3. Tradition and transformation in leadership structures and conflict-management mechanisms

This chapter surveys the ethnography of Vanuatu from first contact with Europeans to the present day, drawing out the main themes in relation to conflict management and indigenous leadership structures. The motifs elicited will serve as an introductory framework within which the current debates about the *kastom* system and the role of chiefs can be more readily understood and appreciated. In addition, the extreme versatility of ni-Vanuatu in adapting to the enormous changes brought about by increasing influence and control by the outside world becomes apparent.

The discussion differentiates three periods: the period between when the first ethnographers arrived in Vanuatu and the Condominium (roughly the last part of the nineteenth century and the early twentieth century); the period of colonisation by the French and British (1906–80); and post-independence (1980 onwards). Each section includes an analysis of how the leadership structures and conflict-management systems changed over the period under consideration.[1]

Leadership structures and conflict management in the nineteenth century and early twentieth century

The furthest back it is possible to find ethnographic materials on Vanuatu is the late nineteenth century.[2] By this time, however, in some parts of the country there had already been more than 100 years of contact with Europeans. One terrible result of this contact, which significantly changed 'traditional' society forever, was the massive depopulation resulting from the introduction of diseases for which the indigenous population had no immunity. Deacon records how this depopulation resulted in the loss of enormous amounts of traditional knowledge, stating that out of the dead 'so many, so terribly many, are the old men, the last men who "know"…At every turn it is "the men who knew [who] are dead"'.[3] Another development profoundly affecting the society during this early period was the establishment of missions throughout the archipelago. This resulted in a demographic move, encouraged by the Church, bringing together people living in smaller hamlets or settlements to establish nucleated villages. Often the move was from the interior villages to the coast.[4] This had a significant effect on the extant leadership structures, as community groups were ripped apart, separated from their land and new communities created.[5] A final development that significantly impacted on patterns of life in this period was the movement of men between Vanuatu and the sugar plantations of Queensland.[6] As a

consequence of these various events, it is likely that the leadership structures and conflict-management mechanisms discussed below are not entirely traditional, but we have no way of knowing in *which* ways they have been changed.

Leadership structures

Traditionally, there were two broad groups of leadership structures or political power systems in Vanuatu: the graded system in the north, and a partly hereditary, partly elective system based on titles in the centre and south. Within these two broad groups, however, there were many different permutations and combinations.[7] As Bonnemaison states, 'It is as if it were a part of the Melanesian genius to take the model it receives, as it spreads from place to place, and complicate it as much as humanly possible to put a local stamp on it.'[8]

The graded system

In the north of Vanuatu (from Epi to the Torres Islands), men—and occasionally women, particularly in the northern matrilineal groups[9] —traditionally achieved status through the publicly graded society (there was often also a series of 'secret' societies existing alongside the public societies). This institution was called variously '*sukwe*', '*maki*', '*huggwe*' and '*nimangki*' (*nimangki* will be used in this study) and was said to be a 'path of peace';[10] in other words, it was an alternative to using war to achieve status. Characteristically, it consisted of a series of grades, arranged in ranked order, that could be gained by performing certain rituals—typically, the killing of pigs—and paying various amounts of other traditional 'money' such as mats, weavings, shell money and whale teeth. The higher the grade, the more pigs that needed to be amassed—often more pigs than any one man had, so he was required to muster supporters to act as sponsors.[11] Thus, Jolly and Bonnemaison point out that to achieve a high grade, a person needed to have the ability to develop networks of supporters and also to have the support of those dignitaries who held the keys to power.[12] This system had the effect of vesting considerable power in richer and older men who, however, were obliged to use their wealth for the promotion of new works or the sponsoring of further cycles of the *nimangki*, either by themselves or others. The *nimangki* system thus involved a continual series of ritual exchanges of gifts. Patterson draws attention to the fact that even in this system, men benefited from demonstrating connections to powerful descendants—from their current place and beyond.[13]

The question of whether men of high rank were automatically leaders was not seriously examined until William Rodman's doctoral research in Ambae in the 1970s, where the publicly graded society still existed.[14] Rodman queried earlier assumptions that the graded society was the basis of power and authority and argued that it created a social, but not a political, elite. To become a leader, further qualities were required, such as ambition and personal traits such as

generosity that were not required to progress through the *nimangki*.[15] Jolly also argued that rank and leadership were 'disjunct' in South Pentecost and pointed to examples of men of low rank wielding considerable power in village meetings and men of high rank being politically inconsequential.[16] Bonnemaison concurs, stating:

> Men of high grade do not, however, embody pure political power in the sense in which we generally understand the word 'chieftainship'. They undoubtedly have every means of becoming 'leaders' if their natural authority and charisma lend themselves to it, but it is not necessarily something that goes without saying.[17]

As all these scholars were writing on the basis of observations made more than a century after contact, it was, however, possible that the lack of automatic equation of high rank to leadership position was due to changes consequent on outside contact.

Early accounts lack details about what sorts of power or authority leaders and/or men of high rank are likely to have had. This gave rise to debate about whether or not indigenous decision making in the graded system was traditionally autocratic or consultative. Premdas argued that traditional decision making was 'consultative, involving discussion over issues until consensus was attained'.[18] Rodman, however, argues that this is contrary to the historical and ethnographic record and that 'before intensive contact, chiefs tended to consult local opinion, but often they were more autocratic than democratic in their behaviour. Especially in the northern islands, high ranking chiefs…possessed the ultimate sanction, the legitimate right to order an offender's execution.'[19]

Other scholars support Rodman's comments.[20] For example, Speiser, quoting Coombe's account of the 'ultimate penalty' in North Pentecost, also graphically illustrates the power of leaders during early times: 'to be eaten was the extreme penalty of chiefly law—if say a great man's pig be stolen or one of his wives kidnapped…to carry the sentence out strictly, the body must be cooked in the *gamal* and portions distributed among every man, woman and child in the village'.[21]

Hereditary/mixed systems

There are fewer studies during this period of leadership structures in the central and southern regions, where the leadership structure was more similar to Polynesian concepts of hereditary chieftainship.[22] These systems are traditionally associated with pyramidal power structures, hereditary leadership and absolute authority, although the extent to which all these features are present in the chiefly systems of Vanuatu is debatable, as discussed below. The existence of chiefly systems in the south during this period could be explained partly by the

fact that from Tongoa southwards there was considerable Polynesian influence, resulting in various political, linguistic and ritual changes and borrowings.[23]

