it before.

Kerala's case in dates

Date	Event
27 March 2023	Union fixes Kerala's Net Borrowing Ceiling at 3% of GSDP
8 December 2023	Kerala files Original Suit No. 1 of 2024
15 February 2024	Union offers borrowing consent for ₹13,608 crore, with ₹11,731 crore conditional on withdrawing the suit
1 April 2024	Court refuses interim relief; refers suit to a five-judge Bench

Dates as reported by court trackers.

> **Quick check 3.** True or false: Kerala filed its suit against the Union under Article 32. *(True or False?)* See answer ↓

Quick check 4. True or false: The Supreme Court referred Kerala's suit to a five-judge Constitution Bench on 1 April 2024. *(True or False?)* See answer ↓

Sources: scconline.com; livelaw.in

What do the Union and Kerala argue?

4 Two Sides, Open Questions

4.1 What does the Union argue?

The Union says the ceiling is essential for **macro-economic stability**. It warns that unchecked State borrowing can hurt the country's credit rating. It also points to its own duty to keep general government debt within 60 percent of GDP by 2024-25.

Because the Union stands behind State debt, it says it must keep a check.

4.2 What does Kerala argue?

Kerala says the Constitution gives States autonomous authority over their public debts. It says the Public Account has "no nexus" with the Consolidated Fund. The Public Account holds money that belongs to the public, not to the State.

It also says borrowing by State-owned enterprises was "illegally equated" with the State's own borrowing.

4.3 What questions did the Court send to the Bench?

The Court listed questions for the larger Bench. Three of them matter most for exams.

- Do borrowings by State-owned enterprises and Public Account liabilities fall under Article 293(3)?
- How far can courts review fiscal policy?
- Do the Union's actions violate Article 14 for "manifest arbitrariness"?

4.4 What is the status of the case?

As of the order of 1 April 2024, the suit was pending before a Constitution Bench. No later ruling is cited in this lesson. Always check the latest news before an exam.

> **Quick check 5.** True or false: Kerala argued that the Public Account of a State is part of its Consolidated Fund. *(True or False?)* See answer ↓

How do Articles 292 and 293 differ?

5 Articles 292 and 293

5.1 How do the two borrowing Articles differ?

Both sit in Part XII. Article 292 covers the Union. Article 293 covers the States. The Union's limits come from Parliament. The States' limits come from the State Legislature.

Article 292 versus Article 293

Point	Article 292 (Union)	Article 293 (State)
Who borrows	Government of India	Government of a State
Where	Inside or outside India	Only inside India
Limit fixed by	Parliament, by law	State Legislature, by law
Secured on	Consolidated Fund of India	Consolidated Fund of the State
Consent needed?	No one's consent	Union's consent if Union debt is outstanding

Drawn from Articles 292 and 293 of Part XII.

5.2 How can you remember the difference in one line?

Article 292 is the Union borrowing on its own limits. Article 293 is State borrowing under the Union's watch. Read the first half in Article 292: Borrowing Power of the Union.

For the tax side of the same Part, see Article 265 of the Constitution. For the wider picture, see Centre-State Relations and the Federal Structure.

> **Quick check 6.** True or false: Parliament fixes the limit on a State's own borrowing under Article 293(1). *(True or False?)* See answer ↓

What do exams ask about Article 293?

6 Exam Angle

6.1 Which real question came from this Article?

One paper question and one practice question are worth knowing.

> 9. **Practice statement question:** Statement-I says the Union borrows inside or outside India within limits fixed by Parliament under Article 292, while States borrow only inside India under Article 293. Statement-II says public debt includes only the Centre's liabilities. See answer ↓

6.2 What traps do exam questions set?

Questions on Article 293 usually test one of four confusions.

- Saying **Parliament** fixes a State's own limit. The State Legislature does, under clause (1).
- Saying a **debt-free State** needs the Union's consent. Consent is needed only while Union debt is outstanding.
- Saying a State can **borrow abroad** under this Article. It covers borrowing within India only.
- Mixing up Article 131 with Article 32 for the Kerala suit. The suit came under Article 131.

