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Juvenile Justice Act



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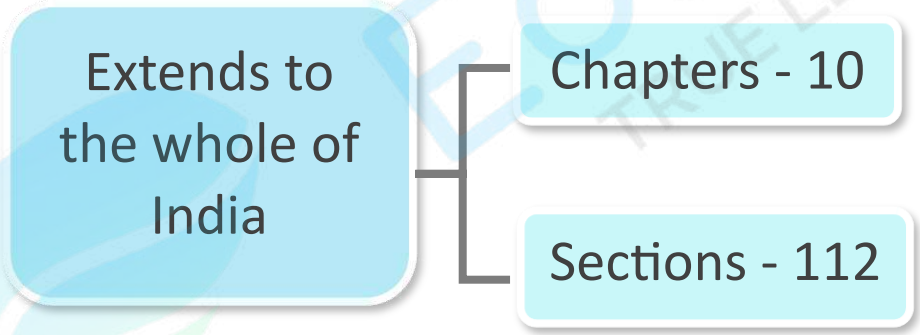
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The Juvenile Justice (Care and Protection of Children) Act, 2015

Act No.	2 of 2016
Enact	31/12/2015
Publish	01/01/2016
Enforce	15/01/2016

2021 Amendment	
Enforce	01/09/2022



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Preamble:

An Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment.

WHEREAS the Constitution has, in several provisions, including clause (3) of article 15, clauses (e) and (f) of article 39, articles 45 and 47, impose on the State a primary responsibility of ensuring that all the needs of children are met and that their basic human rights are fully protected;

AND WHEREAS, the General Assembly of the United Nations has adopted the Convention on the Rights of the Child on the 20th November, 1989;

AND WHEREAS, the Convention on the Rights of the Child has prescribed a set of standards to be adhered to by all State parties in securing the best interests of the child;

AND WHEREAS, the Convention on the Rights of the Child emphasizes social reintegration of child victims, to the extent possible, without resorting to judicial proceedings;

AND WHEREAS, the Government of India has ratified the Convention on the 11th December, 1992.

AND WHEREAS, it is expedient to re-enact the existing law relating to juveniles bearing in mind the standards prescribed in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1 85 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), and all other relevant international instruments.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows.

Sources:

- **Article 15(3) COI –** Nothing in this article shall prevent the State from making any special provision for women and children.
- **Article 39(e) COI –** That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.
- **Article 39(f) COI** - That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and

youth are protected against exploitation and against moral and material abandonment.

- **Article 45 COI –** The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.
- **Article 47 COI** - The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavor to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.
- Convention on rights of child (acceded on 11th December 1992)
- Beijing rules
- UN Rules for protection of juvenile deprived of liberty (1990)
- Hague Convention