As a result, from south-east Ambrym southwards, power at this time was often 'conjoined with several hereditary posts'.[24] It seems clear, however, that there was not a purely hereditary system in many areas, if any at all. MacClancy has therefore said that inheritance of leadership was not by strict primogeniture,[25] and Guiart has commented that 'it was not inherited at all':[26] a young man would not be given responsibilities that went with a chiefly title unless and until he was considered capable of handling the responsibilities. These comments accord with Spriggs' findings that in Aneityum during this period there was a 'patrilineal hereditary chieftainship, tempered to some extent by the necessary approval of the "principal men" of the group'.[27] Facey's reconstruction of traditional Nguna describes the political structure as 'hierarchical', in which different orders of chiefs exist, from the 'high' or 'dominion' chief through to 'small' chiefs. She also found that although chiefly titles were hereditary, 'there was room for a man with great personal ambition and strength to thrust himself into power'.[28]

The powers of these chiefs, however, do accord with the Polynesian concept of chief. It appears therefore that in central Vanuatu the highest order of chiefs in particular had 'formidable powers'. A chief could order death and also other penalties, such as the destruction of a man's possessions or the pronouncement that a man was fit only for slavery, whereupon another chief could claim him for his servant.[29]

The island that has proved to have the most difficult leadership structure to analyse, and which has been the focus of most anthropological attention in the south, is undoubtedly Tanna. Gray, in analysing the ethnography of leadership in Tanna, observes that 'the picture of traditional leadership on Tanna is not at all clear'.[30] Although Humphreys in his 1926 study on Tanna found that each village had a single chief and that 'in the old days' this chief had 'practically absolute' power over the people of his village,[31] Speiser stated that '[w]hether such chiefs had real factual authority depended entirely on their character; it is unlikely they ever occupied an almost divine position as in some Polynesian islands. Nor were they entirely independent of the men's assembly.'[32] A third perspective is provided by Guiart, who, writing some 30 years later, observed, 'Tanna is a society of carefully preserved rank, organised in such a way that few people outrank all the others.'[33] He found that 'at least one-fourth of the men in the island…[hold one or another privilege] and proudly assume its possession as a sign of rank'.[34]

Maintenance of law and order and conflict-management mechanisms

The available literature suggests that the mechanisms used for managing conflicts during the period depended on the relationship between the conflicting parties: the closer the relationship, the more peaceful the mechanism employed and, conversely, the more remote the relationship between the disputants, the more war-like the resolution.

Intra-community disputes—whether a community was constituted by a clan or a village or a different grouping varying from place to place—appear to have been approached at least initially in a peaceful manner. In some areas, it appears that meetings were used to resolve such disputes. Speiser therefore observed that in the north 'there were actual court sessions in which the men of the *suque* groups gathered together and deliberated on the case'.[35] In other areas, however, such formal mechanisms did not exist. Deacon states that 'there is in this island [Malekula] the minimum of organised legal machinery' and even where there are men 'to whom the word "chief" is not inapplicable', they do not have any judicial or administrative functions.[36] Rather, the influence they might have had over their fellow tribesmen was due to their wealth. In the absence of formal mechanisms such as council meetings, it would appear that the onus was on individual disputants to resolve the disputes between themselves, perhaps with the aid of community leaders. Speiser supports this supposition and observes that 'the public did not interfere in private feuds and even the chiefs had no direct jurisdiction here'.[37]

Disputes that had effects outside the village, however, would be dealt with differently. If an act perpetrated by a member of the village caused the village as a whole to be in danger from reprisals, penalties would be imposed on that person, depending on the severity of the harm that had befallen the village.[38] The types of redress that are referred to in these early accounts include payback killing, swapping of live people, 'blood money' in terms of pigs to be paid and, in one instance, burning.[39]

Disputes between communities were dealt with through wars followed by ceremonies, creating either permanent or temporary peace. It has been traditional in the ethnography of Vanuatu to present a picture of widespread and fairly continuous warfare between rival groups throughout the archipelago before the arrival of the missionaries.[40] Archaeologist Andrew Hoffman, however, queries such a portrayal, emphasising that most ethnographers arrived in Vanuatu at least 100 years after first contact with Europeans. On the basis of his research, he attributes the warfare described by early anthropologists largely to the depopulation of the country resulting from diseases introduced by the Europeans, which led to people blaming 'sorcerers' for causing the deaths and consequently setting a series of revenge killings in train.[41]

In the late nineteenth century, however, warfare was certainly pervasive and common. Speiser noted that typical causes of wars were 'the abduction of women and revenge for what is conceived to be sorcery or death due to sorcery. Blood revenge caused feuds to go on without remission and war to be waged between two regions for generations without the cause always being known.'[42] Layard comments that another cause is 'insults of various kinds, which in turn bring forth counter-insults and in any case drag in their train recriminations based on disputes that may have smouldered for generations'.[43] Tonkinson, in his reconstructed account of the late nineteenth century in Ambrym, referred to 'intervillage disputes and blood feuds' in which killings were usually of the 'payback' type and 'involved the ambush of an individual on a path or in his garden, by a small band of men, patrilineally related to one another, who used bows and arrows for the attack'.[44] Facey records that in Nguna an act such as a murder or theft of a woman would result in long-lasting animosity and intermittent violent flare-ups. Facey states that 'retributive night raids were made to even a score, and in the light of day the village might find several of its members dead or missing—the latter having been taken captive, destined to be cooked and ritually consumed'.[45]

Pre-contact, any wars that did occur seldom resulted in the loss of many lives since the weapons used were rudimentary. Once sandalwood traders introduced guns in the early nineteenth century, however, the wars became increasingly violent, leading Speiser to refer to 'the war of extermination between the natives which was waged almost systematically and is one of the major factors in the extinction of the native people'.[46]

In a society accustomed to war, ways of making peace were of central significance. Deacon found that in Malekula peace could be established by different ceremonies depending on whether a permanent peace or a temporary peace was desired. To make a temporary peace, 'one or more pigs are paid by each side to the elder brother of the man or men in the enemy's camp whom they had killed'.[47] To make a permanent peace, though, necessitated the making of an elaborate peace dance and 'a small pig [was] presented to their opponents by those who have suffered most damage in the conflict'.[48] Speiser commented generally that the principle on which a peace was concluded was invariably that the losses on each side should be balanced out.[49] Layard also states that 'no war, once started and once one death has occurred, can cease until the number of dead on both sides is equal'.[50] He explains that this could lead to the situation in which the victors in a war are left in such a state of 'taut nerves' that it is they, rather than the vanquished, who must sue for peace:

> The only solution, therefore, is that they should themselves offer one of their number as victim to restore the balance demanded by the honour of both parties. So they seek out the least desirable member of their own

clan, approach him from behind, seize him, truss him up like a pig, decorate him for sacrifice, and send him to the enemy, those who deliver him bearing a cycad leaf, emblem of peace. As a rule the victim is sent, if possible, alive, and it is said that the enemy thus appeased force him to dig a pit for the fire in which he is to be roasted, and then sacrifice him with all the ritual due to an enemy captured in battle, and then eat him.[51]

