Statutory Notes: Intestate Succession in Sri Lanka

Compiled under the applicable personal law regimes. All frameworks assume estate liabilities (debts, funeral costs, administration expenses) are fully settled prior to distribution, and exclude testate succession unless otherwise noted.

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1. General Law (Common Law) Intestacy Framework

Matrimonial Rights and Inheritance Ordinance No. 15 of 1876

1.1 Scope & Governing Law

- **Applicability:** Governs intestate succession for individuals not subject to special personal laws (Kandyan Law, Thesavalamai, or Muslim Law).
- **Statutory Authority:** Matrimonial Rights and Inheritance Ordinance (MRIO) No. 15 of 1876.

1.2 Estate Determination

- **Net Estate:** Applies exclusively to the deceased's separately owned estate, after deduction of debts, funeral costs, and administration expenses.
- **Matrimonial Property:** Joint matrimonial property must be severed and separated prior to distribution.

1.3 Order & Distribution Scheme

A. Surviving Spouse

- Receives an outright **1/2 share** of the estate if any other class of qualifying statutory heir survives.
- Receives the **entire estate** if no other qualifying statutory heirs survive.

B. Descendants

- Children inherit **per capita**, in equal shares, irrespective of gender.
- The issue of a predeceased child inherit that parent's share **per stirpes** (by representation).

C. Ascendants & Collaterals

- If no descendants survive, the estate passes to the parents.
- If only one parent survives, that parent shares the estate equally with the deceased's siblings (or their issue, per stirpes).
- Siblings inherit either alongside a sole surviving parent, or as primary collaterals if neither parent survives. Full-blood and half-blood siblings inherit equally.

D. Illegitimate Children

- Inherit from the **mother** as statutory heirs.
- Do **not** inherit from the **father** under general law, unless paternity was formally acknowledged or legally established.

E. Remote Relatives & Escheat

- In the absence of a spouse, descendants, parents, siblings, or issue of siblings, the estate devolves upon remote relatives (grandparents, uncles, aunts, cousins) by proximity of blood, up to the 10th degree.
- If no qualifying heirs exist within the statutorily recognized degrees of proximity, the estate **escheats to the State**.

1.4 Model Assumptions & Exclusions

- **Excluded:** Testate succession, active paternity disputes, and conflicts over applicable personal law regime.
- **Assumed:** Estate liabilities and administration expenses are fully settled prior to distribution.

2. Kandyan Law Intestacy Framework

Kandyan Law Declaration and Amendment Ordinance No. 39 of 1938 (as amended)

2.1 Scope & Governing Law

- **Applicability:** Governs intestate succession exclusively for Kandyan Sinhalese.
- **Statutory Authority:** Kandyan Law Declaration and Amendment Ordinance No. 39 of 1938 (as amended).

2.2 Property Classifications

- **Movable Property:** Cash, vehicles, and general personal effects.
  - *Widow's Paraphernalia:* Personal items or jewelry gifted to or purchased for a widow are her separate property and are strictly excluded from the deceased's estate.
- **Paraveni (Ancestral) Immovable Property:** Land or real estate inherited from a parent or earlier ancestor.
- **Acquired Immovable Property:** Non-ancestral real property acquired, purchased, or built during the deceased's lifetime.

2.3 Distribution Rules & Rights of Heirs

A. Surviving Spouse

- **Movable property:** Receives 100% on intestacy.
- **Immovable property, children surviving:** Receives no share (in either Paraveni or Acquired property); the estate devolves directly upon the children.
- **Immovable property, no children surviving:** Receives a **life interest (usufruct)** rather than outright ownership. This interest does not form part of the spouse's own estate upon their subsequent death.

B. Children & the Impact of Marital Status (Diga vs. Binna)

- *Binna marriage:* husband joins the wife's household.
- *Diga marriage:* wife leaves her ancestral home to join the husband's household.

- **Acquired & Movable Property:** Marital status has no effect on these rights — Diga daughters, Binna daughters, and sons inherit equally.
- **Paraveni Property:**
    - *Diga forfeiture:* A Diga-married daughter forfeits her share in her parents' Paraveni property (*Wickramasinghe Mudiyanselage Peiris Singho v Wickramasinghe Mudiyanselage Menikhamy* [2021]), unless she re-established residency at the *mulgedera* and converted to Binna with her father's consent during his lifetime.
    - *Default rule:* Diga daughters are excluded from Paraveni property if at least one son, Binna daughter, or unmarried daughter survives.
    - *Sole heir exception:* If a Diga daughter is the only surviving child, an equal share is allocated to her to prevent the estate from remaining unassigned (this generates a caution flag).

C. Heir Hierarchy Beyond Children Where no children or issue survive, the estate devolves strictly in this order:

1. **Surviving parents** — divided equally between father and mother.
2. **Surviving siblings** — divided equally, if neither parent survives.

- *Scope limit:* statutory distribution under this model halts at siblings.

2.4 Calculator Parameters & Operational Caps

- Input capacity is capped at a maximum of **10 entries each** for surviving sons, Binna daughters, Diga daughters, and siblings.

