1. *'Igat fulap rod blong hem'*

Vanuatu is situated geographically in Melanesia, an area of the world that has seen a recent succession of violent conflicts, deteriorating law and order and failing or fragile states.[1] The extent to which Vanuatu is at risk of going down the same road is a matter of some controversy, but it certainly shares some common Melanesian characteristics: a weak state, considerable poverty,[2] ethnic tensions, high youth unemployment in urban areas, poor governance, an exploding population and significant socioeconomic change.[3] The focus of this chapter concerns another shared Melanesian characteristic: diversity.[4] Using this theme, the current cultural, social and political setting to the study is explored through an examination of some of the most important pluralities in Vanuatu society today: place (including land), language, politics, religion, gender and age. This background contextualises the different challenges facing the Vanuatu legal system today and explains the various constraints within which any reform proposal must be moulded, as well as demonstrating the major causes of conflict and forces of change within society. It also highlights the advantages of such a plural society, demonstrating that ni-Vanuatu are used to dealing with difference and mediating between different approaches to the same issues, whether it be *kastom*, languages or beliefs. In later chapters, it will be suggested that this strength could be built on when considering the path forward for the relationship between plural legal orders. Finally, this background is provided following the advice of Shah that 'law must be studied as an aspect of the total culture of a people'.[5] First, however, this chapter provides a framework with a brief synopsis of some of the major events in Vanuatu's history.

Brief history of Vanuatu

The Austronesians—ancestors of the ni-Vanuatu—almost certainly came to Vanuatu from South-East Asia more than 3000 years ago in large ocean-going canoes.[6] Over time, further waves of immigrants came[7] and, as late as 1000 years ago, some Polynesian-speaking peoples also settled on the islands of the archipelago.[8]

The first Europeans to visit the archipelago were Spanish, French and English explorers in the seventeenth and eighteenth centuries,[9] followed by whalers in the 1820s and traders exploiting the islands for sandalwood, sea cucumber and indentured labour. The sandalwood trade continued from 1838 until 1865 when it was largely depleted.[10] The labour trade between Vanuatu and New Caledonia started in 1857 and had extended to Fiji and Queensland by 1863.[11] The trade, known as 'blackbirding', ended only in 1904 and it is estimated that between 40 000 and 61 000 ni-Vanuatu went to work in Queensland during that time.[12] The other early arrivals to the archipelago were the missionaries, who

were not deterred by the cannibalistic practices in the southern islands.[13] The Presbyterian missionaries arrived first and, by 1856, many of the islands were well on the way to adopting Christianity.[14] The Anglicans and Catholics arrived later, positioning themselves in those areas where the Presbyterians had not yet secured a foothold. European settlers, mostly from England and France, began arriving from 1865 and establishing plantations, especially in the central and southern islands.[15]

As a result of pressure for annexation from French and British missionaries and settlers, the Condominium was created in 1906.[16] Under the Condominium, the British and the French jointly and equally ruled what was then known as the New Hebrides. The protocol[17] that provided the legal basis for the Condominium authorised the Condominium Administration to make joint laws for certain matters, and also empowered the two governments to establish their own bureaucracies governed by respective French and British laws for other matters, such as police forces, currencies, hospitals and schools.[18] The Condominium was almost uniformly condemned and was a constant source of ridicule. A new French Resident Commissioner was welcomed in 1913 with the following introduction:

> We had brought our magnificent colony, fully organised, to the mother country: she did not want it…For lack of something better and by reason of our ineffectual diplomacy, we were led into this constitution in disarray, this political monstrosity, this undertaking struck with death and sterility. I mean the Anglo-French Condominium.[19]

Calls for independence began in the mid-1960s, sparked by disputes over the system of land ownership under the Condominium, which conflicted with Melanesian customary land ownership. Before independence, two groupings of political parties emerged: the English-speaking pro-independence movement that became the Vanua'aku Pati and a number of French-speaking parties opposed to immediate independence. Independence was achieved on 30 July 1980, largely without bloodshed, except in the case of Santo, where there was a breakaway separatist movement known as 'Nagriamel' under the leadership of the charismatic Jimmy Stevens,[20] which was eventually quashed with the help of forces from Papua New Guinea.[21]

This chapter now turns to an exploration of the many pluralities in Vanuatu today.

Place

There are different aspects to the sense of place that ni-Vanuatu draw on to articulate sources of distinction between themselves. The two most significant of these are the phenomenon of 'islandism' and the urban–rural divide. Another is the issue of land ownership—a major source of conflict in Vanuatu today.

Islandism

The population of Vanuatu is spread over 65 inhabited islands[22] and today home islands provide one of the most salient senses of identity among ni-Vanuatu,[23] especially in urban areas.[24] People therefore often identify themselves with phrases such as '*Mi wan man Tanna*', '*Mi wan man Ambae*' (I am a person from Tanna, I am a person from Ambae). This phenomenon, known as islandism, has important ramifications for almost every sphere of life.

One of the obvious consequences is the limited sense of nationalism that has developed and is perhaps now even decreasing after the excitement of decolonisation more than 20 years ago. Rousseau, an anthropologist working mainly in Port Vila in 2001–02, argues that today many people see the state government as a remote concept with little impact on their lives,[25] whereas 'island-based identity continues to be a powerful social norm that operates as [an] organisational factor in areas such as residence, ritual, recreation, exchange and the exercise of authority'.[26] Even politicians cannot afford to focus too much on national policies, as their electorates require them to focus on local concerns such as local development and access to funds in order to gain and keep office.[27]

Another ramification of islandism is the strong sense that people must look after people from their own community in government, business and social obligations.[28] It is often expected that when someone attains a position of power they will use the position to benefit the people from their island, before having regard to the interests of the society as a whole. Such attitudes affect the development of a meritocracy.[29] A specific example is the police force, where participants in a workshop recently cited the '*wantok*' system of officers of the same island or province favouring their own people for promotions as one of the issues affecting the effectiveness of the police force.[30] Islandism is also potentially problematic for the state criminal justice system, founded as it is on the values of independence, fairness and equality of treatment. For example, it creates difficulties with the use of lay people as tribunal members due to the perception that a person will always favour someone from his or her own island in resolving or judging a dispute. It is, however, also important to consider White's observation that although such ties can be seen as 'difficult to reconcile with western ideas of good governance…[they do] provide a high degree of stability in local communities'.[31]

A further consequence of islandism is that people are often 'labelled' according to which island they are from, particularly in 'mixed' areas, such as the towns and provincial centres, where people from many islands live together. For example, there is the perception in many islands that people from the island of Tanna are violent and troublemakers ('*stronghed*') and if a crime is committed it is often '*man Tanna*' to whom the finger of accusation points. Similarly, there

is a belief that '*man Ambrym*' are to be feared as they have the power to use black magic to cause sickness and death.[32] Recently, there were two serious incidents caused in large part by these features of islandism. In 2006, there was a series of brawls and high tension in Luganville resulting from an East Santo chief being assaulted 'as payback' for a previous incident involving a man from Paama.[33] Then in early 2007 three men were killed and at least 10 houses burnt in clashes involving men from Ambrym and Tanna arising from allegations of the use of black magic by the former against the latter.[34]

There are many observers of Melanesia who are fearful that the ethnic diversity of Vanuatu could precipitate the kind of civil unrest that has recently been seen in other Melanesian countries such as Fiji, Solomon Islands and Papua New Guinea.[35] For example, the *Security in Melanesia* report presented to the Forum Regional Security Committee in May 2001 suggested that Vanuatu's cultural diversity was a potential cause of ethnic tension, especially in urban areas with large squatter settlements.[36] Morgan, however, argues that the 'sheer regional and ethnic diversity of Port Vila's 8,000 teenage and adult males…represents one of the main safeguards against serious inter-group conflict or collective conflict against the government'.[37] In regards to large-scale conflict, some comfort can be drawn from the fact that there are considerable differences between the issues of ethnic diversity in Vanuatu and those in Fiji and Solomon Islands, where there are two major ethnic groupings in conflict. In regard to small-scale conflict, however, islandism continues to be a significant cause of friction, and only time will tell whether it will dissipate as a result of increasing intermarriage or accelerate due to increasing competition over scarce resources such as land and employment. The two recent events just discussed have, however, made the forecast in this area gloomier than was previously the case.

The urban–rural divide: which one is the 'easy life'?

Another significant division today based on place is between urban and rural populations. There are two urban centres in Vanuatu: Port Vila, the national capital on the island of Efate, with a population of roughly 30 000; and Luganville, with a population of almost 11 000, on the geographically largest island, Santo.[38] Urban migration began in the late 1960s and early 1970s when factors such as the diversification of the urban economy, expansion of the civil service, the rise of tourism and the collapse of the price of copra meant that coming to town was the only way to earn a cash income. This pattern was strengthened by independence and the further centralisation of the economy. Today, there are still very few opportunities to participate in the cash economy in rural areas.[39] As a result, the urban population growth is currently 4.2 per cent compared with the national growth of 2.2 per cent, and 21.5 per cent of the population resides in the two towns.[40]

A new but significant phenomenon is that people are increasingly living in the growing 'settlements' inside and outside of town. These are crowded squatter communities where people from different islands live in houses patched together with corrugated iron and scrap materials, often without water, electricity or sanitation.[41] Storey notes that such peri-urban areas have emerged as critical sites of conflict in the urban Pacific and terms them 'grey areas' of 'negotiated territory', overtly urban but 'still rural, for municipal councils are kept at arm's length, the state frequently has limited legitimacy and village-based structures of leadership and social organisation often continue'.[42] Many observers have commented on the rise of criminal activities in the settlements. For example, Miles states that the urbanisation movement 'has spawned, particularly among the semi-educated young, crime, delinquency, unemployment, alcoholism and a breakdown in chiefly authority'.[43]

In contrast, approximately 80 per cent of the population lives as subsistence farmers in rural areas.[44] Due to the distances between the islands and the sporadic and expensive nature of transport, rural areas are often isolated from urban areas and central government. People living in rural areas are less likely to send their children to school, are less highly educated and are less likely to be employed in salary-earning work.[45] As rural people participate very little in the cash economy at present, there is a growing disparity between rural and urban cash income distribution and access to goods and services such as police, health, education, electricity and telecommunications.[46] In the rural areas, however, most people have their own food gardens and access to clean water. As discussed below, there is a good deal of debate about which of the two provides the '*isi laef*' (easy life).