In addition to private agreements, meetings of leaders and war, there were other sociological factors that operated to keep checks on the frequent commission of anti-social acts. These, according to Deacon, included 'fear of the anger of the ancestral spirits', 'the desire for prestige and the fear of public contempt or ostracism' and the dependence of the members of the community on each other.[52] In relation to this last point, Deacon emphasises the fact that every man needs the cooperation of his kinsfolk and clansfolk: failure in his obligations towards them will be repaid in kind.[53] Deacon also draws attention to the fact that the life of a man in Malekula is a public one, with 'daily activities for the most part carried out…in full view of other people'. He suggests that this is also a fact of 'considerable sociological importance' in the maintenance of law and order.[54] Speiser similarly notes that '[d]isputes in the village itself become catastrophes only under exceptionally unfavourable conditions because the fact of living together in such proximity soon makes a reconciliation imperative'.[55]

Another form of social control used extensively was black magic. Leaders were considered to have either extensive supernatural powers themselves or magic men working for them who were able to manipulate these powers on their behalf. In relation to Tanna, Bonnemaison refers to magic as being the 'prison of the chiefs' in traditional ideology, 'representing the means of enforcing obedience and of punishing those who disregarded the code of social relations'.[56] Spriggs also found on Aneityum that the chiefly power was based 'on ritual rather than physically coercive powers—power of sorcery against enemies, power over the elements to control success in agriculture and fishing'.[57] In relation to south-east Ambrym, Tonkinson characterises the chiefs' 'alleged possession of a variety of sorcery techniques and their exclusive right to resort to sorcery' as 'a vitally important element in maintaining control over their followers'.[58] Deacon notes that on Malekula the 'belief in the effectiveness of magic is very strong' and every man who has sufficient wealth can 'purchase the services of highly skilled magicians by whose arts they can inflict damage and suffering on those who oppose or threaten them, and in this way they are able to wield power beyond the reach of men of lesser means'.[59] A final indigenous system used to control conflict was the *naflak* system, which was popularly supposed to have been introduced in Efate in the 1600s by the powerful chief Roy Mata.[60]

With regard to the substantive content of the laws at the time, or what Deacon calls 'the standards traditionally approved by the community of which they are members', these are described only in a general way in the existing literature, such as 'not to fight'.[61] Speiser goes somewhat further in describing what he refers to as the 'natives' idea on law', when he comments:

> They are based on the natural law that any wrong must be requited by a like. Every stolen pig must be replaced by one of equal value, murder must be requited by murder on the other side or by a suitable sum of blood money, and wars can be ended when both sides have lost the same number of dead. A settlement can also be reached by the side with the most fatal casualties being supplied with a corresponding number of living men. These can then be killed or they can be admitted to the clan corporation as substitutes for the dead.[62]

These early accounts emphasise a number of points about leadership and conflict management in Vanuatu in the early twentieth century and before. The first is the enormous variety of leadership structures that existed throughout Vanuatu and the range of authority that leaders had over their communities. The second is the pervasive use of war and violence to resolve disputes between groups with a degree of separation (inter-village, inter-island) and the use of peaceful means to resolve disputes between closely related groups (inter-clan or intra-village). The third is the importance of exchanges of pigs and gifts in achieving peace and the notion of achieving a 'balance' between opposing parties.

Leadership structures and conflict-management mechanisms during the Condominium

During the Condominium period, there were three legal systems: the English, the French and the Condominium.[63] The Condominium purported to directly regulate indigenous affairs; in accordance with Article 8 of the Protocol,[64] Native Courts were established in 1928 to apply native law to natives. The Protocol directed condominium officials to 'cause a collection of native laws and customs to be made' and provided that customary law 'should be utilised for the preparation of a code of native law, both civil and penal'.[65] It seems, however, that no such project was undertaken and the native criminal codes that were produced were based almost entirely on French and British jurisprudence, with a few 'indigenous' elements such as the prohibition on witchcraft.[66]

The extent to which there was a real engagement with the regulation of ni-Vanuatu during this period, as opposed to the mere passage of legislation, has not been closely studied. The Condominium was centred in the capital, Port Vila, and provided very little administrative structure outside it.[67] Although the British and the French appointed district agents, who periodically toured the islands, collecting taxes, holding court hearings and taking people away to

jail, it was primarily the missionaries who had a significant impact on the day-to-day lives of rural ni-Vanuatu.[68] It thus appears that few resources and limited manpower were directed by the government towards conflict management, especially outside the areas populated by Westerners. Scarr observed that even by 1911 the Condominium police force was 'reckoned to be practically useless outside Vila'.[69] As a result, the indigenous leadership structures and conflict-management mechanisms continued to be vital to the local communities. These structures and mechanisms were, however, themselves affected by the actions of the colonial government and the increasing Christianisation of society.[70]

Leadership systems

The leadership structures changed significantly during this period in three major ways: the 'creation' of the institutions of chiefs by the missionaries and later the Condominium Government; the emergence of new paths to power through the Church and the government; and the consequent lessening and, in places, elimination of the influence of the *nimangki*.

The Presbyterian missionaries were the first to actively create 'chiefs' throughout Vanuatu, based on the model of leadership they had 'found' in central Vanuatu. This development was later formalised by the Condominium.[71] Rawlings noted that, in Efate before 1909, chiefs were installed by the missionaries, one of whom wrote in that year, 'I suppose that during all these years I have installed over a dozen [chiefs] at different villages.'[72] Jolly states that the role of 'chief' was introduced into South Pentecost by the colonial powers in the late 1940s, whereas it had been introduced in Ambrym in the 1930s and earlier in Ambae and Tanna.[73] Jolly adds the comment that, '[u]nlike other parts of the archipelago, the first generation of chiefs appointed were on the whole powerful and respected men…Similarly in most of the Christian villages, the chiefs appointed were already leaders'.[74] By the early 1950s, however, the role had 'fallen into disrepute amongst the traditional people' in South Pentecost.[75]

The role of these government and missionary-appointed chiefs was to be the broker between the village and outsiders such as the government and traders. MacClancy comments that 'since these "chiefs" were not just appointed in the southerly isles, the Bislama term "*jif*" came to mean "village leader", a post not necessarily legitimated by heredity'.[76] Even in central Vanuatu, where traditional leaders most approximated the idea of chiefs, the missionaries identified converts instead of local hereditary leaders to fulfil the role of chiefs, thus undercutting the local system.[77]

