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

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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
• 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
• 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