There is a major difference between the impact of globalisation in urban and rural areas. In the two urban centres there is considerable Western influence, although most people maintain significant links to their land and community and adhere in various ways to traditional customs and ways of life. A research project into young people living in Port Vila in 1997–98 found that more than 60 per cent of the young people interviewed had passed through or experienced some kind of *kastom* activity and that *kastom* and vernacular languages were still very important aspects of their lives.[47] In rural areas, the extent of Western influence varies and in some remote areas of the country it is still possible to find people living entirely un-Westernised lives and living in traditional 'leaf houses', although today even in the most remote places people are starting to find ways to send their children to school.

The relationship between people living in town and on their home islands is a complex one. Historically, the trend was for 'circular mobility' as people would come to town for short periods and then go back to their home islands.[48] This pattern, however, appears to be changing as people are staying in town for

longer and longer periods. In a study of young people living in Port Vila in 1997–98, it was found that approximately 50.5 per cent had been born in town or had lived there for a number of years with their parents and a substantial number (27.7 per cent) had never been back to their home island.[49] Rousseau comments that by the late 1980s, 'the idea of permanent residence in Vila was being accepted in academic literature'.[50] Even permanent residents, however, locate their identity in their home island rather than developing an urban identity: in five years of living here, I have never heard anyone identify themselves as '*man Vila*'. Many communities in Vila are formed along the lines of island identity, although Vila as a whole is 'mixed' in that there is no one island group that dominates.[51] Moreover, the lines of *kastom* authority in the various communities in Vila often follow home islands rather than geographical arrangements.[52]

It is common for urban dwellers to idealise their home island and present it as a place of relaxation and abundance, where one has only to wander into the garden and pick fruit and eat it, rather than work hard to pay for it as in town.[53] Town is, however, also seen by rural dwellers as being the source of the *isi laef*, a place of opportunity, where cash is readily available, there is freedom from continuous physical toil and youth can escape from the authority of their elders.[54] Town is also regarded as a place where women in particular are freer, especially in regard to choosing their own partners.[55] These two stereotyped images of the *isi laef* contain the seeds of many conflicts between urban and rural communities.

One of the major issues to have arisen between those who live in town and their home islands is the right for chiefs to force people to go back to the island. Urbanisation places considerable strain on the family and community networks in urban areas that are called on to support the migrants from the islands. For example, it is not uncommon for extended families living in overcrowded houses to have to take 'shifts' for the beds. Further, although many migrate for the purposes of finding work, not all are successful. Some turn to petty crime or just become generally disruptive through alcohol, kava or cannabis abuse. In such situations, pressure is put on chiefs in Vila to organise to send people back to the island. This situation also arises when women have run away to town to escape their husbands or an arranged marriage and their families contact the chiefs in town to demand they send them back. Article 5 of the Constitution, however, guarantees everybody freedom of movement and there is a common perception that chiefs who send people back to the island against their will are breaching this provision, causing them to complain that the State is unsuccessful at stopping the increase in urban crime but that they are being prevented from addressing the situation themselves.[56] This issue will be discussed further in Chapter 6.

Land

Land has always been central to ni-Vanuatu, providing food, a place to live and a sense of identity.[57] Discussions about land in Vanuatu often refer to the spiritual bond between people and the land and often the land is characterised as being the 'mother' of the ni-Vanuatu. A recent report into land in Vanuatu states:

> Land to ni-Vanuatu is everything they have, it embodies their link to their past, their present and their future. It contains everything they do in life…ni-Vanuatu see land as sacred and as a part of themselves, it is not seen as [a] mere commodity that can be used and then dispensed with.[58]

Today, however, land additionally provides the possibility for exploitation in order to participate in the cash economy. With the growing population, it is becoming a limited resource subjected to competing pressures. The Director of Lands recently stated that people were no longer seeing land as their mother, rather as 'something to get cash from'.[59] Henckel comments that the 'tension between these diametrically opposed paradigms is unlikely to be resolved any time soon'.[60]

At independence, all land that had been appropriated by foreigners was returned to 'the indigenous custom owners and their descendants'.[61] The constitution provides that 'rules of custom shall form the basis of ownership and use of land' (Article 74). This is, however, problematic, as Farran explains:

> There is no single system of customary land tenure in Vanuatu, but diversity, made increasingly complicated by the movement of people, intermarriage and changes in custom itself. In some parts of Vanuatu land rights pass patrilineally, elsewhere they pass matrilineally. At the same time individual ownership is not unknown, even in custom, although generally ownership is communal, although the unit of communal ownership will vary.[62]

Today disputes over land are one of the most significant sources of conflict and as yet no satisfactory way of resolving them has been established. Traditionally, such disputes have been resolved in *kastom*, but as Jowitt argues, 'custom is increasingly failing to resolve issues as uses for land are changing. People are no longer as willing to accept the legitimacy of custom settlements when settlements are not in their favour.'[63] At independence, the island courts were initially charged with the resolution of land disputes, with appeals going directly to the Supreme Court. This system, however, led to an enormous backlog of cases as 100 per cent of cases were appealed.[64] To try to overcome these problems, the *Customary Land Tribunal Act* was passed in December 2001, introducing a system of Customary Land Tribunals (CLTs) throughout the country

to enable all cases involving land disputes to be dealt with at a local level—village, area and island—rather than through the state courts.[65] Two reviews of the CLT program in 2005, however, found that there were considerable problems with the tribunals, including a lack of ownership by the people of the process, lack of awareness and understanding of the CLTs, lack of proper support for the CLTs and for their implementation and, consequently, a lack of establishment of CLTs throughout the country.[66] To date, however, no actions have been taken with respect to the recommendations outlined in the reports and land continues to be an explosive issue.

Language

There are two significant levels to the pluralities in Vanuatu based on language. The first is a plurality of vernacular languages, of which there are currently about 105[67]—the highest concentration of different languages per head of any country in the world.[68] Lindstrom argues that such linguistic diversity cannot be explained on the basis of social isolation, as more and more evidence is being uncovered to show that in fact people are linked within economic and communicative grids. Rather, the diversity has been created and protected by what Lindstrom refers to as 'traditional cultural policies'.[69] The division of communities by language is another aspect of the division by place and provides a further sense of identity without, however, generating much conflict or difficulty.

This is largely because the problem of communication where a number of languages are spoken has been solved by the development of Bislama, a pidgin with a vocabulary of predominantly English origin (although there are also words from vernacular languages and French).[70] It was first established in the European trading stations around the mid-1800s and was then developed further by the ni-Vanuatu workers in the sugar plantations in Queensland, who needed to communicate with others from different islands and who then returned home to teach the new language to their communities.[71] Bislama, the only national language, is today the most widely spoken of the three official languages, followed by English and then French.[72] Unlike many of the other issues discussed in this chapter, Bislama is a uniting factor in Vanuatu. Bolton comments:

> Lindy Allen sees the acceptance of Bislama by the ni-Vanuatu themselves as crucial to the achievement of Independence, and attributes that acceptance to the translation of the New Testament. I myself see the use of Bislama on the radio as even more crucial to the process of wider identification, which led to and flowed from the Independence movement.[73]

The other plurality in regard to languages is the anglophone/francophone split, which generates significant conflict. The missionaries originated the split through

the particular churches they represented: the Anglican and Presbyterian churches were mainly English and the Catholic Church predominantly French. These divisions were consolidated by the colonial administration, which separated education (and many other systems) into British and French control, producing the system that continues today of anglophone and francophone schools (70 per cent and 28.5 per cent, respectively).[74] A 1997 report by Vanuatu to the UN Committee on the Rights of the Child states:

> The two former colonial regimes while in power established three systems of government (British, French and Condominium) as well as three courts of law and, among other areas, two health and education systems. The Vanuatu Government had to struggle to put in place only one system and is still struggling in some areas, such as in education.[75]

This division was accentuated by the process of decolonisation in which the French and the indigenous francophone population resisted independence, while the anglophone parties pushed for it, creating a political split along anglophone/francophone lines, which is still extant today.[76] One positive consequence of this division from the perspective of this study is that during the colonial period the ni-Vanuatu became adept at mediating between the French and British systems.