In addition to the creation of chiefs, the Condominium opened up other new roads to power. One was the institution of government assessors, established by the Protocol to act as consultants in cases presented to the Native Court, which

was presided over by the district agents. The role of assessors was, however, gradually expanded and in some districts they unofficially settled minor disputes themselves.[78] In discussing the role of assessors in Ambae, Rodman characterised them as 'middlemen' who maintained control of the flow of cases between the discrete levels of law (government and local).[79] Rodman also noted that most disputants understood that the consequence of non-compliance with the assessor's decision was that the case would go to the Native Court.[80] Facey noted that in Nguna the people who were appointed as assessors were, like government chiefs, often men who already had positions of authority and were respected in their own community.[81] In Ambae, however, William Rodman argued that the people who were appointed assessors, while initially satisfying none of the traditional prerequisites for leadership, had their credentials validated by established leaders so they could in turn gain indirect access to the coercive sanctions of the national government and a voice in decisions made in the Native Court.[82]

The churches were another source of authority and prestige. Men aspiring to power could establish themselves as a member of the clergy or other position in the church hierarchy. Education, employment by the government and skill at business also all became new roads to power.[83]

While these new roads were opening, traditional paths to power and authority were being closed. MacClancy therefore states that 'secret societies became less active and, with the banning of warfare, fighting lost its prestige and village leaders their ability to apply coercive sanctions'.[84] The publicly graded system also went into significant decline in most parts of the country. Gray reports that, due to the fact that the Church disapproved of the *nimangki* ceremony,[85] 'the leaders of Vao society today do not depend upon the traditional ritual performance of *nimangki* for confirmation of their status'.[86] Scarr, describing the Presbyterian mission as 'the most active and successful' in Vanuatu, points out that it 'had no respect for their proselytes' traditional culture, which to them was a manifestation of the forces of evil'.[87] They therefore 'set out to destroy the traditional culture' and the 'attainment of rank by the ceremonial slaughter of pigs was a particular object of their disapprobation'.[88] Bonnemaison poignantly recounts the abandonment of the grade-taking system in the Torres Group:

> [I]n 1894 the highest graded man in the Torres Islands, Tequalqual, asked to be baptized. The missionary requested that he first relinquish his grade. Along with his kin, Tequalqual erased the path he had followed in the course of his life: over the next few days, he killed fewer pigs of decreasing value and ate at more common hearths. On reaching the lowest level of the hierarchy, the chief stated that he was 'free' and was then bapitized. The grade system was abandoned in the Torres Islands.[89]

During this period, there are numerous references to the diminution of the authority of traditional leaders. Gray points out the consequences that the removal of the power of physical coercion had on leaders' ability to enforce decisions, observing that 'whereas in the past the only sure escape from the chief's authority was death, today a young man may escape merely by seeking employment on a plantation and thus in fact shrug off the chief's control of his life'.[90] Charpentier stated that towards the end of the Condominium, young people best described as 'half-baked' went back to their villages 'with or without an educational certificate, but all full of more or less well-assimilated knowledge'.[91] This led them to resent customary authority traditionally wielded by the elders as they had 'nothing but contempt for the elders barely able to read and write'.[92] 'It is no exaggeration,' he remarks further, 'to state that at village level there was a power vacuum.'[93] Jacomb commented that the Condominium had 'weaken[ed] the already shadowy power of the Chief by practically telling his tribe not to obey him'.[94] Other factors undermining the traditional authority of the leaders were the spread of Christianity, whose teaching and doctrine de-legitimised the use of sorcery,[95] which had been one of the bulwarks of their authority, and also the weakening of the obligations of kinship by the economic pressures of a cash and wage economy.[96]

During this period, therefore, the roads to power changed significantly. The essential characteristics of leadership, however, largely continued: the ability to form networks, to have influence, to gain knowledge and to be a focal point for exchange. At this time as well, we see the beginnings of confusion about rights to leadership that is so common today. Thus, Tonkinson records:

> In south-east Ambrym, as in many other parts of the country, the graded society collapsed rapidly following early contact with Europeans…a few of the grade names or titles have been handed down as personal names, leading some men to assume that their forebears who had achieved a high rank were therefore chiefs. On the basis of this belief some men have pressed claims to be chiefs, thus confusing the achieved and non-inheritable ranked status with that of ascribed, inherited chiefly status. Such confusion is widespread.[97]

Maintenance of law and order and conflict-management mechanisms

There were also significant changes to the maintenance of law and order and the management of conflicts during this period. Due to the cessation of warfare and the embargo on the use of coercive physical force by the community leaders, conflicts were resolved at the non-state level, either through a form of public meeting and the imposition of fines or through private agreements.[98] Although some mention is made of public meetings in earlier writings,[99] during this period

such meetings came to assume a primary role in the management of conflicts—a role they continue to have today.

Public meetings as a mechanism for managing conflict are today inextricably linked to chiefs and chiefly councils. Although there is no clear record of their development, there are some suggestions that chiefly councils were a missionary-led initiative, at least in some islands. In relation to Aneityum, Proctor states that Reverend John Inglis 'urged the chiefs to act jointly when faced with conflict among their subjects'. At his suggestion, they developed the practice of sitting together to conduct trials and impose punishments.[100] Scarr notes that the Presbyterians established a local government system 'based on meetings of the senior men of the community, who formed a "court" for the trial of breaches of the moral code and petty offences'.[101] Scarr observes: 'Wherever Christianity had a foothold, a local government of this sort was set up, with courts of whose decisions the missionaries or native mission teachers were the inspiration, chiefs were generally mission-nominees and "policemen" who acted as the executive arm.'[102]

Another influence was the establishment by the Condominium Government of local government councils, whose main responsibilities were to maintain law and to keep villages sanitary.[103]

The main features of public meetings were public talking and the payment of compensation to balance the account between the disputing parties. It can be surmised that these meetings varied in form throughout the archipelago and probably resembled Western 'courts' to a greater or lesser degree, depending on the extent to which the area was visited by the government representatives, the influence of the Church and also, no doubt, on the views of the observer. Thus, Tonkinson refers to the chiefs holding 'court sessions',[104] while Jolly describes 'very informal' meetings to which people 'drifted in casually' and '[c]hildren wander in and out'.[105]

In Ambae, Rodman explains that there are a number of stages in the meeting. The first is concerned with a full expression of issues and evidence by the defendant or contending parties. Witnesses are then asked to comment on these accounts and to contribute their own versions of the events. The second phase of the meeting is when 'young and low ranking men at the hearing interrogate the defendants, and each other. Discrepancies are perforated, evidence is contested, ramifications are explored…The old leaders wait, listening, reflecting.'[106] During the third stage, 'different solutions are tested against community sentiment'.[107] The *ratahigi* (a high-ranking leader) then articulates a decision relating to the case that encapsulates the views of the community. The meeting concludes with 'the irenic reinstatement of parties to the dispute or the wrongdoer into Lonanan society'.[108] Elsewhere, Rodman points out that 'Aoban legal traditions place a premium on the reintegration of offenders into

everyday life and on the conciliation of former enemies'.[109] He later elaborates on this important point:

