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FACULTY OF LAW
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CONFLICT OF LAWS (JIL 402)

EXPLANATORY NOTES AND DIAGRAMS ON RENVOI

Osborne’s Concise Law Dictionary defines renvoi as

A doctrine regarding choice of law in a case with a foreign element where the law of more than one jurisdiction may be applicable. The question raised by this doctrine is whether, in applying the law of a particular jurisdiction, the court must also apply the private international law of that jurisdiction (governing choice of law), even if this means that the rules applicable state that the case must be decided by reference to the law of some other country.

The following diagrams show when and how courts apply the doctrine of renvoi. In some cases, the courts reject the application of the doctrine, while, in other cases, the courts may apply the doctrine to a limited degree.



Figure 1: Rejection of Renvoi

In Figure 1, the Forum court is faced with a situation that introduces a question of foreign law, and the court, applying its conflict of law rules, finds and applies the domestic law of the relevant foreign jurisdiction. Here, the forum court is said to have rejected renvoi.

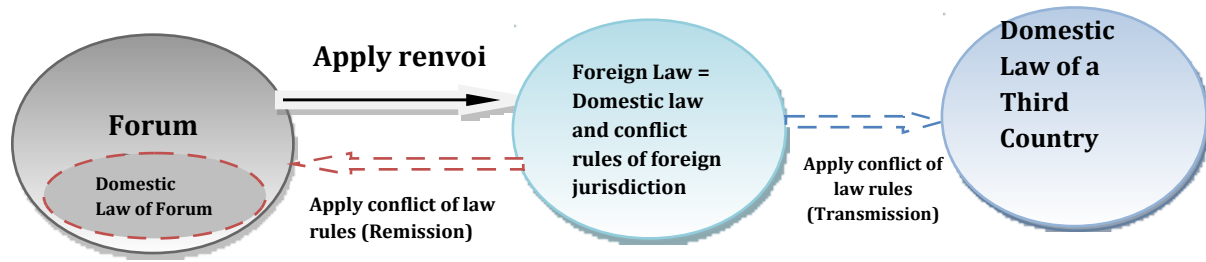


Figure 2: Partial or Single Renvoi



Figure 3: Partial Renvoi by Transmission

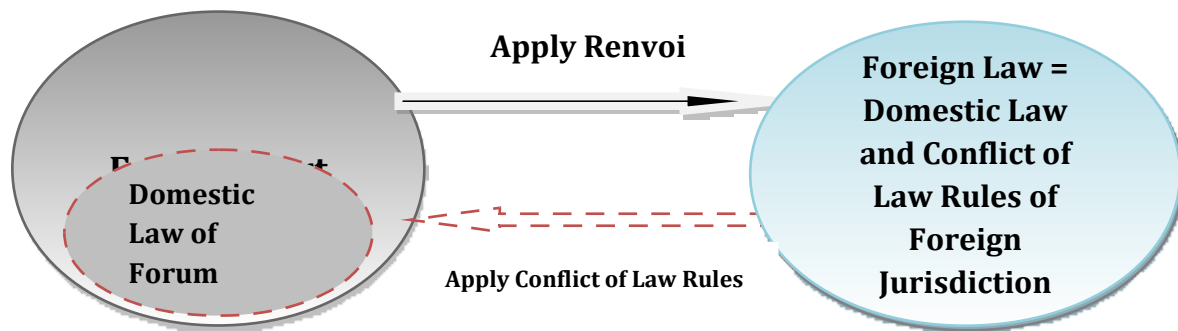


Figure 4: Partial Renvoi by Remission

In figure 2, the Forum court is faced with a situation that raises a question of foreign law, and it employs renvoi by applying not just the domestic law of the foreign jurisdiction, but the conflict of law rules as well. Here, the court has applied partial or single renvoi. The conflict of law rules of the foreign jurisdiction may further refer the matter to the law of a third country, in which case it is said to have transmitted the matter to that third country law (Figure 3: Partial renvoi in transmission). Where the conflict of law rules of the foreign jurisdiction remits (or returns) the matter to be decided by the law of the forum court, then its conflict rules can be said to have worked in remission (Figure 4: Partial renvoi in remission)

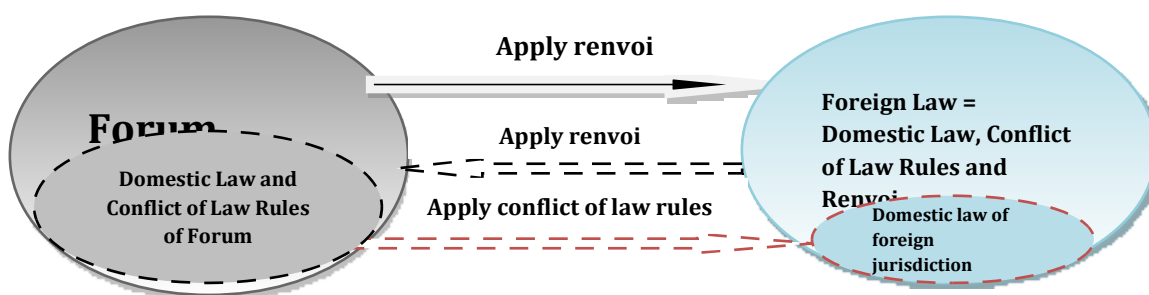


Figure 5: Total or Double Renvoi

In Figure 5, the forum court is faced with a question of foreign law, and it employs the entirety of the rules of the foreign jurisdiction by applying not just the domestic law and the conflict of law rules of the foreign jurisdiction, but also its acceptance of renvoi. Therefore, the forum court sits as though it were the foreign court accepting renvoi, in which case it would apply the conflict of law rules of the foreign jurisdiction imposed by the conflict of law rules of the foreign jurisdiction, and then apply the domestic law of the ensuing foreign jurisdiction, which may be the forum court. Therefore, if a case is brought to a Nigerian court and raises a question of Ghanaian law, the Nigerian court would sit as though it were a Ghanaian court and apply the conflict of law rules of Ghanaian law which would raise the application of foreign law that may be Nigerian law, the court would then apply the conflict of law rules of that second foreign jurisdiction (which may be Nigerian law), which would then lead to the application of a third foreign jurisdiction (in this case, Ghanaian law). In this case, the court has employed total or double renvoi.