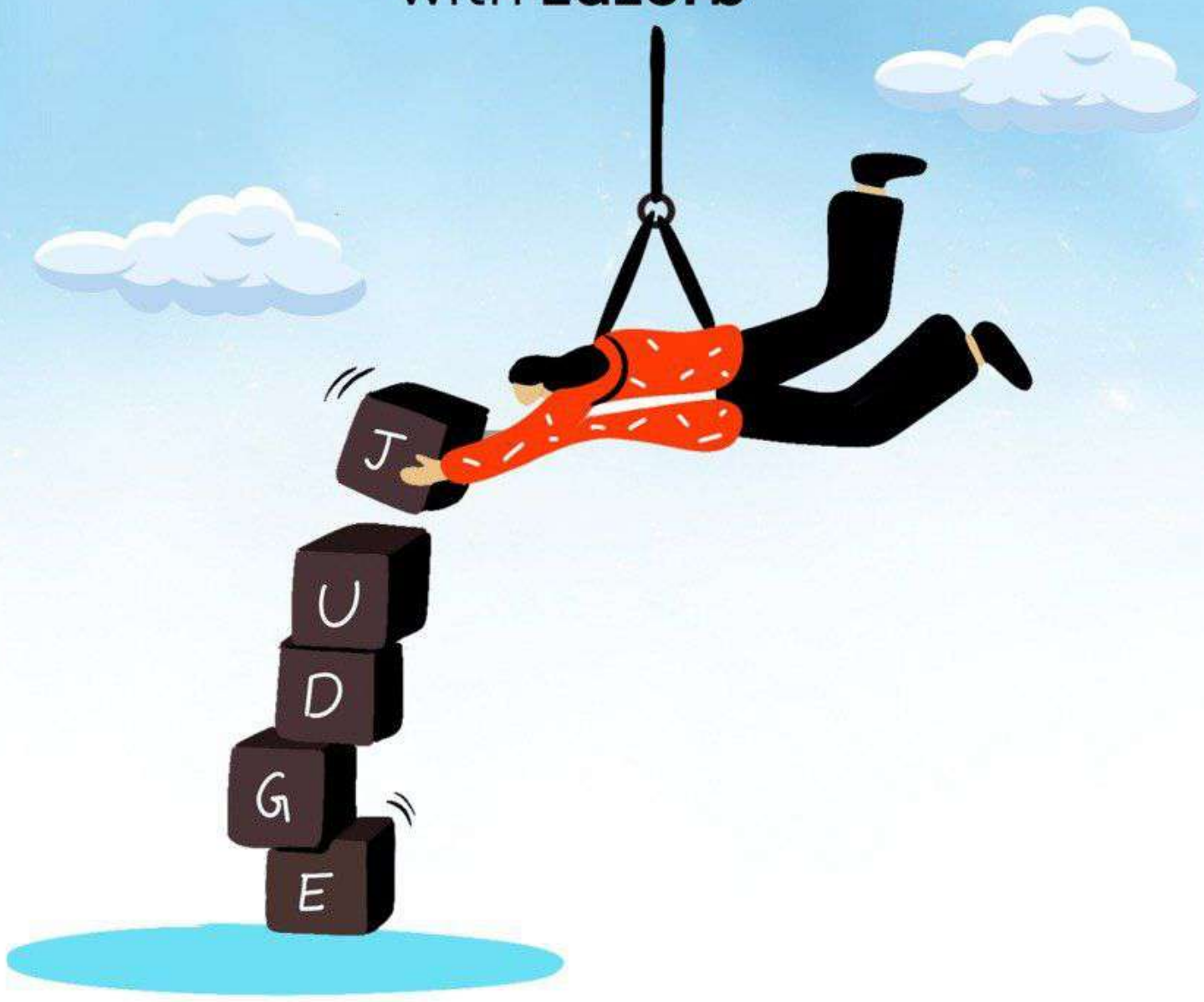
Power to –

- Remove difficulties – Central Government
- Make rules – State Government (on model rules of central government)

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S. No.	Sections	Provisions	Time limit	Other Details
1.	• Sec 2(12) • Sec 2(35)	• Child • Juvenile	• 18 years • 18 years	• Not completed • Below
2.	• Sec 2(14)	• Child in need of care and protection (CCP)	• 12 points	-
3.	• Sec 2(33) • Sec 2(54) • Sec 2(45)	• Heinous offences – punishment • Serious offence – punishment • Petty offence – punishment	• 7 years or more • 3 – 7 years • Up to 3 years	• In IPC/Other law (Summon) • In IPC/Other Law (Summon) • In IPC/Other law (Summary)

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4.	• Sec 3	• General Principles of Care & Protection	• 16 principles	
5.	• Sec 4	• Juvenile Justice board • For Child in conflict with law (CCL) (Term as prescribed)	• 1 MM/JMIC (3 years' experience) • 2 social workers (one shall be woman – 7 years' experience)	• State Government • Principal Magistrate • Involved in health, education, welfare (7 years) Or • Degree in child psychology, psychiatry, sociology, law

		• State government shall ensure Induction training and sensitization of all members including principal magistrate	• 60 days	• From date of appointment
		• Termination if fails to attend proceedings/petty offences	• 3 months • 3/4	• Consecutively • of sitting in a year

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6.	• Sec 8 • Sec 8(g)	• Powers, functions and responsibilities of the board – social investigation report • Inspection of residential facilities	• 15 days • Every month	• From the date of first production before board
7.	• Sec 10	• Apprehension of child alleged to be in conflict with law (CCL)	• Within 24 hours	• Of apprehension excluding journey time • Produce the child before the board
8.	• Sec 12	• Bail to a person who is apparently a child alleged to be in conflict	• 7 days	• Of bail order • If child in conflict with law

		with law (Bailable and Non – bailable offence)		(CCL) unable to furnish bail condition then shall be produced before board for modificatio n
9.	• Sec 13	• Information to parents, guardian or probatsion officer	• 2 weeks	(i)Probation officer (ii)Child welfare officer • Social investigatio n report
10.	• Sec 14	• Inquiry u/s 14 to be completed • Further extension in serious/heino	• 4 months + • 2 months	• Date of production

		us – (JM/CMM) • Heinous offence assessment u/s 15 • Petty offence inquiry inconclusive	• 3 months	• From date of production of child • Terminated after (4+2 months)
11.	• Sec 16	• Review of pendency of inquiry • No of cases pending before the board	• Once in every 3 months • 6 months	• CJM/CMM • High level committee: (i)Chairperson (Executive chairperson of State Legal services authority) (ii)Home secretary (Secretary responsible