> [D]aily face-to-face contact with one's neighbours is unavoidable. Men rely on each other for everything from garden produce to marriage partners. A legacy of resentment and recrimination at the end of the hearing might as well be as injurious to the accusers as to the accused.[110]

Muller describes different procedures and reports observing two 'courts', during which 'the natives passed judgment on some cases of poisoning' in Malekula. He described one in particular, where an older man was accused of poisoning a young girl by throwing some poisoned leaves, which struck her on the chest. She died about a week later. Some 25 adult men were present at the 'court' and eight women sat within earshot. Very few people spoke except for the defendant and the victim's father, but after a couple of hours the defendant realised that everyone was convinced that he was guilty. The negotiations over a penalty then began, with the eventual outcome that he paid a similar amount to the bride price the father would have realised had his daughter married. The defendant was persuaded to shake hands with the father before leaving the hearing.[111]

From these two descriptions and other observations made by anthropologists during this period, it is possible to draw out a number of features of these meetings. The first is that the people who led these meetings varied considerably from place to place. Rubenstein remarks that in theory the 'leaders in settling such disputes are "chiefs"—government-appointed executives—and "assessors"—government-appointed adjudicators', who 'listen and decide on the merits of each case'. In practice, however, there were also other intermediaries between the parties present, such as members of the local political party *nagriamel*.[112] In Ambae, Rodman states that 'despite the withdrawal of their power to seek revenge and settle differences with other leaders through physical coercion', law and peace remain 'inextricably linked to the authority of the Lonanan *ratahigis* [high-ranking men]'.[113] It therefore appears that in some places the traditional leaders continued to be responsible for law and order, while in others those who followed newer roads to authority found themselves in charge.

The second feature is the procedures followed in the meetings, which appear to have been more consultative than authoritative. Rodman states that in Ambae 'the link between a leader and his followers [rests] in great measure on rule by consent rather than coercion'.[114] Thus, at meetings to resolve disputes a leader is expected to act as spokesman solely for the consensus reached by the participants.[115] As a successful resolution to any public meeting depends on the formation of a consensus, the *ratahigi* must 'be a persuader, a compromiser, a sifter of facts and a non-partisan spokesman for any settlement that might lead to harmony'.[116] In relation to South Pentecost, Jolly notes that at the end of

the meeting the leaders suggest a resolution that they believe will achieve unanimity and end the talk. Jolly observes that 'although there is a strong emphasis on consensus, influential leaders can dominate by oratory and can manipulate consensus to their advantage'.[117] Tonkinson comments along the same lines that in south-east Ambrym 'decisions are taken only after protracted discussion in which everyone has the opportunity to comment and offer suggestions, [but that] chiefs often act to steer the meeting towards consensus and a decision'.[118] In Tanna as well, public speaking is central to the process. Lindstrom notes that the settlement of disputes involves first a debate and discussion in which 'good speaking (agreement) re-establishes good speech'.[119] He notes that '[i]slanders conceive of local debate processes and products more in terms of the finding—rather than negotiating—of consensus'. [120]

A third feature is the way in which decisions reached at meetings are enforced. As the sanctions for a resolution were consensual rather than coercive, one of the strongest ways to exact compliance by the offender was the use of shame. Rodman draws attention to the 'intrinsic fragility' of the leader's role in resolving disputes,[121] noting that the leader's decision 'is contingent upon a belief by an offender in the legality and fairness of the imposition rather than upon a notion that retribution will be forthcoming if pigs are not paid'.[122] Elsewhere he also notes the restraining power of negative public opinion:

> Public scorn and ridicule are two of the most powerful weapons possessed by a leader seeking to preserve his *tamata*. A meeting is a vehicle for shaming a lawbreaker. To be scrutinized by the curious and the indignant, to be questioned and condemned by any man who wanders in from the road—the possibility of such a situation installs dread in every Longanan.[123]

As a replacement for the use of force, the ultimate threat that community leaders could use was to send the case to the State for adjudication. In regard to Malo therefore, Rubenstein reports:

> In many such cases, participants may turn to the government in an attempt to solve them. This is, in a sense, an ultimate threat. Regardless of how capricious the government may seem at times, there is a recognition by the Maloese that the government does hold an ultimate power.[124]

A final feature of these meetings is the relationship this mechanism has with the State. It appears that the village leaders (either traditional or government appointed) dealt with most cases themselves, but they used the government courts as a backup for persistent recidivists or murder or serious assault. [125] In his ethnography of Ambrym in the 1960s, Tonkinson observed that a chief would seek outside support only in cases of serious disputes or of an individual

rebelling against court judgments, when he would refer the matter to the area chiefs' meeting.[126] Larcom's description of the situation in Malekula accords with that described by Tonkinson. She found that before independence, 'the division between local and colonial justice had settled into a stable system, with expectations and results relatively clear to both the Mewun and the BDA [British district agent]'.[127] Rodman states in relation to Ambae that 'the evidence is clear that local leaders, for their own purposes, engaged in a kind of dialogue with the state: they helped the state maintain an illusion of control in return for occasional access to the state's coercive sanctions'.[128]

From the perspective of the State, there were mixed opinions about these meetings (or courts, as they were referred to). The British High Commissioner, for instance, reported in 1906 that their existence posed 'a likely challenge to the new administration', while his deputy 'regarded it with more favour', given the 'inability of the Condominium to establish any administration at all in native affairs outside Efate'.[129] In an illuminating footnote, Tonkinson notes:

> Chiefs' courts, though illegal, are essential to the maintenance of law and order in most areas of the New Hebrides, so, pending official recognition, District Agents in most areas have unofficially agreed to set up guidelines for the activities of these courts…Punishments are unofficially limited…and the courts are encouraged to record their judgments if possible. In practice the chiefs' courts hear almost all offences and only the more serious ones are reported to the District Agent.[130]

Unfortunately, there is no record of whether any guidelines were ever drawn up to regulate the village courts, as foreshadowed in the note.

Leadership structures and conflict management post-independence

There are a number of ethnographic studies relating to Vanuatu since independence.[131] Anthropological studies during this period were hampered by a moratorium on all research in Vanuatu from 1985 until 1995.[132] After the moratorium was lifted there was a fairly constant stream of researchers in Vanuatu, but, with the exception of Rousseau, none focused on issues of conflict management.[133] Before dealing with leadership structures and conflict-management mechanisms, I will discuss the debates concerning the meaning of *kastom*, which have been the focus of many anthropologists during this period.

