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PACIFIC PUNCH
TROPICAL FLAVOURS OF MIXEDNESS IN THE ISLAND REPUBLIC OF VANUATU

Sue Farran
Note: The Taiwan Documents Project does not endorse any political inferences that may be derived from the shading or typography of the following map.

• THE CONDOMINIUM AND A MIXING EXPERIMENT
• INDEPENDENCE AND THE CHANCE FOR A CLASSICAL MIX?
• THE INGREDIENTS WHICH UNDO MIXTURES
• THE POSSIBILITY OF A NEW MIX
• CHALLENGING COCKTAIL RECIPES
The Condominium of the New Hebrides

- 1606 – the search for Terra Australis and the discovery of Espiritu Santo
- 1774 – Cook names the New Hebrides
- 1840s – Catholic and Presbyterian missions to save souls and settlers arrive
- 1878 – Anglo-French agreement NOT to intervene in the islands
- 1887 – Anglo-French Convention to establish a joint naval presence (1888)
- 1902 – the appointment of separate Resident Commissioners
- 1904 – Overtures for shared government
- 1906 – Convention confirming an agreement to set up a ‘sphere of joint influence’
- 1914 – Protocol Respecting the New Hebrides (1922)
- 1975 – Establishment of Representative Assembly
- 1978 – New Hebridean Government of National Unity
- 1979 – France and Britain agree to grant independence
- 1980 – Santo and Tanna rebellions
- Independence
THE LEGAL SYSTEM UNDER THE CONDOMINIMUM

- Joint influence but parallel administration
- Separate High and Resident Commissioners
- Dualism for French and British subjects and optants
- Separate National/High Courts
- Joint regulations for ‘natives’
- Native (criminal) courts (1909-1928)
- (Mixed) Customary law for ‘natives’
- The Joint Court (1910) – with a Spanish President for land and civil matters

Take one part coffee liqueur
One part Grand Marnier / Triple Sec
One part (Irish) cream or similar
Decorate with a stirrer
• Retention of French and British laws
• Official Trilingualism
• Retention of existing judges
• Melanesian Francophiles and Anglophiles
• Little legislative private law reform
• The Constitution of the Republic
• But Westminster model and common law court structure
• The continuing possibility of ‘opting’
• A new role for customary law and customary institutions
THE INGREDIENTS WHICH UNDO MIXTURES

- Politics and religion
- A second reception of common law through case-law
- Judicial appointments and the training of lawyers
- Bi and trilingualism in legal services
- Law reform and the advocacy of common law models
- Aid for development
- Politics and religion
- Loss of French legal literacy
- Lack of French lawyers or opportunities for Francophone ni-Vanuatu to study French law
- Backlog of legal translation
- Absence of advocates/champions for French law
- Focus on culture and Francophonie not law
THE POSSIBILITY OF A NEW MIX

- Customary and colonial laws (family/land/criminal)
- The Constitution and custom
- Island Courts and Customary Land Tribunals
- Indigenous magistrates and lawyers
- Advocates of custom
- Changing needs/changing practices
- A blended example. IP
Formal (introduced) forums
  Appeal Court
  Supreme Court
  Local Magistrates Courts

Mixed forums
  Island Courts/Customary Land Tribunals

Informal forum/chiefs
  Customary law
CHALLENGING COCKTAIL RECIPES
RESISTANCE AND REALITY IN NEO-COLONIALISM
PURISTS AND PRAGMATISTS
LEGAL DEVELOPMENT AND SUSTAINABILITY
A PACIFIC MIX

**Step One**
Take equal parts of French and English law – do not stir
Add to a base layer of indigenous law
Use two straws to link the layers together via joint regulations

**Step Two**
Remove straws
Use constitutional swizzle stick to gently stir
Allow ingredients to settle
Add more English law
Add a sprinkling of international law

**Step Three**
Stir base layer of customary law thoroughly to disperse through mixture
Add more international law
Top up with formalised customary law
Adjust to taste