Violence in Delhi

Why in News?

- The National Capital Territory (NCT) of Delhi, a Union Territory has been severely affected by communal violence.
- A question being raised here is whether the Delhi government can take any action to bring law and order under control.

Can Delhi government ask the Centre for armed forces' help?

- **Article 239 AA** - The NCT has been given with powers of law-making and administration to an elected legislature and the council of ministers.
- However**,** the law puts two subjects directly under the Union government that includes public order and police.
- **Exceptions** - Even here, there are exceptions which include the Sections 129 & 130 of Criminal Procedure Code (CrPC).
- If a group is found in unlawful assembly under Section 129, the Executive Magistrate can issue orders to these persons to disperse.
- If this fails, the magistrate can use the civil force which is the police.
- If these efforts fail too, the Executive Magistrate under Section 130 can call an officer of the armed forces of the Union to disperse the assembly.
- This section states that it can be invoked for "public security".
- Therefore, under these two limited powers, the Executive Magistrate (who reports to CM) can issue orders relating to public security.

How does Section 130 CrPC operate?

- If the civil force isn't being able to disperse an unlawful assembly, the **Executive Magistrate** may disperse it by using the armed forces.
- The officer of a Union armed force must comply with a requisition made to him by the Executive Magistrate.
- However, Section 130 empowers the officer to decide the manner in which the assembly has to be dispersed by forces under his command.
- Such Magistrate may require any officer in command of any group of the armed forces to disperse the assembly by taking **necessary actions according to law**.
- The armed forces shall **use only a "little force"** as may be consistent with dispersing the assembly and arresting and detaining such persons.

Does a full-fledged state have more powers to call armed forces?

- The **public order and police** are the subjects under the **state list**.
- So, the state government may request the Union government to make available armed forces to help restore public order.
- Even in circumstances where public disorder is not as serious as to fall in the category of an "internal disturbance" under the Article 355 of the Constitution, the Union Government may accede to the request.
- Neither the state government nor any of its authority has been conferred by the Constitution any legal right to call the armed forces while dealing with a public disorder or "internal disturbance".
- The exception for this is Section 130 CrPC.
- Also, the 7th Schedule of the Constitution states that use of the armed forces in the maintenance of public order is outside the states' purview.
- [7th Schedule - Deals with the subject of public order in the state list.]

Source: The Indian Express