Kastom and the 'invention of tradition'

One of the major themes in the ethnographic literature in this period is the meaning of '*kastom*' and its importance in Vanuatu in the development dialogues taking place today. The intention of this survey is not to present a comprehensive

overview of the considerable body of literature on this topic but, rather, to highlight some of the main themes relevant to the present study. These are: the meaning of *kastom*; the question of whether, when ni-Vanuatu speak about *kastom* today, it accurately represents 'true' custom or tradition, or whether it is rather an 'invention'; and third, if *kastom is* a recreation of the past and what significance this has for reform and development proposals in Vanuatu today.

What is *kastom*?

Kastom is a concept that appears repeatedly in the ethnographic, historical and popular discourse of independent Vanuatu. While acknowledging that *kastom* is a contested concept[134] and that the meaning of *kastom* has changed over time,[135] it is possible to discern in the literature two general categories of views about the meaning of *kastom*. One view sees *kastom* as referring to certain distinctive features of a way of life—for example, styles of singing and dancing or weaving mats.[136] The other sees *kastom* as a notion that has expanded over time to include a whole way of life.[137] To an extent, these two views are playing themselves out today in the forms of the Vanuatu Cultural Centre (VCC) and the National Council of Chiefs (NCC). The VCC has focused on areas such as art, ritual knowledge and artefacts, traditional stories and other sorts of traditional knowledge—namely, the material and ceremonial side to *kastom*.[138] The NCC on the other hand is increasingly advocating a view of *kastom* as a cultural whole and pushing for the State to recognise this expanded view of *kastom*—for example, by legislating for chiefly powers.

A fundamental point made by all commentators is that the use of *kastom* today draws a self-conscious distinction between '*fasin blong ol man ples*' (the way of indigenous inhabitants) and foreign ways. Bolton convincingly argues that, despite the suggestions of authors such as Keesing, Jolly and Thomas that the self-conscious reification of 'culture as *kastom*' is a product of the colonial encounter, in fact, ni-Vanuatu already had a self-conscious formulation of difference before European contact. What the Europeans, or particularly the missionaries, did, however, in their efforts to impose Christianity and to stamp out the former ways of living, was to create *kastom* as a category that could be opposed to European practices.[139] Thus, originally *kastom* was dialectically contrasted with '*skul*', which represented the new way of life brought by Christian missionaries and was symbolised by the education system they established. In these earlier times, Christianity was associated with 'light' and progress and *kastom* with 'darkness' and backwardness.[140]

In the time leading up to independence, however, there was a gradual shift in the way in which ni-Vanuatu started to view *kastom*. Rather than being seen as something to be ashamed of, it was seized on by the Vanua'aku Party and the francophone opposition parties as a symbol that could be used to unite the whole

country (which until the creation of the colonial state had never had a national identity) and also to highlight the importance of the difference between *man ples* and their colonial masters.[141]

The decision to use *kastom* as a guiding ideology for the new state has, however, given rise to a question central to the present study: what relationship should *kastom* have with introduced foreign concepts? This question was first raised in relation to Christianity as—certainly by the mid-1970s, and in many places much earlier—Vanuatu became a deeply Christian country. The solution adopted was to stop talking about *kastom* as being in opposition with *skul* and to start to argue that *kastom* and the Church must come to an accord 'and achieve a mutually dependent balance like that of a canoe and outrigger'.[142] This did not prove particularly problematic, partly because, as Hume explained in relation to Maewo, this was what was happening in practice to a large extent anyway.[143]

The revival of material aspects of *kastom*, those associated with a more museological view of *kastom*—such as pig killing, kava drinking, traditional dances and costumes—has proved relatively uncontentious. The difficult question has been how to deal with the relationship between the wider sense of *kastom* as a cultural whole and the new state system. Jolly argues that this question has arisen in three contexts: the incorporation of *kastom* leaders as an advisory council within the State, the decentralisation of justice and the return of all rural land to the customary owners.[144] To these I would add a fourth context: the role of so-called 'universal human rights' and other democratic institutions in Vanuatu today. Speaking at a conference on *kastom* and the constitution, the Secretary of the Malvatumauri observed that the principles of *kastom* could not easily be accommodated within the democratic system. He succinctly stated that the question was '*Hao nao bae tufala imaret*?' (how can these two things be married?). The logical corollary from this question he sees as '*sapose tufala imaret, who nao ihusband mo who nao iwife*?' (if the two are married, then who will be the husband and who will be the wife?).[145] At the time leading up to independence, *kastom* was deliberately left vague and undefined. Tonkinson comments that 'its utility as a rallying point depends heavily on its confinement to an ideological level, indivisible and unexamined'.[146] Now, however, 20 years after independence, as is apparent from the remarks in the conference quoted above, serious questions are being asked about the place of *kastom* that require a closer analysis of the utility and relevance of various aspects of *kastom* today, as is done in this study.

Kastom as 'invention'?

The second issue is the extent to which the *kastom* that is referred to today is a historically accurate representation of the past.[147] Keesing refers to 'invention' of *kastom* and the 'refashioning' of the pre-colonial past, arguing that there is a

wide gap between the authentic past and the representations of the past in contemporary ideologies of cultural identity. He states:

> The portrayals that idealise the precolonial past not only incorporate conceptual structures and premises of colonial discourse and elevate symbols as reactions against colonial domination. In many respects, they also incorporate Western conceptions of Otherness, visions of primitivity, and critiques of modernity. The imagined ancestors with whom the Pacific is being repopulated—Wise Ecologists, Mystical Sages, living in harmony with one another, cosmic forces and the environment—are in many ways creations of Western imagination.[148]

This theme is picked up by a number of other scholars, who illustrate how *kastom* is being reinvented or recreated today, stressing that whereas *kastom* was previously fluid, accommodating of change and deliberately borrowing from and incorporating notions from outside influences, today it is being recreated as something far more fixed, changeless and unresponsive to foreign influence. For example, Tonkinson argues that 'ni-Vanuatu concerns about the ownership and truth of *kastom* reflect a more rigid view of the past and an "uncustomary" attitude towards cultural differentiation'.[149]

Larcom also documented the different views the Mewun of Malekula had of *kastom* before and after independence. She found that, before independence, *kastom* was 'an incomplete, creative product of continual invention'. After independence, however, this notion had changed, and today *kastom* was seen more as a 'codified tradition'.[150]　Like Tonkinson, Larcom argues that '[c]ontemporary needs are apparently more effectively satisfied by reference to fixed truths rather than to fluid and dynamic representations of culture'.[151]