Politics

Vanuatu is a democratic country with a 52-member Parliament elected to four-year terms by universal adult suffrage. In addition to the national government, there are six provincial councils. These are, however, under-resourced and badly coordinated with the central government.[77] There are numerous divisions within the political context in Vanuatu: between the parties, within the parties and even between the politicians and the electorate. As Rousseau states, '*Politik* is viewed as [an] essentially divisive phenomenon.'[78]

Political instability is endemic in Vanuatu; motions of no confidence regularly lead to the overthrow of governments and there is continual reshuffling of the political parties. Currently, 11 different political parties and nine independents form the government. In the past eight years there have been three national elections[79] and the government also changed at the end of 1998 after a change in coalition; in 1999, when the then Prime Minister resigned in order to avoid a vote of no confidence; in 2001, after a vote of no confidence; in 2003, after a change of coalition; and then again in December 2004 after a motion of no confidence in the then Prime Minister. Morgan states:

> A situation has arisen in which both opposition and government coalitions are intrinsically frail. Failure to provide desirable positions to coalition members can result in loss of government. Even the slightest

shift in power in parliament can initiate a complete reorganisation of ruling coalitions.[80]

Even at the local level there is considerable fragmentation of political parties. For example, in 2005, four different political parties were involved in signing two different memorandums of agreement just to appoint the Lord Mayor of Port Vila.[81] Such instability makes real reforms difficult to achieve, as political leaders are constantly thinking of how to ensure their own positions, making them reluctant to introduce any contentious legislation or even provide any coherent policy.

A further significant political division is between the leaders and the people they are elected to represent. The introduction of democracy is recent: Vanuatu celebrated its twenty-fifth year of independence in 2005. Before independence, authority was either exercised by force by the two colonial powers or was traditional and achieved its legitimacy through belief in the sanctity of traditions, *kastom* and obedience to community leaders, as discussed further in Chapter 3. At independence, there was a sudden shift to a different type of authority and a different, legal-rational basis of legitimacy.[82] Given the swiftness of this transition, it is perhaps no surprise that there is considerable ambivalence in the population towards the government. The popular view of politicians is shown in this speech by a 'minister' in a play by a local theatre company:

> It's a funny thing this democracy. People vote us in, never ask what we do. They never read the laws we make. They just blame us when they don't get what they want…To get back in, we have to give our supporters money…and to get all the money you need…you have to…find ways of stealing it. People think if they vote for you, you have to keep paying them back. Pay for every funeral, every marriage.[83]

This distrust of politicians is compounded by the involvement of various high-ranking members of the government in corruption,[84] as well as the failure of successive governments to provide adequate services. The prevailing view of politicians seems to be that it does not matter who is voted in, '*oli stap bisi nomo fulumap poket traoses blong olgeta*' (all they do is to try to line their own pockets). Transparency International states:

> Instability is a long-term feature of politics in Vanuatu, and is perceived to arise because of the abuse of power for personal advantage by individual members of parliament. It is common for members to cross the floor of parliament because a new party can offer more personal benefits than their old one. Legitimate reasons for crossing the floor, such as fundamental disagreements about policy, are rarely the motive for such defections.[85]

Unless there are significant reforms made,[86] it seems likely that disenchantment by the electorate and further fragmentation by the political parties will continue to be significant features of politics in Vanuatu.[87]

Religion and denomination

Missionaries arrived in Vanuatu in the nineteenth century and today more than 90 per cent of the population is Christian.[88] The churches play a central role in most communities and are involved in many aspects of peoples' lives—from education to sports training and counselling to dispute settlement. As Mortensen states, the 'churches' place in state-creation in Melanesia is critical, and often more important than civil government in remote areas where government has little presence and provides no services'.[89] There are two aspects of religion relevant to the current discussion: one displaying a tolerant approach, the other characterised by division. The tolerant approach has developed between Christianity and *kastom*, while there is often division between the different Christian denominations within the country.

As discussed further in Chapter 3, the relationship between *kastom* and Christianity has changed considerably over time. Initially, there was considerable antipathy towards *kastom* practices by the missionaries, who commonly made the distinction between the darkness of heathenism and the light of the Gospel.[90] The practitioners of the *kastom* religion, an animist-based religion, were also overtly hostile to the new church, and cannibalism of the missionaries was frequent in the early days of proselytising. Over time, however, many of the established churches became more accommodating towards *kastom*, allowing their congregations to engage in *kastom* practices such as dances and pig killing.[91] In addition, regardless of the official attitude of the Church, many ni-Vanuatu accepted Christianity while maintaining their belief in *kastom* ideas such as ancestral ghosts, *tabus* and the power of sorcerers.[92] For example, one respondent commented that a *kastom* reconciliation in which pigs were killed was based on the principle of 'Christian love' and that '*blad blong pig wasem sin blong man* [pig's blood washes man's sins]'.[93] Hess observes that in Vanua Lava some Christians believe that 'paradise' or the Christian 'heaven' is the same place as where the dead go according to *kastom*.[94]

At independence, there was a clear attempt to tie Christianity and *kastom* together. The preamble to the Constitution states that the Constitution is 'founded on traditional Melanesian values, faith in God and Christian principles'. The 'Father of Independence', Walter Lini, declared that 'God and custom must be the sail and steering paddle of our canoe'.[95] Although it could not be said that *kastom* and Christianity are harmonised today, there is recognition that both have a role in shaping the spiritual foundation of the country.[96] This is illustrated by the prevalence of the practice of opening and closing *kastom* meetings with

a prayer—a practice remarked on with surprise by one anthropologist, who explained that she had assumed 'that people would see Christianity and *kastom* as in some way opposed to each other'.[97] She recalled that one *kastom* meeting she attended was closed with a prayer in which it was said that '*kastom* comes from you, Jesus'.[98] The relationship between Christianity and *kastom* is also shown in the development of some indigenous groups of Christians, such as the Melanesian Brotherhood, who to a certain extent blend *kastom* practices and Christianity.[99] A further example of the Church and *kastom* working together was recounted to me by one respondent as follows:

> If a deacon or elder or even a pastor commits a crime or creates a problem he must go to the *nakamal* to talk. The chief must give him a fine or punishment. At this time he must leave his position in the church. When he has paid his fine then he will be permitted to take up his work in the church again. [My translation]

She concluded by saying in relation to *kastom* and religion that '*tufala samting hemi mixup* [these two things are interwoven]'.[100]

The above discussion demonstrates the possibility of tolerance and acceptance between different belief systems, but religion also causes considerable conflict in Vanuatu today. The root of this division is the proliferation of Christian denominations that are introduced into, and develop within, the country. Today there are at least 19 different denominations of Christianity[101] in Vanuatu, and often six or seven denominations in one small village. This often precipitates conflict, such as an incident in 2006 on the island of Atchin involving tension between Catholics and Adventists over a festival celebrating the Virgin Mary.[102] The introduction of more new denominations into small communities is also often a significant cause of conflict.[103] As a result, many chiefs seek to limit the different religions that are permitted in their village, despite the fact that such actions appear to breach the constitutional right to freedom of religion. For example, the Malvatumauri's *Kastom Polisi* provides: 'Section 1: Malvatumauri policy is that everyone must be careful of admitting new religions in that we are a small population and they divide the people.'[104]

Somewhat surprisingly, there has as been only one reported case where the issue of freedom of religion has arisen. The case of *Marango vs Natmatsaro* arose from an attempt by the Seventh-Day Adventist Church to establish itself on an island that had previously had just the Anglican Church.[105] The chiefs opposed the new church, claiming that it would cause division in the community, and a representative of the church took the matter to court, seeking declarations that their constitutional rights had been breached. The case went backwards and forwards between the Magistrate's Court and the Supreme Court and eventually

the matter was struck out for want of cause of action, as the defendant admitted that the plaintiff was entitled to practice and exercise his religious beliefs.[106]

The issue also arose in the legislative context, with the introduction of the *Religious Bodies (Registration) Act 1995*, which required all religious bodies in Vanuatu to register with the government. The act was advocated by the Vanuatu Council of Churches (the body that represented established churches), however, it met with considerable disapproval and was repealed in 1997. The same issues arise in this context as for the right to freedom of movement: to what extent should an individual's rights be limited in the interests of maintaining peace and harmony in the community? This question is particularly difficult because it pits a *kastom*-based communal outlook against a state-based individualistic one.

Gender

Legally, men and women are equal in Vanuatu.[107] Vanuatu is a signatory to the *Convention on the Elimination of All Forms of Discrimination Against Women*, and the promotion of the equal participation of women in domestic, local and national affairs has been part of the government's development plan since independence.[108] The Vanuatu National Council of Women was established in 1980 to provide a forum for women's issues and in 1992 the Vanuatu Women's Centre was established to assist victims of violence.[109] There is also a Department of Women's Affairs, which is responsible for programs to promote gender equality.[110]

In reality, however, there is an enormous division among ni-Vanuatu based on gender.[111] Men are overwhelmingly the heads of households,[112] are twice as likely as women to be in paid employment[113] and hold the majority of positions of power.[114] A report commissioned by the Department of Women's Affairs entitled *Gender, Kastom and Domestic Violence* notes that today 'there is a significant marginalization of women from pertinent discussions and decisions on areas of social and economic development, governance and human rights at community and national levels'.[115] It concludes that 'Vanuatu as a nation has, through its international obligations, put policies and programs [in place] and spent much money achieving equality, but little has changed'.[116]

Two of the most pressing issues for women today, in addition to lack of participation in leadership roles and public life generally, are domestic violence and the fact that women bear the burden of the majority of the housework, child raising and often the work of growing the family's food as well. In relation to domestic violence, the report states that '[i]t is a very commonly held view in Vanuatu today that domestic violence is an acceptable aspect of marriage or cohabitation', and that '[m]ost men and (even some women) seem to think that a woman is part of the man's property and that he can do what he wishes with

her'.[117] The prevalence of domestic violence is illustrated by this extract from the script of a play by a local theatre group:

> Theresa: Everyone has to get married sometime, Louisa…
>
> Louisa: You want me to be like you? Get beaten all the time for nothing? That's not going to happen to me!
>
> Theresa: You think you're so much better than everybody else, don't you?
>
> Louisa: I don't! But I don't want to marry a man who will beat me. I don't!
>
> Theresa: Ah! All men do it! You'll just have to get used to it!
>
> Louisa: Oh…Theresa! [She starts to cry.]
>
> Theresa: Look it's not so bad. Women are made to suffer. We bear children in pain. We can take a few slaps from our husbands.[118]

The report shows that many men justify their right to beat their wives on two main grounds: *kastom* and religion.[119] On the *kastom* ground, men explain that *kastom* permits them to beat their wife and also that once they have paid the bride price—a practice that is pervasive across the country—they are entitled to beat her.[120] A local female poet expressed her view of the bride price as follows:

> Braed praes i mekem mi fil olsem wan spid bot
> O trak blong oli pem
> I mekem ol famili blong mi i gridi
> Mo oli wantem wan bigfala praes moa
> I mekem ol tambu mo ol tumbuna blong mi oli kros
> Taem mi no save bonem wan pikinini blong boe blong olgeta
> I mekem man blong mi i ting se mi mas obei
> *Long hem evri taem.* [121]

> [Bride price makes me feel like I am a motorboat or a truck that someone buys, it makes my family greedy and wanting a bigger price; it makes my parents-in-law angry if I am barren or do not produce a son and it makes my husband think that I must always obey him.]

