

# PACIFIC PUNCH

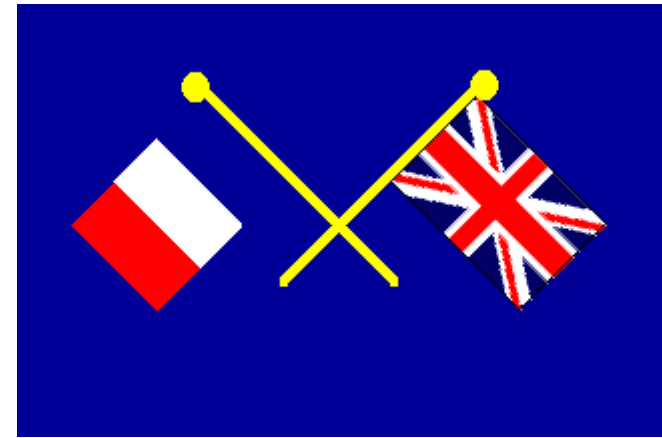
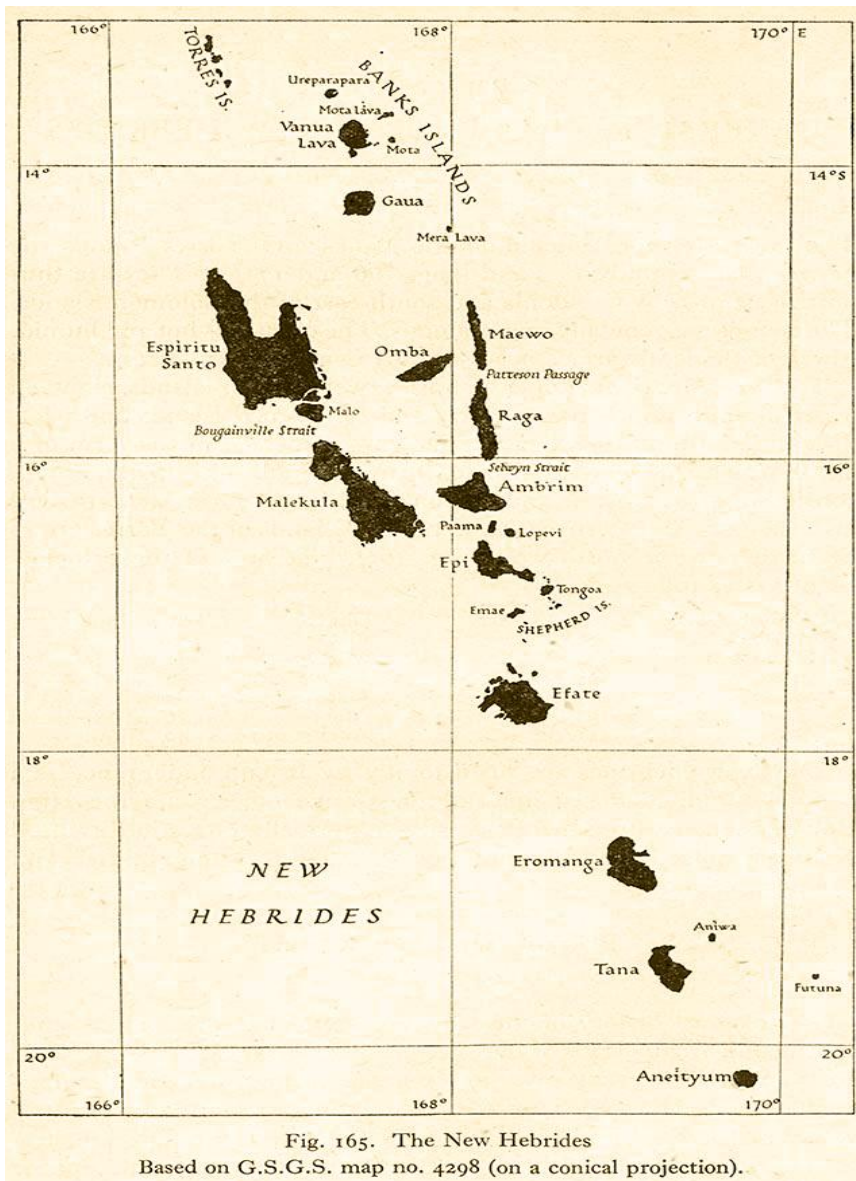
TROPICAL  
FLAVOURS OF  
MIXEDNESS  
IN THE  
ISLAND  
REPUBLIC OF  
VANUATU

Sue Farran









- **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 CONDOMINIUM



Take one part coffee liqueur  
One part Grand Marnier / Triple Sec  
One part (Irish) cream or similar  
Decorate with a stirrer