The issue of the authenticity of *kastom* is tied up to a degree with the question of to what extent indigenous culture can change on its own accord. It has frequently been pointed out that classic ethnography about Melanesian society portrays it as largely changeless and static, changing only with the arrival of the Europeans.[152]　Early commentators such as Speiser and Deacon were indeed convinced that the culture would soon disappear under the influence of the West, and felt a duty to record it to preserve it for posterity.[153]　According to this view, culture or *kastom* is an almost rarefied object that cannot be exposed to the winds of change for fear that it will crumble and turn to dust. Jolly challenges such a view in her critique of Babadzan: 'If they (the "natives") are no longer doing "it" they are no longer themselves, whereas if colonisers are no longer doing what they were doing decades ago, this is a comforting instance of Western progress.'[154]

Even as recently as 1985, Rodman pointed out that his description of legal innovation in Ambae was a radical departure from the existing literature. He

attributes this to the 'legal centralist' view of the law that sees innovation as being something that the State introduces into a local community, and refuses to recognise the possibility of innovation existing outside the State.[155] These two viewpoints about the capacity or need for *kastom* to change are also clear in modern ni-Vanuatu debates about *kastom*. There are some who argue, as Chief Philip Tepahae does, that 'custom has never changed from the time of our ancestors until today'.[156] On the other hand, there are those such as Maxime Korman, the former Prime Minister of Vanuatu, who argue that '*everi samting igat evolution blong hem. Mi believem se kastom tu igat evolution*' (everything evolves. I believe that *kastom* evolves as well).[157]

The significance of *kastom* as invention

Closely tied up with the issue of the authenticity of *kastom* is the third issue raised by the literature: whether or not the fact that aspects of *kastom* are to some extent an invention really matters. Jolly has argued in response to claims about the 'invention of tradition' that these 'spectres of inauthenticity' are finally not a significant issue and that it is for people to present themselves as they see fit.[158] According to this view, what is important is how people perceive themselves and their culture today. Keesing also reflects that perhaps it does not matter whether the multiple pasts being recreated and invoked are mythical or real, pointing out that political symbols work by radically condensing and simplifying 'reality'.[159] White similarly argues that 'the focus on cultural invention draws attention away from the substantial cultural and historical continuities that give so-called invented forms much of their emotional and political power'.[160] There are others, however, such as Bolton, who argues that, for ni-Vanuatu today, the expression of *kastom* has effects on the present.[161] Curtis makes the important point that 'configured continuity' associated with *kastom* 'is intimately connected not only to representations of past and present, but also in imaginings of the future'.[162] Although neither author takes this next step, the logical corollary of their arguments is that it is significant to argue about what should be credited with the label of '*kastom*' if future directions are based on it. Keesing also finally concludes that the reality behind imagined pasts really does matter, as it is all too easy to edit out of the pre-tribal past aspects such as violence, the domination of women and youth and exploitation and to create a romantic version of an idealised primitive past. He urges a more radical, more deeply reflexive Pacific discourse with regard to pasts and power and 'a critical deconstruction of conceptualisations of "a culture" that hide and neutralize subaltern voices and perspectives'.[163]

From the basis of the fieldwork done for this study, there can be no doubt about the power of *kastom* to validate all kinds of behaviour and attitudes. This was demonstrated by the debate about whether or not the subordinate role of women was justified in *kastom*, discussed in Chapter 1.[164] Consequently, the question

of what can legitimately be called *kastom*, and who has the right to speak 'for *kastom*' today, is very much a live issue in Vanuatu that must be confronted, if possible, with the reflexivity advocated by Keesing.[165]

Leadership structures in Vanuatu today

Today, it is widely accepted that chiefs are traditional leaders with a right to speak for *kastom*.[166] Bolton comments that the 'conflation between chiefs and *kastom*…is so taken for granted in Vanuatu today that it is hard to unpick'.[167] The discussion above, however, demonstrates that traditionally there have been very few places in Vanuatu where the leaders could be considered 'chiefs' in the sense that chiefs are understood today (as leaders—often hereditary—with a stable power base and authority over an entire community). Thus, Lindstrom comments that '[t]oday's *kastom jifs*, although undoubtedly *kastom*, are not simply customary. The emergence and construction of the popular identity *jif*, from a plethora of local leadership positions, were shaped by the events and interests of postcontact, colonial society'.[168]

Bolton, in her article based on an interview with the first President of the National Council of Chiefs, sheds light on the development of chiefs as an institution in Vanuatu since independence.[169] The first time that chiefs were formalised as a group was in 1974, when the decision was made to include four chiefs to be elected to the Representative Assembly to 'represent custom'.[170] This initial step, however, proved intensely controversial and the problem of electing these four chiefs became such a major issue that it prevented the assembly from meeting at all.[171] One of the significant difficulties in the election process was the determination of to what extent a chief should embody traditional modes of authority and how traditional modes of authority should be applied in making that decision.[172] A solution to the impasse was finally negotiated in the form of the creation of a Council of Chiefs to advise the Representative Assembly on all matters concerning *kastom*. Bolton noted that this decision depoliticised chiefs.[173] At their second meeting, the council changed their name to Malvatumauri, linking the institution to indigenous sources of power and status and reinforcing the perception that the position of chiefs was derived from pre-colonial practice.[174]

Lindstrom explains that, since its creation, the Malvatumauri has 'engaged in a strategic process of elaborating and defining chiefly identity and prerogatives'.[175] One of the ways it has done this is by codifying *kastom* law, producing in 1983 a book of *kastom polisi* dealing with village-level disputes and designed 'particularly to keep women and youth under closer control and to make chiefly supervision of village activities more muscular'.[176] Another way is the creation of an official chiefly hierarchy that extends down to six regional councils, into various area councils and terminates in many village councils of chiefs.

There are a number of ethnographies that describe contemporary chiefs in Vanuatu.[177] One of their main themes is the continuous dispute over the right to chiefly title. For example, Sherkin comments that on one island there are two different, local versions of rightful chieftainship, which consequently divide island opinion in half. One of the difficulties is that references to the pre-mission past are the main impetuses used in claiming chiefly titles, but 'consistent problems arise, as the multiple and diverse versions of life prior to missionary arrival can never be substantiated; much knowledge of *kastom*, including oral histories has gradually been forgotten. Thus, the power struggle among chiefs continues'.[178]

Another theme is the continuous tension between chiefs and the State. Lindstrom points out that, although in some respects chiefs and the State share interests in shoring up chiefly political power, chiefs also present potential dangers to the State. Consequently, state politicians have been nervous about how much power and independence to give to chiefs.[179] These two themes are discussed further in Chapters 4, 5 and 6.