> **Quick check 7.** True or false: A State needs the Union's consent for a new loan even when it owes the Union nothing. *(True or False?)* See answer ↓

Remember this

- **Article 293(1):** State borrows inside India on its own Fund, within limits set by its Legislature.
- **Article 293(3):** consent of the Union is needed while Union debt is outstanding.
- **Article 293(4):** the Union may attach conditions to consent.
- **Kerala's suit:** Original Suit No. 1 of 2024, filed 8 December 2023 under Article 131.
- **1 April 2024:** no interim relief; suit sent to a five-judge Constitution Bench.

Explain it back: Say in your own words why a State that owes the Union money needs its consent to borrow.

Practice MCQs

1. Under Article 293(3), when does a State need the Union's consent to raise a loan?

A. Always, for every loan

B. Only if a Union loan or guarantee is still outstanding

C. Only if the loan is raised abroad

D. Never, because borrowing is a State subject

See answer ↓

2. Who fixes the limits on a State's own borrowing under Article 293(1)?

A. Parliament

B. The President

C. The Legislature of the State

D. The Finance Commission

See answer ↓

3. Where can a State borrow under Article 293(1)?

A. Only from the Union

B. Inside or outside India

C. Only from the Reserve Bank

D. Only within the territory of India

See answer ↓

4. Under which Article did Kerala file its suit against the Union over borrowing limits?

A. Article 226

B. Article 262

C. Article 32

D. Article 131

See answer ↓

5. What did the Supreme Court do on 1 April 2024 in Kerala's borrowing suit?

A. Struck down the Net Borrowing Ceiling

B. Granted interim relief of ₹26,226 crore

C. Refused interim relief and referred the suit to a five-judge Constitution Bench

D. Dismissed the suit as not maintainable

See answer ↓

6. By what share of projected GSDP was Kerala's Net Borrowing Ceiling for 2023-24 fixed?

A. Two percent

B. Four percent

C. Five percent

D. Three percent

See answer ↓

Answer Key

1. **B.**
   Clause (3) bars a State loan without consent while any part of a Union loan or guarantee is outstanding. A State with no such debt does not need consent.
   ↑ Q1
2. **C.**
   Article 293(1) says the limits, if any, are fixed by the Legislature of the State by law. Parliament fixes the Union's limits under Article 292.
   ↑ Q2
3. **D.**
   The clause allows borrowing within the territory of India upon the security of the Consolidated Fund of the State.
   ↑ Q3
4. **D.**
   Kerala filed Original Suit No. 1 of 2024 under Article 131, which covers the Supreme Court's original jurisdiction in disputes between the Union and a State.
   ↑ Q4
5. **C.**
   The Court refused interim relief because the three prongs were not established. It then referred the suit to a five-judge Constitution Bench.
   ↑ Q5
6. **D.**
   The ceiling was three percent of Kerala's projected Gross State Domestic Product. It came to ₹32,442 crore.
   ↑ Q6

Quick-check answers

1. **False.** The clause allows borrowing within the territory of India only. ↑ 1
2. **True.** Clause (3) bars a new loan without consent while a Union loan or guarantee is outstanding. ↑ 2
3. **False.** The suit was filed as an Original Suit under Article 131. ↑ 3
4. **True.** The Court refused interim relief and sent the suit to a five-judge Bench. ↑ 4

5. **False.** Kerala argued the Public Account has no nexus with the Consolidated Fund of the State. ↑ 5
6. **False.** The State Legislature fixes that limit, by law. Parliament fixes the Union's limit under Article 292. ↑ 6
7. **False.** Consent under clause (3) is needed only while a Union loan or guarantee is outstanding. ↑ 7
8. **Think it through.** The State Legislature sets the State's own limit under clause (1). The Union steps in only when the State still owes it money, under clause (3). A State with no Union debt does not need consent. ↑ 8
9. **Think it through.** Statement-I is correct and Statement-II is incorrect, because public debt also includes State and other liabilities. Try this question. ↑ 9

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