			• Quarterly	for implementation of act in state) • Representation from NGO • Information to be furnished to CJM/CMM/ DM
12.	• Sec 18	• Order regarding child found not in conflict with law (CCL) (i)Release on probation of good conduct (ii)Sent to special home • Order the child or parents or	• 3 years	• Fine

		guardian of the child to pay		
13.	• Sec 27	• Child welfare committee (5 members)	• Chairperson + 4 others (at least 1 woman & another)	• Another to be an expert on matters of children
		• Child Welfare Committee – deals with child in need of care and protection	• 2 months	• Training
			• Secretary	• Provided by district child protection unit
		• Member to have a degree in law, psychology,	• 7-year experience	• Actively involved in health, education,

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		psychiatry, social work, sociology, human health, education, human development, special education of differently abled • Person to be appointed • If fails to attend – terminated	• Not more than 3 years • Less than 3/4 meetings • 3 months	welfare activities of children • Term • In year • Consecutively
14.	• Sec 28	• Procedure in relation to committee	• 20 days in month	• Meeting of child welfare

		• At time of disposal of case	• 3 months min	committee
15.	• Sec 30	• Function & responsibility of committee	• 18 points • 2 visits per month	• Of residential facilities
16.	• Sec 33 • Sec 34	• Offence of non – reporting u/s 32 • Penalty	• 6 months or 10,000/- or both	-
17.	• Sec 35	• Surrender of children • In the intervening period	• 2 months • Below 6 years • Above 6 years	• To reconsider • Specialized adoption agency • Children's home
18.	• Sec 36	• Inquiry – social	• 15 days	• Of first

		investigation • Final order to passed by CWC • For orphan, surrendered abandoned inquiry	↓ • 4 months • 2 months • 4 months	production of child • Child up to 2 years (Sec 38) • Above 2 years (Sec 38)
19.	• Sec 41	• Registration of child care institution • Provisional registration (The registration shall be – 5 years and it shall be subject to renewal every 5 years)	• One month ↓ • Max 6 months	• From date of receipt of application

20.	• Sec 42	• Penalty for non – registration of child care institutions	• 1 year imprison ment Or • 1 lakh fine or both	• Every delay if 30 days ↓ • Separate offence
21.	• Sec 54	• Inspection of institutions registered under this act • Team • Report submitted • Submit to State Government	• At least once in 3 months • 3 members (1 woman & 1 medical officer) • 1 week • A month	• To DM • Compliance report
22.	• Sec 59	• Procedure for		

		inter – country adoption of an orphan or abandoned or surrendered child • If Specialized adoption agency & state agency fails to get the child adopted	• 60 days	• Declare legally free for inter – country adoption
23.	• Sec 61	• Disposal of adoption procedure DM (in camera)	• 2 months	• From date of filing
24.	• Sec 62	• Additional procedural requirements and documentation – adoption case is disposed	• 4 months	• From date of receipt of application

25.	• Sec 65	• Specialized adoption agency - If fails to take necessary step as per the act	• 50,000/- • Withdrawn recognition on by the state government	• Repeated default
26.	• Sec 66	• Adoption of children residing in institutions not registered as adoption agencies	• 50,000/- • De – recognition	• Fine • Persistent flouting

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RJS Mains

Law Paper 1 (12th Feb, 2022)

1 1/5 / 3

Ques. 1

Sec 21 (2), of Code of Civil procedure provides that, no objection as to place of suing will be allowed by an appellate or revisional court unless following conditions are satisfied: Court of first Instance

1. The objection was taken at first instance in court
2. It was taken at earliest possible opportunity and in cases where issues are settled at or before settlement of issues; and
3. There has been consequent failure of justice

* Rule of Convenience
* maxim Ubi, ibi tibus non dormientibus jura subvenient

Ques 2.

Reservation of posts in government services is a broad and infamous subject. The basis of reservation was always to bring every class of people on equal footing majorly on financial and social aspects. So the basis and limit of reservation should still be the financial status as discrimination on caste and class level has been decreased but financial gap has been increased from past recent years.

