UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER 2013

TITLE OF PAPER	:	CONFLICT OF LAWS
COURSE CODE	:	L404
TIME ALLOWED	:	3 HOURS
MARKS ALLOCATED	:	100 MARKS
INSTRUCTIONS	:	ANSWER <u>ANY FOUR</u> QUESTIONS OF YOUR CHOICE.

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

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 cujus*. 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