Men also commonly use religion as a justification to beat their wives, arguing that the Bible gives them this right and that as men were created before women the man is the boss.[122] The chiefs and the church leaders who were interviewed in this study, however, maintained that *kastom* and the Church respectively were against violence and promoted peace and love within a family.[123] Other researchers have also reported such conflicting messages. Moldofsky noted that although the President of the National Council of Chiefs told her that *kastom*

did not give men the right to beat their wives, his own daughter said to her, 'It's my husband's right to hit me when I don't do something he says.'[124]

This demonstrates that either there are some fundamental communication breakdowns between chiefs and church leaders and their communities or that the chiefs and church leaders are not being entirely honest in their answers. From the research I have carried out, the explanation seems to be that men are using whatever justification they can find and are not listening too hard when the Church and chiefs try to tell them they have misinterpreted a teaching. The extent to which chiefs and church leaders try to change these beliefs no doubt varies considerably as well. There are certainly chiefs who are outspoken in their beliefs that women should obey their husbands and remain out of public life. For example, a highly placed Port Vila chief and former president stated in the local paper that it was against Vanuatu *kastom* for women to put themselves forward as presidential candidates.[125] Other research also supports the view that some chiefs help to support the disempowerment and subordination of women. As will be discussed later, jurisdiction over cases involving violence against women is a major area of contestation between the state and *kastom* systems. There are, however, also many chiefs who support women and who actively try to limit the amount of domestic violence in their community.

The other significant issue for women in Vanuatu today is the vast amount of domestic labour they are expected to do. In 2002, a historian reported that '[t]he male leaders [of a particular area]…said that the men are lazy and do as little work as possible; they endorsed the ironic reproachful boast of several women that "women work, men talk"'.[126] My research also largely confirmed this: on one memorable occasion, I was sitting in a village in Erromango talking with a chief and I remarked to him that the village was very clean. He pointed to some women laboriously sweeping the red earth with brooms made from coconut-leaf spines and he said to me with absolute conviction that when the women woke up the first thing they thought about was sweeping! Tor and Toka's report concludes that 'Vanuatu women are practically enslaved, just as the men had been enslaved by planters and black-birders in the 18th century'.[127]

Whenever issues such as lack of participation in public life and leadership roles, the unequal sharing of domestic burdens and domestic violence arise, the explanation often given is that a woman's role is based on *kastom*. Consequently, it is implied, to challenge this role is to challenge the very foundation on which the society has been built. In the report, the authors challenge such arguments.[128] Through their research, they sought to demonstrate that traditionally women were valued and respected, had more independence than today and lived lives that were not dictated by their husbands. They argued that traditionally women were leaders and participated in the socioeconomic and political development of their community.[129] They attribute the decline of the participation of women

in public life and her relegation to the home under the authority of her husband to the teachings of the missionaries and to the introduction of Western ideas, stating:

> Contemporary custom has not been favourable to the women of Vanuatu. It is rather more restrictive, coloured by modes of contemporary and foreign culture and Christian phenomena that serve to downgrade women's role in the community, and ultimately the nation.[130]

This view is supported by Jolly, who argues:

> The male domination inherent in the ancestral culture has been challenged but also in some ways intensified through its relation to colonial pressure. This has generated the strange paradox whereby men both mediate and monopolize modernity, and struggle to keep women apart from it. This self-conscious need to 'hold women tight' becomes not just an internal imperative but part of the resistant relation to external pressures.[131]

While the findings of Tor and Toka's report are certainly an important reminder that the position of women today is not necessarily reflective of the way they have traditionally been treated, they should also be treated with some caution. Historically, the treatment of women varied considerably from island to island and while in the northern islands it might have been that women did possess leadership roles, the same cannot be said of the islands in the south, particularly Tanna.

Thus, while the role of women is formally equal to men, in reality today there is a considerable division between them. This division generates conflict, especially in the context of the huge socioeconomic changes taking place in which the issue of women's rights is often used as a forum in which conflicting ideas about engagement with Western values and principles and *kastom* are fought out.[132] Tor and Toka's report represents a fascinating new development in this area. It shows that women are attempting to use *kastom* as a tool to assert their rights in much the same way as men have in the recent past used *kastom* as a tool to subjugate women.

Age

Today youth in Vanuatu make up a significant percentage of the population, with 45 per cent of the population less than fifteen years of age.[133] A sharp distinction is drawn, however, between youth and adults. Traditionally, and to a large extent even today, until they reach adulthood young people are expected to follow the directions of their family and community leaders and are often denied a voice in decision-making processes. In 1997, Vanuatu's report to the UN Committee on the Rights of the Child stated, 'Traditionally, the children of Vanuatu do not express their views freely.'[134] This approach applies even in

relation to personal matters such as marriage. While today the number of 'love' marriages is increasing, there are still a considerable number of arranged marriages. Not all youth are opposed to arranged marriages, but a significant number blame their marital troubles on the fact that they were forced to be married, and young men and women regularly run away to urban areas to escape arranged marriages.[135] One interviewee in Tor and Toka's report tragically stated, 'My partner and I do these [acts of physical violence] because she was never my girlfriend. My parents and families forced me to marry her. That is why our married life will always have violence. When we are ready to die, that is when the violence will end.'[136]

Youth are also expected to obey their elders in many other aspects of life. This is illustrated by a case collected for this study in which a young boy from Tanna complained to the village council that his father had beaten him so much that '*blad i ron* [blood ran]'. The father's defence was that he had beaten the boy because the boy went to sing with his friends rather than preparing his father's kava in the afternoon. Preparing kava in Tanna is an onerous task for the youth, who must thoroughly masticate the hard roots of the kava plant so that it can be mixed with water and drunk. The village council held that the boy had disobeyed his father and must pay him a fine and that every afternoon he must return to his house to prepare his father's kava.

The other significant issues facing youth are unemployment—particularly in urban areas—lack of educational opportunities, involvement in petty crime and alcohol and substance abuse. Unemployment is a problem for every sector of the population but particularly for youth, who have higher rates of unemployment and receive even less remuneration than others.[137] There is a major problem with educational opportunities in Vanuatu resulting from the lack of free education, even at primary level, and the lack of adequate places even for those who can afford the fees. As a result, currently more than 60 per cent of young people do not go to secondary school and a significant number do not finish primary school.[138]

Young people are also notoriously involved in criminal activities, often resulting from the lack of employment and other opportunities in town. Morgan and McLeod note that the 'preponderance of young people facing court reflects the systemic inability of national and provincial governments, and the private sector, to provide opportunities for young people'.[139] It is frequently said that Vanuatu's young people pose a significant threat to the country's stability, especially in urban areas[140] where there are high numbers of young people committing crimes and overburdening the legal system. Young people also engage in substance abuse—mainly kava and alcohol, but cannabis is a growing problem.[141] Kava and alcohol have been linked to domestic violence, family disruption and breakdown and accidents.[142]

In recognition of young people's lack of voice, the Young People's Project (YPP) was established under the auspices of the Vanuatu Cultural Centre in 1997. This project engaged in a range of research into issues affecting young people in Vanuatu and produced a report, *Young People Speak*, and a film, *Kilim Taem*, to accompany the report. One of the important findings of the research was that many young people preferred to have issues concerning their involvement in offences addressed through *kastom* rather than through the courts. The project report stated:

> Young people frequently mentioned that they would prefer to pass through traditional channels to resolve their problems with family or with the law when they are involved in some kind of trouble. One reason for this is that when they pass through *kastom* channels they are not left with a police record that will ruin their chances for future employment. Another reason…is that they don't always understand the white man's court system and they find the police are often brutal in their dealings with them.[143]

As a result of this finding, the Juvenile Justice Project (JJP) was established in 1998–99, which had as one of its five main objectives to 'identify the strategy and mechanisms needed to develop and provide an alternative system which effectively negotiates and incorporates *kastom* and western legal conceptions of justice to respond in a positive way to the situation of young offenders in Vanuatu'.[144] The final activity planned was the presentation of the report of the JJP to a national summit meeting on juvenile justice, which was to spend five days developing a national plan of action for dealing with juvenile offenders. It appears, however, that the project suffered from a number of problems that severely affected its ability to meet its objectives. There were numerous difficulties with the research methodology; the final report was not finished by the time of the national summit;[145] and the summit itself was 'dominated by chiefs, young people's voices were hardly heard'.[146] The set of recommendations produced by the national summit—recommending among other things that an act be drafted to empower *kastom* law and empower chiefs to implement *kastom* law, and that only chiefs should be able to say which cases should go to the state courts—was heavily criticised by many prominent NGOs in Vila.[147] A meeting was held to discuss these criticisms but there was no clear conclusion, although there was unanimity that *kastom* existed and was used and that there was a need for some form of integration and formalisation between it and state law.[148]

There is also little accommodation of juveniles by the state justice system. There is no legislation providing for special procedures to be followed by the police, prosecutors and courts when dealing with juvenile offenders and suspects, with the result that youth are processed in the same way as adults, giving no protection against police brutality or making allowances for their intimidation by the

courts.[149] UNICEF found that currently the 'laws are outdated and do not adequately protect children from abuse of power'.[150] The sole concession to juveniles is a provision in the Penal Code providing that no person under sixteen years of age shall be sentenced to imprisonment unless no other method of punishment is appropriate (Section 38[1]) and that where this occurs it should be in a special establishment (Section 38[2]).