2.5 Model Exclusions & Non-Calculated Contingencies

- Estate liabilities (debts, funeral expenses, administration costs) — assumed fully settled.
- Testate succession (dispositions under a valid Last Will).
- Special regimes: land under the Land Development Ordinance (governed by statutory male-preference provisions).
- Unmodelled: representation (issue stepping into a predeceased parent's shoes) and illegitimate children's statutory rights to a father's acquired property.
- Factual disputes: contested Kandyan status, Paraveni vs. Acquired classification, or Binna vs. Diga marriage validity.

3. Thesavalamai Law Intestacy Framework

Jaffna Matrimonial Rights and Inheritance Ordinance No. 1 of 1911 (as amended)

3.1 Scope & Governing Law

- **Applicability:** Governs intestate succession for Sri Lankan Tamils subject to the customary Law of Thesavalamai in the Northern Province.
- **Statutory Authority:** Codified in 1707; given statutory effect primarily through the Jaffna Matrimonial Rights and Inheritance Ordinance No. 1 of 1911 (as amended).

3.2 Property Classifications & Distribution Schemes

A. Thediatetam (Acquired Property)

- *Definition:* Property acquired jointly by husband and wife during the subsistence of the marriage.
- *Intestate devolution:*
  - Surviving spouse takes an outright **1/2 share**.
  - The remaining 1/2 share devolves upon the deceased's own statutory heirs.

B. Mudusam & Urumai (Non-Acquired Property)

- *Mudusam:* Ancestral property inherited by descent from a parent or ascendant.
- *Urumai:* Property inherited from relatives other than parents or ascendants (e.g., siblings).
- *Intestate devolution:* Both devolve exclusively upon the deceased's own heirs and do **not** pass to the surviving spouse.

3.3 Rights of Heirs & Order of Succession

A. Surviving Spouse (Mudusam / Urumai)

- **General exclusion:** Under classical Thesavalamai and the original 1911 Ordinance, a surviving spouse is not an intestate heir to Mudusam or Urumai property (*Manikkavasagar v Kandasamy* [1986] 2 Sri LR 1).
- **Statutory amendments:** Subject to subsequent modifications (including Ordinance No. 58 of 1947); verification required for substantial estates.

B. Priority Hierarchy of Statutory Heirs (for property devolving upon the deceased's own heirs)

1. **Children** — inherit in equal shares.
2. **Surviving parents** — inherit in equal shares, if no children survive.
3. **Surviving siblings** — inherit in equal shares, if neither children nor parents survive.

- *Scope limit:* the statutory sequence modeled halts at siblings.

3.4 Model Exclusions & Non-Calculated Contingencies

- Estate liabilities (debts, funeral expenses, administration costs) — assumed pre-deducted.
- Testate succession (dispositions under a valid Last Will).
- Special regimes and statutory restrictions: land under the Land Development Ordinance (statutory male-preference provisions), and legal restrictions on a married woman's power to alienate or encumber immovable property.
- Unmodelled: statutory rights of illegitimate or adopted children (under the Legitimacy Act No. 3 of 1970 and applicable case law), representation of predeceased heirs, remote relatives beyond siblings, and distinctions between full-blood and half-blood siblings.

4. Muslim Law (Fara'id) Intestacy Framework

Sunni / Hanafi Jurisprudence

4.1 Scope & Governing Principles

- Governed by majority Sunni (Hanafi) rules of Islamic law (Fara'id).

4.2 Allocation Mechanisms

A. Hajb (Exclusion)

- Closer relatives systematically exclude or reduce the entitlement of more remote relatives of the same line.
- *Examples:*
  - A son fully excludes grandsons and reduces the statutory share of granddaughters.
  - A father excludes grandfathers, all collateral relatives (brothers, sisters, uncles, nephews, cousins), and their descendants.

B. 'Awl (Proportionate Reduction)

- If the aggregate of fixed (Qur'anic) shares exceeds 100% of the estate, all fixed shares are proportionally reduced to restore the total to unity.

C. Radd (Proportionate Return)

- If fixed-share heirs survive but no residuary (*'asaba*) heir exists, and the fixed shares do not exhaust the estate, the surplus is returned proportionally to the fixed-share heirs.
- *Spousal exception:* surviving spouses are excluded from Radd, unless the spouse is the sole surviving heir.

4.3 Disqualifications & Non-Eligible Categories

- **Non-Muslim relatives:** Ineligible to inherit under Fara'id; may only receive a testamentary bequest (*wasiyyah*) up to a maximum of **1/3 of the net estate**, under a valid Last Will.
- **Non-statutory status:** Adopted children, illegitimate children, and step-relatives do not qualify as statutory heirs under Fara'id.

4.4 Unborn Heirs (En Ventre Sa Mère)

- A child conceived but not yet born at the time of the deceased's death must have their statutory share reserved and calculated upon live birth (not automated within this calculation model).

4.5 Model Limitations & Exclusions

- Unmodelled: exceptional doctrinal cases (e.g., *Akdariyyah*, *Mushtarakah*) and jurisdictional or legal status disputes (e.g., under the Muslim Marriage and Divorce Act).
- High-value or complex estates require consultation with a qualified Islamic scholar or specialized attorney for unusual heir combinations or high-value distributions.