* provision missing Art. 16, 335, 338, 340, 341 & 342
* Indira Sawhney case & Balaji Vs State of Mysore

1 1/5 / 3

Ques 3

No, a remand order cannot confer jurisdiction on the subordinate court when such court originally do not have such power. It is settled principle that no appellate court can confer jurisdiction on a subordinate court, however high appellate court may be as, jurisdiction of a court is determined by statute. In case of Venkatarma v Angathayammal it is held that

2 / 3

(1)

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an appellate court remanding a case to an inferior court cannot confer jurisdiction on court if it inherently lacked the same.

Ques 4

* Start with Sec 9 of CPC along with explanations of the section
* Meaning of Civil Suit
→ Kehar Sinha V/s Custodian General
→ Shankar Narayan Potti V/s K. Sreedevi

A suit is of civil nature if the principal question therein relates to the determination of a civil right and its enforcement.
It is subject matter of suit which determines whether it is suit of civil nature or not.
In a suit in which right to property or to an office is contested whether it is of civil nature or not, what needs to be determined is whether it entirely depends on religious rites or ceremonies or not? If its decision doesnot entirely depends on religious rites or ceremonies it is a suit of civil nature.

(i) Right to take out religious procession is a suit of civil nature
(ii) Right of Pardanasheen Lady to observe parda is a suit of civil nature
(iii) Right to franchise is a suit of civil nature

11/5/3

Ques 5

* Provision?
* Maxim

Doctrine of res judicata applies between co-defendant only if plaintiff claimed any relief and he cannot get his relief without trying and deciding a case between the co-defendants. However it has been recorded that requisite conditions should be fulfilled to apply principle of res judicata as between defendants and that are:

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1) There must be conflict of interest between the defendants concerned
2) it must be necessary to decide the conflict in order to give the reliefs which plaintiff claims.
3) the question between plaintiff the defendants must have been finally decided.
4) the co-defendants were necessary or proper parties in former suit. (Govindammal by LRs vs Vaidyanathan)

* Sec 11 CPC

Res judicata

- suit which is finally decided by competent court
- In this a case is heard & finally decided
- Subsequent suit on same subject matter is prohibited
- Objective is to prevent multiple litigation

* section 10 CPC

Res subjudice

- A suit which is pending in a competent court
- In res subjudice, case is pending in court
- subsequent suit on same subject matter is stayed.
- Objective is prohibition of concurrent justice

Res judicata

- In this suit is finally heard & decided which cannot be presented further as a suit
- Object is to prohibit multiplicity of litigation
- It is result of judgment of court

Re Estoppel

→ Sec 115 IEA → Pickard vs Sears

- In this a person cannot be allowed to change his position if he makes another to believe in good faith
- Its object is to protect right of such person who acts in good faith
- It is based on act of parties

Maxims / Nemo debet bis vexare pro una et eadem causa

Manohar Lal vs Seth Hiralal

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Ques 6
* Moving sec 22-25

General powers of a court to transfer suits or appeals is provided under sec-24 of CPC. It empowers District Judge and High Court to transfer cases. D looks like P

* It also talks about the power of withdrawal

Yes a party can apply for such transfer as the provision of sec-24 provides that such power can be used suo moto or on application of any of the parties by the Court

The power of transfer can be used by court on application of parties after notice of it is sent to other party & after hearing such of them.

In case of suo moto no notice is required.

1½/3

District Court or High Court may at any stage
- transfer any suit, appeal or other proceeding for trial or disposal to any subordinate court
- May add new issues
- May refer cases for arbitration
- May decide case as per arbitration
- May issue decree or proceed for execution of decree.

Ques 7

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5. Always mention the section no. on top & not at last.