In reality, however, there are no special establishments for juveniles and so courts that wish to make a custodial order for juveniles are compelled to sentence them to imprisonment in the main jails where there is no way to segregate the youth from the other prisoners. In practice, children under sixteen years of age are rarely sent to prison, but there have been cases in which they have been.[151] Other problems facing juveniles in the state justice system are a lack of awareness of their rights in dealing with the police, lack of an appropriate complaints mechanism against police, lack of legal representation, lack of clear guidelines as to when parents or guardians are required to be present, lack of separate or appropriate detention facilities for juveniles and no structured form of pre-trial diversion.[152] These factors raise a considerable question mark over the findings of the JJP concerning the preference of youth to be dealt with by chiefs rather than the state justice system. It is possible that if the state system were reformed to more adequately meet the needs of youth and protect them from police brutality, this might meet their concerns just as well as empowering the chiefs.

Conclusion

This chapter has shown that in Vanuatu today there are many levels of plurality. The President recently stated, 'We are like 100 nations inside one country.'[153] What remains controversial is the extent to which this diversity operates as a source of instability, and what the response to it should be. In the context of Solomon Islands, White observes that the diversity of the region is often identified as a primary source of instability and 'the most commonly proposed solution is to strengthen central government as a means of holding the forces of disintegration together'.[154] Similar observations could be made about Vanuatu. White goes on to point out, however, that if a local perspective is adopted, rather than one that reads conflict from an outside perspective, one is 'more likely to hear about *legitimizing or empowering the local* than about strengthening the institutions of the (central) state'.[155] This book similarly views plurality as not necessarily equating with 'disunity, division and dispute'.[156] Rather, it explores the possibility of harnessing the strengths that are associated with pluralism—such as grassroots legitimacy, flexibility and easy adaptation to local circumstances—in the context of a plurality of legal orders.

The preceding discussion has shown two successful examples of relationships between pluralities in society that do not involve domination by one of the

other. The first is that between Christianity and *kastom*—a relationship that has changed from one of mutual hostility to one of mutual tolerance and acceptance. Elements of each are found in the other, such as the examples of the prayers in the *nakamal* and the use of the chiefs to discipline church leaders discussed above. Further, it appears that many people are able to move between the two, taking the benefits that each is able to provide, without the need to either confront or reconcile the fundamental differences of approach of each system. This suggests one possible model for the relationship between *kastom* and the state justice system, whereby the two systems continue to exist in their own forms but with mutual attitudes of tolerance and acceptance of the role that each plays in society. The example of Christianity/*kastom* suggests that if such an attitude exists then elements of the two systems will naturally come to be adopted by the other. Further, it does not appear necessary to completely rationalise the differences of approach of the two systems before they can have a workable and mutually beneficial relationship.

A different solution has developed in response to the plurality of vernacular languages in Vanuatu: the creation of a new language, Bislama, which can be learnt and understood by all. This development has been wildly successful, enabling the people who speak 105 vernacular languages and two introduced languages to communicate with each other with ease. During my fieldwork, I was constantly amazed at how I could arrive in the middle of a remote village and sit down with an old chief under a mango tree and instantly be able to communicate. Bislama thus provides a different model for the relationship between *kastom* and the state justice system—that of the creation of a hybrid system.

The final point to emerge from this chapter with direct relevance to this study is that *kastom* is very much alive in Vanuatu today. This is shown in a number of ways: the extent to which *kastom* practices are still followed in urban areas; the way communities in town are still organised around the chiefs from their home islands; the fact that youth report significant involvement in *kastom* practices and their preference for chiefs to resolve their problems rather than state courts; and finally, the fact that women are starting to use *kastom* as a tool for achieving a greater role in public life and freedom from domestic violence, as demonstrated by Tor and Toka's report. The continuing power of *kastom* in Vanuatu has also been documented in many other contexts. For example, Morgan and McLeod comment that many ni-Vanuatu attribute the limited magnitude of contemporary conflicts to the continuing valence of 'traditional' modes of dispute resolution, particularly chiefly intervention.[157] The positive way in which *kastom* is viewed by the majority of the population and the current strength of the chiefly system demonstrated in later chapters are factors that set Vanuatu apart from many of the other countries in the 'arc of instability' and should be capitalised on in the development of the legal system. This simple fact seems to

be widely accepted. The difficulty lies in how to do it, and this question is the subject of the remaining chapters of this study.

ENDNOTES

[1] For example, the crisis in Bougainville, coups in Fiji (in 1987, 2000 and 2006), the conflict in Solomon Islands between 1998 and 2003, which prompted military intervention by Australia, and continuing conflict in Timor Leste and West Papua. An Australian journalist recently described Melanesia as 'a huge disaster' (Sheridan, Greg 2006, 'Melanesia a huge disaster', *The Australian* [Sydney, Australia], 20 April 2006, viewed 20 April 2006 <http://www.theaustralian.com.au>).

[2] Vanuatu is ranked the third-poorest country in the Pacific and in 1995 was accorded UN Least-Developed Country status on account of its relatively low income, human resource weakness and high degree of economic vulnerability. The Human Poverty Index ranks Vanuatu number 49, and it is ranked 119 on the UNDP Global Human Development Index (United Nations 2006, *Human Development Report 2006*, United Nations Development Program, <http://hdr.undp.org/hdr2006/statistics/countries/data_sheets/cty_ds_VUT.html>). See also Henckel, Timo 2006, 'Vanuatu's economy: is the glass half empty or half full?', *Pacific Economic Bulletin*, vol. 21, no. 3, pp. 8–10.

[3] For a discussion of other factors, see Morgan, Michael and McLeod, Abby 2007, 'An incomplete arc: analysing the potential for violent conflict in the Republic of Vanuatu', *Pacific Affairs*, vol. 80, no. 1, p. 67.

[4] Sillitoe states that Melanesia is one of the most varied regions, in almost every sense, on Earth (Sillitoe, Paul 1998, *An Introduction to the Anthropology of Melanesia: Culture and tradition*, p. 1). Although history and environment clearly play a part in the creation of such diversity, it is becoming increasingly well recognised that even in matters such as language, ni-Vanuatu actively create divisions between themselves, perpetuating difference. See, for example, Lindstrom, Lamont 1994, 'Traditional cultural policy in Melanesia', in Lamont Lindstrom and Geoffrey M. White (eds), *Culture, Kastom, Tradition: Developing cultural policy in Melanesia*, p. 68; Jolly, Margaret 1994, *Women of the Place: Kastom, colonialism and gender in Vanuatu*, pp. 252–3. Indeed, it can be said that it is largely *through* creating differences between themselves that ni-Vanuatu define their own identity. Although this is true to an extent in every society, it is pervasive and fundamental in Vanuatu. One reason suggested for this behaviour is that in small-scale societies it is necessary to create distinctions between people in order to generate interest. If everyone is the same and can engage in every activity and have access to all the knowledge then life would be far duller than if there are differences between people regulating what they can do and know (Bolton, Lissant 2005, Respect in Vanuatu, Paper presented at the Friends of the Vanuatu Museum Talks Series, Port Vila, Vanuatu, 22 November 2005).

[5] Shah, Prakash 2005, *Legal Pluralism in Conflict: Coping with cultural diversity in law*.

[6] Bedford, Stuart 1996, *Pieces of the Vanuatu Puzzle*, pp. 3, 259; MacClancy, Jeremy 2002, *To Kill a Bird with Two Stones: A short history of Vanuatu*, p. 18.

[7] See Gorecki, Paul 1996, 'The original colonisation of Vanuatu', in Joel Bonnemaison et al. (eds), *Arts of Vanuatu*; Lynch, John 1998, *Pacific Languages: An introduction*, pp. 51–4.

[8] Bonnemaison, Joel 1996, 'Graded societies and societies based on title: forms and rites of traditional political power in Vanuatu', in Joel Bonnemaison et al. (eds), *Arts of Vanuatu*, p. 212; Tryon, Darrell 1996, 'Dialect chaining and the use of geographical space', in Joel Bonnemaison et al. (eds), *Arts of Vanuatu*, p. 170.

[9] Vanuatu was first 'discovered' by Pedro Fernandez de Quiros in 1606 and charted by Captain James Cook in 1774. For a description of de Quiros's experiences, see Bonnemaison, Joel 1994, *The Tree and the Canoe: History and ethnogeography of Tanna*, pp. 1–22.

[10] MacClancy, *To Kill a Bird with Two Stones*, p. 25. See also Wawn, William 1973, *The South Sea Islanders and the Queensland Labour Trade*.

[11] Shineberg, D. 1966, 'The sandalwood trade in Melanesian economics, 1841–65', *Journal of Pacific History*, vol. 1, p. 129.