- 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



## THE REPUBLIC OF VANUATU

### INDEPENDENCE AND THE CHANCE FOR A CLASSICAL MIX

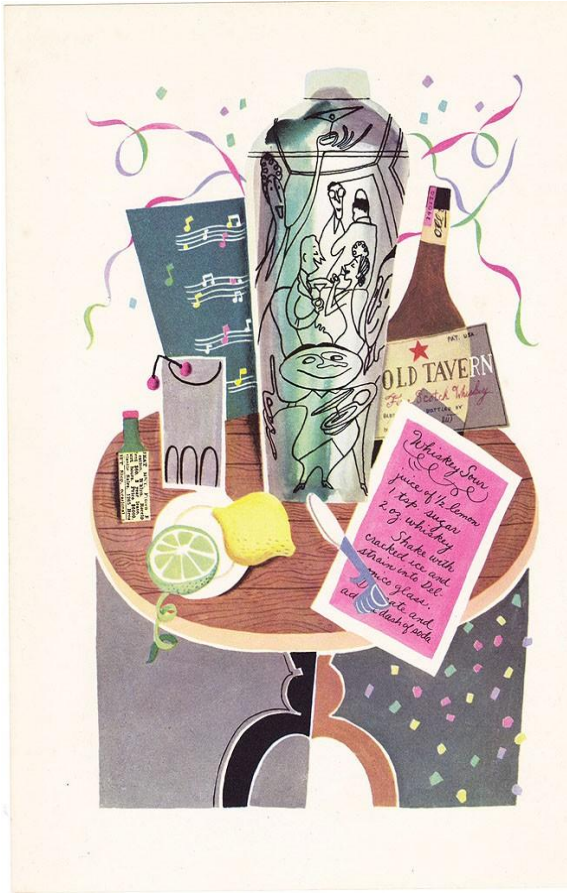


- Retention of French and British laws
- Official Trilingualism
- Retention of existing judges
- Melanesian Francophiles and Anglophiles
- Little legislative private law reform
- The Constitution of the Republic
- But Westminster model and common law court structure
- The continuing possibility of 'opting'
- 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**

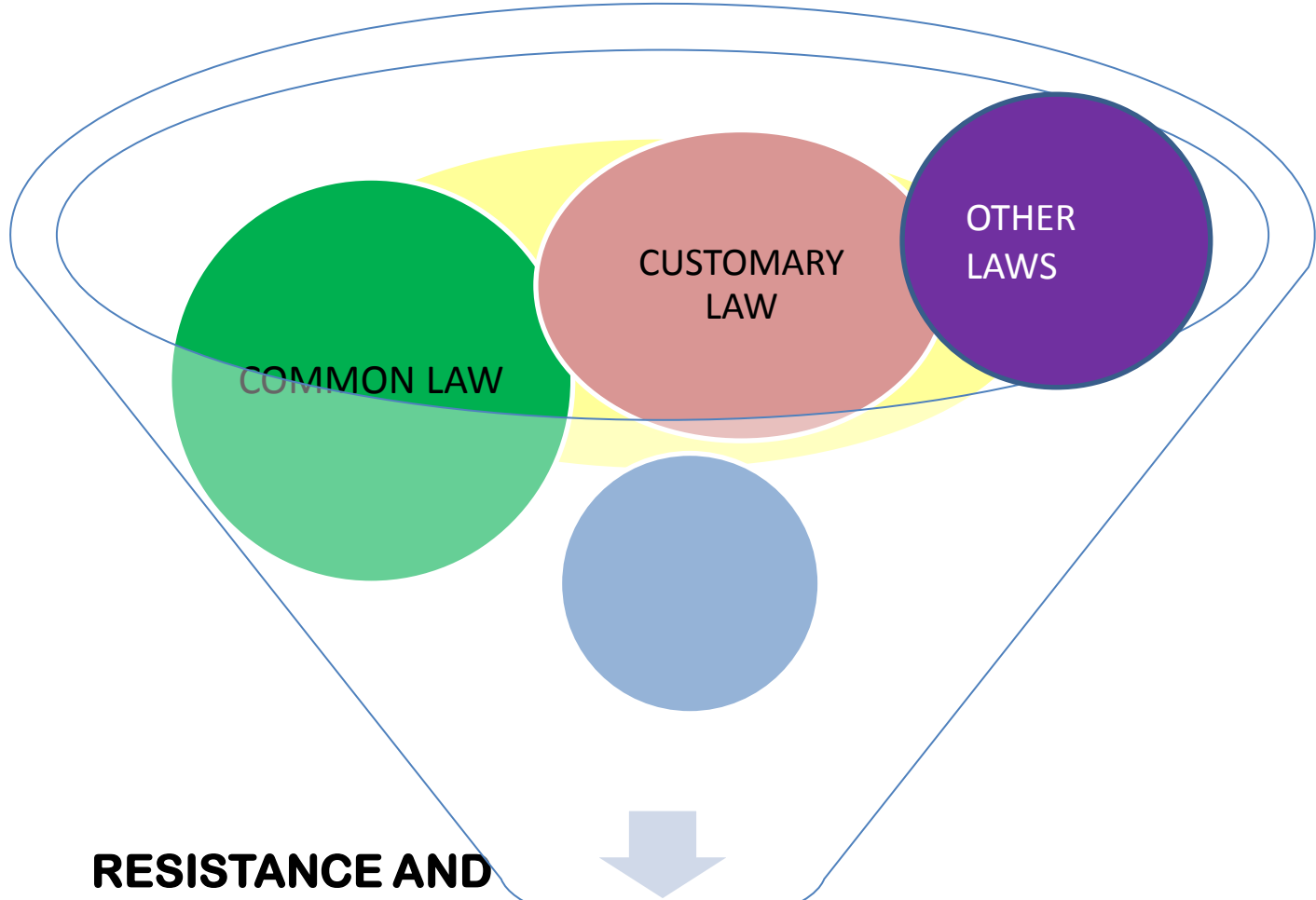
**Island Courts/Customary Land  
Tribunals**

**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

