

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER 2010**

**TITLE OF PAPER** : **CONFLICT OF LAWS**

**COURSE CODE** : **L404**

**TIME ALLOWED** : **3 HOURS**

**MARKS ALLOCATED** : **100 MARKS**

**INSTRUCTIONS** : **ANSWER ANY FOUR  
QUESTIONS OF  
YOUR CHOICE.**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN  
GRANTED BY THE PROCTOR.**

**[TURN OVER]**

### QUESTION 1

Critically discuss the contributions of;

- (a) Count Von Savigny,
- (b) The Statutists, and,
- (c) Ulrich Huber

to the development of Private International Law. You are specifically required to articulate the abiding legacies of these several sources to the development of this subject.

(25 Marks)

### QUESTION 2

- a) Explain the “*no-renvoi*” theory. (5)
- b) Simon Mavuso, a Swazi national domiciled in France, died intestate in Mbabane leaving movable property in Paris. According to a Swazi choice of law rule, intestate succession to movables is governed by the *lex ultimi domicilii* of the *de cuius*. According to a French conflict rule, however, the matter is governed by the *lex patriae*. Assuming that the Swazi courts operate the “*total renvoi*” theory, how will the matter be resolved by the High Court of Swaziland if seized of such dispute. (15)
- c) If it is decided that French Law governs the distribution of Mavuso’s property, advise the Master of the High Court as to how French Law is to be ascertained. (5)

25 Marks

### Question 3

With the aid of the case of **Ogden v Ogden**, illustrate the deficiencies of the *lex fori* approach to classification. What alternative approach would you advocate to arrest the recurring problems which plague this area of the law?

25 Marks

### Question 4

(a) Define Domicile. What are its main uses as a basis of jurisdiction? Are there any alternatives?

(10)

(b) With the aid of decided cases, explain the nature and duration of a domicile of origin.

(15)

25 Marks

### Question 5

Discuss the common law as well as the statutory requirements for the recognition and enforcement of foreign judgments

25 Marks