[12] Philibert, Jean-Marc 1981, 'Living under two flags', in Michael Allen (ed.), *Vanuatu: Politics, economics and ritual in island Melanesia*, p. 317. There are differences of opinion as to whether workers were kidnapped or went voluntarily. The Queensland Government Royal Inquiry in 1869 found that in the majority of cases the 'natives' quite freely volunteered to go.

[13] Reverend John Williams of the London Missionary Society introduced the Gospel to the archipelago, placing three Samoan catechists on Tanna in November 1839 and sailing on to nearby Erromango, where he was killed and eaten by the local inhabitants. See Proctor, J. H. 1999, 'Scottish missionaries and the governance of the New Hebrides', *Journal of Church and State*, vol. 41, no. 2, p. 349. See also Rodman, Margaret 1987, *Masters of Tradition*, pp. 15–18; Jacomb, Edward 1914, *France and England in the New Hebrides: The Anglo French condominium*, pp. 179–82.

[14] Proctor, 'Scottish missionaries and the governance of the New Hebrides'. Jacomb (*France and England in the New Hebrides*, p. 28) records that in 1914, '[i]t is calculated that some two-thirds of the total population has come under mission influence'.

[15] MacClancy, *To Kill a Bird with Two Stones*, pp. 58–68.

[16] For a description of the negotiations preceding the creation of the Condominium, see Scarr, Deryck 1967, *Fragments of Empire: A history of the Western Pacific High Commission 1877–1914*, pp. 218–27.

[17] The *Protocol Respecting the New Hebrides* was signed in 1914 by Britain and France and ratified in 1922. It superseded the Anglo-French convention of 1906, which had established the Condominium of the New Hebrides in that year.

[18] Rodman, Margaret 2001, *Houses Far From Home: British colonial space in the New Hebrides*, ch. 1.

[19] Le Neo-Hebridais, December 1913, in Bonnemaison, *The Tree and the Canoe*, 94.

[20] Nagriamel, manipulated by American and French interests, proclaimed itself an independent state. See Kolig, Eric 1981, 'Custom or foreign influence: the paradox of Santo, Vanuatu', *Pacific Perspective*, vol. 10, no. 1, p. 60.

[21] Beasant, John 1984, *The Santo Rebellion: An imperial reckoning*; Shears, Richard 1980, *The Coconut War: The crisis on Espiritu Santo*.

[22] National Statistics Office 2000, *The 1999 Vanuatu National Population and Housing Census*, p. 16.

[23] Miles, William 1998, *Bridging Mental Boundaries in a Postcolonial Microcosm: Identity and development in Vanuatu*, p. 78; Douglas, Bronwen 2002, 'Christian citizens: women and negotiations of modernity in Vanuatu', *The Contemporary Pacific*, vol. 14, no. 1, p. 17.

[24] Within the islands, the typical settlement structure is small hamlets rather than large villages, and a variety of forces means that each area carefully guards its own culture and traditions, with people identifying with their local community rather than as belonging to the island as a whole.

[25] Rousseau, Benedicta 2004, The achievement of simultaneity: *kastom* in contemporary Vanuatu, PhD thesis, University of Cambridge, p. 74.

[26] Ibid., p. 104.

[27] Morgan states: 'Members of parliament are increasingly expected to provide access to resources and "development" funds. Indeed all members of parliament act as central nodes in networks of distribution and exchange focussed on access to state resources. In turn, this generates incredible pressure for members of parliament to provide for their constituents.' See Morgan, Michael 2004, 'Political fragmentation and the policy environment in Vanuatu, 1980–2004', *Pacific Economic Bulletin*, vol. 19, no. 3, p. 45.

[28] See, for example, the report by the Ombudsman of Vanuatu, which deals with the granting of land leases by a former Minister of Lands to himself, family members and members of his community: Ombudsman of Vanuatu 1999, *Granting of leases by the former Minister of Lands Mr Paul Telukluk to himself, family members and wantoks*, VUOM 6, <http://www.paclii.org.vu>

[29] A study in 1997–98 found that young people identified islandism as one of the obstacles that prevented them from finding work even when they had good qualifications. See Mitchell, Jean 1998, *Young People Speak: A report on the Vanuatu Young Peoples' Project—April 1997 to June 1998*, Vanuatu Cultural Centre, p. 31.

[30] Taurakoto, Michael 2005, *Good Governance, Education, Advocacy and Training Project Report*, Wan Smol Bag Theatre, p. 23. Such systems of patronage are found around Melanesia, such as the '*wantok*' system in Papua New Guinea, and there is a live debate about the extent to which this is a valid traditional practice or corruption. See, for example, Huffer, Elise 2005, 'Governance, corruption and ethics in the Pacific', *The Contemporary Pacific*, vol. 17, no. 1, p. 118.

[31] White, Geoffrey 2006, *Indigenous governance in Melanesia*, Research Paper, State Society and Governance in Melanesia Research Paper Series, The Australian National University, <http://rspas.anu.edu.au/melanesia/research.php>, p. 1.

[32] For a detailed description of black magic in Vanuatu and its treatment by the state criminal justice system, see Forsyth, Miranda 2006b, 'Sorcery and the criminal law in Vanuatu', *LawAsia*, p. 1.

[33] Garae, Len 2006, 'Police arrest five in tense Luganville', *Vanuatu Daily Post* (Port Vila), 4 August 2006, p. 1.

[34] 'Two confirmed dead in Ambrym and Tanna clash', *Vanuatu Daily Post* (Port Vila), 5 March 2007, p. 1. See also Willie, Royson 2007a, 'Armed police arrest over 100', *Vanuatu Daily Post* (Port Vila), 6 March 2007, p. 1.

[35] Morgan, Michael 2006, 'Vanuatu 2001–2004: political will and the containment of unrest', in Chris Griffin and Dennis Rumley (eds), *Australia's Arc of Instability*, p. 222.

[36] Quoted in ibid., p. 222.

[37] Ibid., p. 222.

[38] National Statistics Office, *The 1999 Vanuatu National Population and Housing Census*, p. 16.

[39] The migration of people to urban areas is a common phenomenon throughout the Pacific and it is predicted that within the next two generations more Pacific islanders will live in or near cities than in rural environments. See Storey, Donovan 2005, *Urban governance in Pacific island countries: advancing an overdue agenda*, Discussion Paper 2005/7, State, Society and Governance in Melanesia Discussion Paper Series, The Australian National University, <http://rspas.anu.edu.au/melanesia/discussion.php>, p. 3.

[40] National Statistics Office, *The 1999 Vanuatu National Population and Housing Census*, p. 16.

[41] Mitchell, Jean 2000, 'Violence as continuity: violence as rupture—narratives from an urban settlement in Vanuatu', in Sinclair Dinnen and Allison Ley (eds), *Reflections on Violence in Melanesia*, pp. 191–2.

[42] Storey, *Urban governance in Pacific island countries*, p. 3.

[43] Miles, *Bridging Mental Boundaries in a Postcolonial Microcosm*, p. 160.

[44] The National Statistics Office (*The 1999 Vanuatu National Population and Housing Census*, p. 16) puts it at 78.5 per cent.

[45] Ibid., pp. 22, 36.

[46] In 2002, a UN report noted: 'There are specific issues relating to the increased migration from rural to urban areas, with the unemployed poor and squatter settlements of urban areas also facing problems of inadequate housing, poor infrastructure and a lack of access to adequate water and sanitation services. Limited employment opportunities in urban areas, particularly among the youth, have also led to an increase in social problems such as theft, domestic violence and alcohol abuse.' See United Nations 2002, *Vanuatu: United Nations Development Assistance Framework (2003–2007)*, Office of the United Nations Resident Coordinator, p. 1 (on file with the author).

[47] Mitchell, *Young People Speak*, p. 18.

[48] Rousseau, The achievement of simultaneity, p. 101; Mitchell, 'Violence as continuity', pp. 192–3.

[49] Mitchell, 'Violence as continuity', p. iv.

[50] Rousseau, The achievement of simultaneity, pp. 102–3.

[51] Ibid., pp. 106–7.

[52] In her research in Vila, Rousseau (ibid., p. 127) found that only one out of the 93 interviewees said they did not have a chief where they lived, and 80 per cent of the respondents indicated that this chief exercised authority over a general island population rather than a geographically bounded one in terms of place of residence in town.

[53] Mitchell, 'Violence as continuity', pp. 192–3.

[54] Ibid., p. 192.

[55] There are many people in town who will not go back to their islands due to the fear that they will be forced into an arranged marriage.

[56] See, for example, 'Ol Jif blong Ambrym oli askem kompensesen mo depotsesen blong Franco long gavman', *The Independent* (Port Vila), 22 April 2007, p. 5; Vieroroa 2007, 'Freedom of movement clause', *Your Letters, Vanuatu Daily Post* (Port Vila), 26 March 2007, p. 7. See also Wirrick, Parkinson 2008, 'Restricting the freedom of movement in Vanuatu: custom in conflict with human rights', *Journal of South Pacific Law*, vol. 12, no. 1, viewed 12 November 2008, <http://paclii.org.vu/journals/fJSPL/vol1no1/>

[57] See, for example, Bolton, Lissant 1999, 'Women, place and practice in Vanuatu: a view from Ambae', *Oceania*, vol. 70, no. 1, p. 43.

[58] Simo, Joel 2005, *Report of the National Review of the Customary Land Tribunal Program in Vanuatu*, Vanuatu Cultural Centre, p. iv.

[59] Russell Nari, Director-General of the Department of Lands and Natural Resources (Author's notes from conference presentation delivered at The Vanuatu Update, Port Vila, Tuesday, 14 November 2006).