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27.	• Sec 68	• Central adoption resource authority (CARA)	-	-
28.	• Sec 69	• Steering committee of authority	-	-
29.	• Sec 94	• Presumption and determination of age	• Date of birth certificate • Birth certificate ↓ • Ossification test ↓ • 15 days	• School or matriculation or certificate from concerned examination board • Corporation /municipality or panchayat
30.	• Sec 95	• Transfer of child to place of residence	• 15 days	• Escort order to Special Juvenile

				Police Unit • Girlchild – women police
31.	• Sec 98	• Leave of absence to a child placed in an institution	• 7 days	• Excluding journey time
32.	• Sec 101	• Appeals – order by Children Welfare Committee or Juvenile justice board • Foster care and sponsorship aftercare order – DM • Order of board u/s 15 • Child above 16 years not	• 30 days • 30 days • Court of session • No appeal	• Children's court • Time for deciding appeal

		committed heinous offence – if acquitted		
		• No second appeal	• 16 years or above	• From order of acquittal made by the board
		• Appeal to HC		• Against order of children's court (as per CrPC)
		• Appeal against – adoption order by DM	• 30 days	• From date of order
				• To divisional commissioner
			• 4 weeks	(i)Disposal (ii)If not – State government/ Union territory

				administration
33.	• Sec 104	• Power of the committee or the board to amend its own orders • Board • Committee	• 2 members • 1 Principal magistrate • 3 members & • Concerned person or authorized representatives	• Must be present at time when orders are amended

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Section	Memory technique	Institution	For whom?
43	O	• Open Shelter	• Child in need of residence
44	F	• Foster care	• CCP
45	S	• Sponsorship	-
46	A	• Aftercare	-
47	Ob	• Observation home	• CCL
48	Se	• Special home	• CCL
49	P	• Place of safety	• 16 - 18 or 18 heinous offence
50	C	• Children's home	• Child
51	F	• Fit facility	• CCP
52	F	• Fit person	-

S. No.	Sec	Provisions	Punishment
1.	• Sec 74	• Prohibition on disclosure of identity of children (only board/committee permits)	• 6 month imprisonment Or • 2 lakh rupees (or both)
2.	• Sec 75	• Punishment for cruelty to child: 1. Assault, abandon, abuse, mental or physical suffering etc 2. Offence by person managing and organization entrusted with care & protection of child	• 3 years imprisonment Or • One lakh rupees or both • Rigorous imprisonment • Extend up to 5 years • Fine 5 lakh rupees

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		3. On account of such cruelty if child physically incapacitated or mental illness develops	• Rigorous imprisonment • 3 years to 10 years • Fine 5 lakh rupees
3.	• Sec 76	• Employment for begging • Person amputates/maims the child • Abatement of such offence	• 5 years imprison and fine 1 lakh rupees • Rigorous imp 5 years and 1 lakh rupees • 5 years imprison and 1 lakh rupees fine
4.	• Sec 77	• Giving intoxicating liquor or NDPs	• Rigorous Imprisonment • 7 years • 1 lakh rupees fine
5.	• Sec 78	• Using child for vending, peddling etc of such NDPS	• R.I – 7 years • 1 lakh rupees fine

6.	• Sec 79	• Exploitation of child employee employment includes selling goods and service, entertainment in public places	• R.I – 5 years • 1 lakh rupees
7.	• Sec 80	• Giving in for adoption without following proper procedure: • Any person or organization • Any recognized agency	• 3 years imprisonment or 1 lakh fine or both • Withdrawal for one years of registration (Sec 41) recognition (Sec 65)
8.	• Sec 81	• Sale & procurement of children	• 5 years R.I & one lakh fine

		• Offence by person having actual charge including hospital, nursing, maternity house	• 3 years – 7 years imprisonment
9.	• Sec 82	• Corporal punishment (C.P) (Person in charge of child care institution)	• 1st conviction – 10,000/- fine • Subsequent – 3 months imprisonment or fine or both • Dismissal of service if convicted above
		• After report of C.P if management does not co – operate with inquiry	• 3 years imprisonment • 1 lakh fine
10.	• Sec 83	• Use of child by militants/adults (e.g – LTTE)	• R.I – 7 years • 5 lakhs fine • R.I – 7 years

			• 5 Lakh fine
11.	• Sec 84	• Kidnapping & abduction of child [Sec 359 to 369 (IPC)]	-
12.	• Sec 85	• Offence on disables children • Disability – sec 2(i) of person with disabilities (equal opportunity, protection of rights & full participation) act 1995	• Twice the penalty
13.	• Sec 86	• Classification of offence & designated court	• 7 years more: Cognizable and non – bailable (CNB) • 3 years – 7 years: Non – cognizable and non – bailable

			(NC NB) • Less than 3 years' time: Non – cognizable and bailable (NCB)
14.	• Sec 87	• Abetment (107 IPC)	• Punishment provided for such offence
15.	• Sec 88	• Alternative punishment	• Greater in degree
16.	• Sec 89	• Offence by children	• Child to be treated as child in conflict with law

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