[60] Henckel, Timo 2006, 'Vanuatu's economy: is the glass half empty or half full?', *Pacific Economic Bulletin*, vol. 21, no. 3, p. 13.

[61] *Constitution of the Republic of Vanuatu*, Article 73.

[62] Farran, Sue 2002, 'Land in Vanuatu: moving forwards looking backwards', *Revue Juridique Polynesienne*, vol. 2, p. 214.

[63] Jowitt, Anita 2004, 'Indigenous land grievances, customary land disputes and restorative justice', *Journal of South Pacific Law*, vol. 8, no. 2, <http://paclii.org.vu/journals/fJSPL/index.shtml>

[64] Ibid.

[65] See ibid. for further discussion of the Customary Land Tribunals. The act provides that where there is a dispute about customary land in a village, a party to the dispute may notify the principal chief of the village, who is required to appoint three people (which may include himself) knowledgeable in the custom of the area in which the land is situated to hear the dispute. An appeal from the decision of such a tribunal may be made to the council of chiefs of the custom area, who are to appoint a tribunal of three people knowledgeable in the custom of that custom area to hear the appeal. An appeal from a decision of the area land tribunal may be made to the island council of chiefs, who are to appoint a tribunal of five people knowledgeable in the custom of the area in which the land is situated to hear the appeal. A decision by the island land tribunal is final. No person who has an interest in the land in dispute is able to act as an adjudicator in a land tribunal at any level. Each tribunal is serviced by a secretary, who is also required to be independent, but does not take part in the decision making of the tribunal. No lawyer may take part in the proceedings of the tribunals.

[66] Mavromatis, Geoff et al. 2005, *Implementation of the* Customary Land Tribunal Act No 7, 2001; Simo, *Report of the National Review of the Customary Land Tribunal Program in Vanuatu*.

[67] Lynch, John and Crowley, Terry 2001, *Languages of Vanuatu: A new survey and bibliography*, p. 1.

[68] National Statistics Office 2002, *Statistical Yearbook of Vanuatu*, p. 14.

[69] Lindstrom, 'Traditional cultural policy in Melanesia', p. 68.

[70] Crowley, Terry 2004, *Bislama Reference Grammar*, pp. 5–6; Charpentier, Jean-Michel 2002, in Brian Bresnihan and Keith Woodward (eds), *Tufala Gavman: Reminiscences from the Anglo-French condominium of the New Hebrides*, p. 155.

[71] Crowley, *Bislama Reference Grammar*, pp. 4–5. See also Crowley, Terry 1990, *Beach-la-Mar to Bislama: The emergence of a national language in Vanuatu*.

[72] *Constitution of the Republic of Vanuatu*, Article 3.

[73] Bolton, 'Women, place and practice in Vanuatu', p. 51.

[74] National Statistics Office, *The 1999 Vanuatu National Population and Housing Census*, p. 24.

[75] Government of Vanuatu 1997, *Initial Report to the Committee on the Rights of the Child*, State Party Report, CRC/C/28/Add.8, <http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/d29c5df777ac4b59802565240055b862?Opendocument>, p. 204.

[76] Morgan, 'Political fragmentation and the policy environment in Vanuatu, 1980–2004'; Miles, *Bridging Mental Boundaries in a Postcolonial Microcosm*, p. 61; Jupp, James and Sawer, Marian 1982, 'Colonial and post-independence politics: Vanuatu', in R. J. May and Hank Nelson (eds), *Melanesia: Beyond diversity*, pp. 550–2.

[77] For a discussion of the establishment of these councils, see Premdas, Ralph and Steeves, Jeff 1984, *Decentralisation and political change in Melanesia: Papua New Guinea, the Solomon Islands, and Vanuatu*, Working Paper No. 3, South Pacific Forum Working Papers Series, p. 53; Ghai, Yash 1985, 'Vanuatu', in Peter Larmour and R. Qalo (eds), *Decentralisation in the South Pacific*.

[78] Rousseau, The achievement of simultaneity, p. 72.

[79] In 1998, 2002 and 2004.

[80] Morgan, 'Political fragmentation and the policy environment in Vanuatu, 1980–2004', p. 42. See also Morgan, Michael 2005, *Cultures of dominance: institutional and cultural influences on parliamentary politics in Melanesia*, Discussion Paper 2005/2, State, Society and Governance in Melanesia Research Paper Series, The Australian National University, <http://rspas.anu.edu.au/melanesia/research.php>, p. 1; Ambrose, David 1997, 'Vanuatu politics—two into one won't go', *Pacific Economic Bulletin*, vol. 12, no. 2, p. 121; Van Trease, Howard 1995, *Melanesian Politics: Stael blong Vanuatu*.

[81] Vurobaravu, Fred 2005, 'VP given mayor in new arrangement', *Vanuatu Daily Post* (Port Vila), 11 November 2005, p. 1.

[82] Weber states that legal-rational legitimacy is 'where the claim to legitimacy is based on a belief in the legality of normative rules and the right to those elevated to authority to issue commands under such rules. Obedience is owed to a legally established and impersonal order, and so office holders are obeyed only by virtue of the formal legality of their commands.' See Reagan, A. 1992, 'Constitutionalism, legitimacy and the judiciary', in R. James and I. Fraser (eds), *Legal Issues in Developing Society*, p. 17. See also Boege, Volker et al. 2008, *States emerging from hybrid political orders—Pacific experiences*, The Australian Centre for Peace and Conflict Studies *Online Occasional Papers Series*, vol. 11, viewed 12 November 2008, <http://www.uq.edu.au/acpacs/publications>, pp. 17–18.

[83] Jo Dorras, *Human Rights and Democracy Play*, Play script (on file with the author).

[84] Such as the forging of government guarantees by the former Prime Minister Barak Sope, discussed in Chapter 5. See also the plethora of Ombudsman reports at <http://paclii.org.vu/vu/ombudsman/>

[85] Jowitt, Anita 2005, 'Vanuatu', in Transparency International, *Global Corruption Report*, <http://www.transparency.org/publications/gcr/download_gcr/download_gcr_2005>, p. 216.

[86] For example, in 2007, the President intended to hold a summit to discuss the possibility of moving to a presidential system that might offer more stability.

[87] Interestingly, the negative perception of politics is currently being capitalised on by chiefs who are eager to contrast the images of greedy politicians with the wise and experienced chief who rules his community according to the rules of *kastom*. It remains to be seen whether this bid for power will be undermined by the increasing involvement of chiefs in politics. For example, it was reported that a number of chiefs presented themselves for the municipal elections in 2005. This was met by outrage by the Port Vila Council of Chiefs, who reportedly wanted to 'expel their colleagues standing in the municipal elections'. See 'Municipal elections: from chiefly to municipal council?', *The Independent* (Port Vila), 30 October 2005, p. 1.

[88] National Statistics Office, *The 1999 Vanuatu National Population and Housing Census*, p. 20. Interestingly, in the last census, 6 per cent of the population put 'custom' as their religion.

[89] Mortensen, Reid 2001, 'A voyage in God's canoe: law and religion in Melanesia', *Current Legal Issues*, vol. 4, p. 528.

[90] Bolton, Lissant 1998, Praying for the revival of *kastom*: women and Christianity in the Vanuatu cultural centre, Paper presented at the Women, Christians, Citizens: Being female in Melanesia today Conference, Sorrento, Victoria, 1998. Even today people commonly refer to the light of Christianity. For example, in a recent newspaper article, an MP stated that 'I feel that as leaders we must remind cultural authorities that in 1845 missionaries brought light to the people of Efate'. See Lini, Lora 2007, 'MP Kalsakau condemns black magic', *Vanuatu Daily Post* (Port Vila), 8 March 2007, p. 1.

[91] Douglas, Bronwen 2005, Christian custom and the Church as structures in 'weak states' in Melanesia, Paper presented at the Civil Society, Religion and Global Governance: Paradigms of power and persuasion Conference, Canberra, Australia, 2005, p. 4.

[92] Mortensen, 'A voyage in God's canoe', p. 511; Hume, Lynne 1986, 'Church and custom on Maewo, Vanuatu', *Oceania*, vol. 56, p. 304; Tonkinson, Robert 1982, 'Vanuatu values: a changing symbiosis', in R. J. May and Hank Nelson (eds), *Melanesia: Beyond diversity*, p. 73.

[93] Interview with a man from Erromango (Erromango, 18 May 2004). Such an approach is common across Melanesia, as is demonstrated by Mortensen ('A voyage in God's canoe'), who comments that Melanesia is 'noted for the continuing belief of its indigenous beliefs and practices' while also being among the world's most Christianised regions.

[94] Hess, Sabine 2006, 'Strathern's Melanesian "dividual" and the Christian "individual": a perspective from Vanua Lava, Vanuatu', *Oceania*, vol. 76, no. 3, p. 293.

[95] Lini, Walter 1980, *Beyond Pandemonium: From the New Hebrides to Vanuatu*, p. 62. This approach was not accepted by the entire population as was shown by the fact that the only two rebellions to have occurred in Vanuatu were both based on *kastom* religious movements: *Nagriamel* on Santo and the John Frum Cargo Cult on Tanna.

[96] Bronwyn Douglas argues that '[h]owever incompatible Christianity and *kastom* might seem to traditionalists, secular romantics, and Christian fundamentalists, their coalescence in nationalist rhetoric discloses just how profoundly Christianity has been indigenized'. See Douglas, Christian custom and the Church as structures in 'weak states' in Melanesia, p. 4.

[97] Bolton, Praying for the revival of *kastom*.

[98] Ibid.

[99] The Brotherhood, which originated in Solomon Islands, is part of the Anglican Church. For an excellent introduction to the Brotherhood, see Carter, Richard 2006, *In Search of the Lost*. Much of its work in Vila appears to involve visiting communities to uncover the sources of sorcery that are causing various ills in the community. For example, in 2007, when the wife of a well-known pastor died, the community members asked the Melanesian Brotherhood for help. According to the local newspaper, 'It was reported that the "Tasiu" as they are also known visited the families and other mourners and after praying confirmed that the woman's death was caused by black magic used by certain people from the community' ('The roots of the man Tanna/man Ambrym row', *The Independent* [Port Vila], 11 March 2007, p. 3).

[100] See also Tonkinson, 'Vanuatu values', pp. 84–8.

[101] The National Statistics Office (*Statistical Yearbook of Vanuatu*, p. 12) lists eight major denominations (Presbyterian, Anglican, Catholic, Seventh-Day Adventist, Church of Christ, Assemblies of God, Neil Thomas Ministries and Apostolic), but I am aware of many others: Jehovah's Witnesses, Mormons, Pentecostal, Revival, Reform (a splinter group from the Seventh-Day Adventist Church), the Healing Ministry, Christ's Church (different to Church of Christ), the Church of Living Waters, Church of the Covenant and Sandy Ministries. In addition, there are followers of the Baha'i faith and Muslims. It was even recently reported that a representative from the 'Promised Land' cult, whose main objective, in addition to worshipping God, was unifying Christian motorbike clubs, had gone to the remote islands in the Banks and Torres Groups looking for converts! See 'Premiers contacts entre Les Iles Banks/Torres et le ministere du culte "Terre Promise"', *The Vanuatu Independent* (Port Vila), 3–9 June 2007, p. 11.

[102] 'Confrontation religieuse a Atchin', *The Independent* (Port Vila), 5 November 2006, p. 3.

[103] This is often due to the issue of tithes. In most churches, tithes are collected in order to pay for the priest and other expenses of the church. When new churches come along and take new members away from the existing churches, this increases the pressure on the members that remain to pay higher tithes, leading to resentment against the new church.

[104] Malvatumauri 1994, 'Kastom polisi blong Malvatumauri', in Geoffrey M. White and Lamont Lindstrom (eds), *Culture, Kastom, Tradition: Developing cultural policy in Melanesia*, p. 229.

[105] *Marango vs Natmatsaro* (2002, VUSC 33, <http//:paclii.org.vu>). See also *Teonea vs Kaupule and Falekaupule* (unreported, High Court of Tuvalu, October 2005), in which the court took a very interesting approach to the issue of the relationship between fundamental rights and custom.

[106] *Marango vs Chief Natmatsaru and Maraki Navata Council of Chiefs* (2002, VUSC 33, <http://paclii.org.vu>).

[107] The *Constitution of the Republic of Vanuatu* (Article 5) provides that all people are entitled to fundamental freedoms without discrimination based on sex and to equal treatment under the law.

[108] Tor, Roselyn and Toka, Anthea 2004, *Gender, Kastom and Domestic Violence: A research on the historical trend, extent and impact of domestic violence in Vanuatu*, Department of Women's Affairs, p. 58.

[109] Today, the Vanuatu National Council of Women has representatives in all six provinces and the two municipalities and area councils throughout the country, and the Vanuatu Women's Centre also has subgroups throughout the islands.

[110] See Douglas ('Christian citizens', p. 20), who discusses these two organisations in detail.

[111] Malloch, Margaret and Kaloran, Morris 2006, A report on equity and women in Vanuatu, Paper presented at the Conference After 26 Years: Collaborative research in Vanuatu since independence, Port Vila, Vanuatu, 2006.

[112] Some 87 per cent, according to the 1999 Census (National Statistics Office, *The 1999 Vanuatu National Population and Housing Census*, p. 27).

[113] Ibid., p. 35.

[114] Since independence, only four women have been elected to Parliament.

[115] Tor and Toka, *Gender, Kastom and Domestic Violence*, p. 9.

[116] Ibid., p. 63.

[117] Ibid., pp. 39–40.

[118] Jo Dorras, *Louisa*, Play script (on file with the author).

[119] Tor and Toka, *Gender, Kastom and Domestic Violence*.

[120] The Malvatumauri originally 'set' the bride price as 80 000 vatu; however, this was officially overturned in 2006, and the new policy was that all *kastom* payments should not be made in cash.

[121] Masing, Helen 1991, 'Braed praes', in Vanuatu National Council of Women (ed.), *Who Will Carry the Bag?*, p. 12.

[122] Tor and Toka, *Gender, Kastom and Domestic Violence*, p. 39.

[123] Ibid., pp. 41–2.

[124] Moldofsky, L. 2001, *A Place in the Sun*, Time International, viewed 12 March 2007, <http://www.time.com/time/pacific/magazine/20010820/woman.html>

[125] Tor and Toka, *Gender, Kastom and Domestic Violence*, p. 27.

[126] Douglas, 'Christian citizens', p. 12. Note also a recent study that found that '[i]t was evident in the research that many young women are required to work far harder than their brothers' (Mitchell, *Young People Speak*, p. 32).

[127] Tor and Toka, *Gender, Kastom and Domestic Violence*, p. 15.

[128] Ibid.

[129] Ibid., p. 25.

[130] Ibid., p. 15.

[131] Jolly, *Women of the Place*, p. 257.

[132] Jolly, Margaret 1997, 'Woman–nation–state in Vanuatu: women as signs and subjects in the discourses of *kastom*, modernity and Christianity', in Ton Otto and Nicholas Thomas (eds), *Narratives of Nation in the South Pacific*.

[133] Henckel, 'Vanuatu's economy', p. 10.

[134] Government of Vanuatu, *Initial Report to the Committee on the Rights of the Child*, p. 112.

[135] This was vividly portrayed in the Wan Smol Bag film *Eniwan iluk Rose?*. It is also supported by the findings from the Workshop on Governing for the Future: Young People and Vanuatu's Governance Agenda. See Morgan, Michael 2001, *Conference Report of the Governance for the Future: Young people and Vanuatu's governance agenda conference*, p. 4.

[136] Tor and Toka, *Gender, Kastom and Domestic Violence*, p. 45. See also p. 34 of this report for another tragic tale.

[137] Mitchell, *Young People Speak*, p. 29.

[138] Ibid., p. 26. This study found that only 47 per cent of the urban youth interviewed had attained class six or less.

[139] Morgan and McLeod, 'An incomplete arc', p. 12.

[140] Ibid., p. 12.

[141] For example, a local newspaper recently reported that '[m]arijuana cultivation and use is already a problem for the country since it is cultivated in nearly all the main islands of the country. Young people particularly are vulnerable to the use of the drugs as there are already cases in Port Vila where young people have been affected mentally as a result of taking in too much of the drugs, which is [sic] easily accessed on the streets.' See Willie, Royson 2007, 'Vt77m worth of Melip marijuana finally destroyed', *Vanuatu Daily Post* (Port Vila), 9 May 2007, p. 1.

[142] A recent study found that '[m]any ni-Vanuatu urban youth are trying to cope with having little power and dominance stemming from living with poverty, unemployment, lack of adequate finances for personal use or to help out family members, uncertainty about their future, land inheritance disputes, black magic, not being heard and relationship problems. Many become frustrated and try to become powerful by being violent and aggressive while some become severely depressed. Many break into homes, drink alcohol or kava and "*kilim taem*" negatively.' See Hughes, Desma 2004, *Masculinity, Mental Health and Violence in Vanuatu Youth*, University of the South Pacific, p. 11.

[143] Mitchell, *Young People Speak*, p. 21.

[144] Rousseau, Benedicta 2003, *The Report of the Juvenile Justice Project: A resource on juvenile justice and kastom law in Vanuatu*, Vanuatu Cultural Centre, p. 1.

[145] In fact, the staff of the project left as their contracts ran out and before completing the report, which was completed only in 2001. See Rousseau, The achievement of simultaneity, p. 180.

[146] Morgan, *Conference Report of the Governance for the Future*, p. 2.

[147] Rousseau, The achievement of simultaneity, p. 111.

[148] Ibid., p. 180. Since the collapse of the JJP there have been no new developments in this area; the YPP itself operates only intermittently as it is entirely dependent on donor funding. Currently, the most outspoken voice for youth is the Wan Smol Bag Theatre Company, which produces a range of plays,

musicals and videos concerned with issues affecting youth and regularly tours the country, holding workshops in rural and urban communities to discuss the issues arising from the dramas.

[149] Other countries in the South Pacific region have started to introduce specialised juvenile justice legislation, such as the *Juveniles Act* (Cap 56) in Fiji and the *Young Offenders Act 2007* in Samoa.

[150] Super, Gail 2000, *A Needs Assessment of Juvenile Justice Issues in Fiji and Vanuatu*, UNICEF, p. 28.

[151] For example, in 2003, a twelve year old was jailed for five months in Santo Prison. See Ombudsman of Vanuatu 2003, *Detention of a 12 year old child in Santo Prison*, VUOM 2, <http://www.paclii.org.vu> See also Super, *A Needs Assessment of Juvenile Justice Issues in Fiji and Vanuatu*, p. 33.

[152] Ombudsman of Vanuatu, *Detention of a 12 year old child in Santo Prison*.

[153] Culliwick, Jonas 2007, 'Sessivi Vila burns', *Vanuatu Daily Post* (Port Vila), 11 March 2007, p. 1.

[154] White, *Indigenous governance in Melanesia*, p. 7.

[155] Ibid.

[156] Ibid.

[157] Morgan and McLeod, 'An incomplete arc', p. 68.