Conflict management

There are three ethnographic accounts of changes that took place in various communities around the time of independence that illustrate the dynamism of *kastom* conflict-management mechanisms.

Rodman, Larcom and Facey all discuss initiatives by local leaders to create new legal orders in the wake of the vacuum left by the withdrawal of the Condominium Government. In Ambae, the leaders devised a code of laws—a combination of customary and non-customary laws—and used the written codes in dispute processing.[180] Rodman noted that the main forces for ensuring compliance with the system were: people's ingrained values, which predisposed them to conform to the court's judgments; the multiplex ties between people, which meant that it was in the disputant's own best interests to accept a compromise and settle conflict; and the final option of vigilante justice.[181] In relation to this last option, Rodman observed that it was remarkable how rarely the chiefs resorted to the threat or use of physical coercion.[182] Within the system, the chiefs reached their decisions in open hearings after full consultation with the concerned parties. Further, Rodman notes that '[l]eaders rarely reach unpopular decisions that go against the community grain. They are sensitive to popular opinion, well aware that too many bad calls will leave them with a blemished reputation and reduced authority.'[183]

The laws emphasised compensation and reconciliation and always required disputing parties to exchange valuables in public after the case had been heard in court to 'wipe out the offense'.[184]

Facey notes that about the time of independence, as in Ambae, in Nguna, high chiefs gathered to draft some laws for the community. These laws were 'explicitly modelled on the ten commandments'[185] and dealt with minor offences such as stealing and swearing; the regulation of sexual behaviour, specifically adultery and fornication; abortion; lack of respect for chiefs; non-payment of fines (for which it was recommended the chief's police should take the person's possessions) and extended residence of jobless Ngunese in Port Vila (all relevant concerns today). Facey notes that 'what all of these proposed "laws" have in common is the desire on the part of the chiefs to shore up, and then extend, their authority'.[186] During this period, public and private meetings held by a council comprising mostly titled members dealt with offences. The assessors, who continued to execute their functions after independence, ensured that murder, violent assault and rape were all reported to the central police. At the end of council meetings, 'when a crime affects a particular person the guilty party must make reparation to both the injured party and the village chiefs and shake hands with all of them. This is said to restore "good heart" by erasing ill will on all sides.' [187]

In contrast with Rodman and Facey, Larcom found that, after independence, 'the Mewun [in Malekula] lost the power of force that had supported social order; in exchange they gained little additional autonomy for their dispute-settling process, which they had effectively controlled for quite some time'.[188] Consequently, they looked to the government to replace the district agent. The government, however, did not leap into that role and left them largely to their own devices, leaving the Mewun to complain that they needed clear laws defined from above, as the trouble would not 'die' as it had in the past.

In addition to these studies, all done shortly after independence, there are three anthropologists who have investigated issues surrounding conflict management more recently. Rousseau's doctoral research, based in Port Vila, involves an examination of the way in which *kastom* is brought into court proceedings and the incomplete or unsuccessful integration of customary law and state law. She finds that although a common attitude exists that such integration is necessary, there are considerable difficulties in doing this, concluding:

> Despite co-operation between the two spheres, and the ability of people to choose to invoke one or the other, a fundamental incompatibility exists due to the need in kastom for the achievement of simultaneity in time and space, matched by a convergence of understanding achieved through objectification that enables relations to be re-established and continue into the future.[189]

The achievement of simultaneity in *kastom* refers to the sense of completion that a settlement in *kastom* has, and the way in which a dispute is 'explained by and incorporated into a history of interaction between the two parties, resulting in

a comprehensible chain of events'.[190] These issues are discussed further in Chapter 5 in the context of an examination of reasons for a previous failure of integration between the *kastom* and state systems.

Mitchell's fieldwork in the Blacksands settlement around Port Vila also offers some insights into issues of conflict management in Vanuatu today. She finds that young people are frequently afraid of police and she attributes this largely to police brutality.[191] Mitchell explains that the *kastom* system is 'qualitatively different' from police violence, which involves physical beatings and strategies of humiliation.[192] In *kastom*, although violence exists, talking and respect are central.[193] Mitchell also draws attention to the 'contested nature of *kastom* and "white man's" system of justice', noting that they 'are often identified as competing ways in which to articulate, contain and resolve violence'.[194] In a case study of a murder in Blacksands, Mitchell highlights a number of problematic features of the state legal system, noting that local people find many of the evidentiary laws that restrict admissibility of evidence incomprehensible. She also explained that, in the case, the two men charged with murder were found not guilty and hence did not make a *kastom* exchange. As a result, they cannot gain respect and when they go back to their village peace will not have been restored. The issues raised by Mitchell are also expanded on in Chapters 4, 5 and 6.[195]

Finally, Hess includes an analysis of a *kastom* meeting to resolve a land dispute as part of her doctoral study on Vanua Lava. She analyses the oratorical strategies used by the speakers and the way in which the chairman of the meeting mediates. Hess finds that the parties explicitly distinguish between their processes and those of a 'white-man's court', noting that *kastom* is 'portrayed as the only way to create peace by finding consensus (*agrimen*) rather than making a court-like decision, where one party wins and the other loses'.[196] Hess's observations are also drawn on in Chapter 4.

Conclusion

This chapter has described three different layers of leadership structures that have developed in Vanuatu. The first layer is the immense variety of leadership structures that existed pre-contact, only a few of which fitted into the anthropological ideals of 'chief' and 'big-man', with the rest incorporating various combinations of elements of both. During this period, leadership functions were often shared among different members of the community, so that there would be several powerful men responsible for the operation of different aspects of the community. The missionaries and the Condominium Government created the second layer. They created the institution of 'village chiefs' and 'assessors', giving to the holders of these positions responsibilities that leaders in the first layer had previously exercised, such as the management of conflicts and dealings

with outsiders on behalf of the community. The third layer was created shortly before independence when the colonial powers established a National Council of Chiefs. This structure, providing yet another road to chiefdom—through public election—was later enshrined in the constitution and given an advisory role to the government. This background of multitudinous and competing leadership structures explains why, as discussed in Chapter 4, rights to chiefly titles in Vanuatu are so hotly contested today and disputes concerning them are so difficult to resolve.

The survey of the literature also offers important insights into how conflict management is likely to have been conducted in pre-contact Vanuatu and how these mechanisms changed during the time of colonisation and independence. We saw that earlier, more autocratic methods, relying on coercive force and supernatural powers, gradually gave way to more consultative approaches. The most prominent of these is the institution of the public meeting, where talking is central and earlier notions of restoration of loss (in the form of compensation rather than dead bodies) and the powerful forces of public shame, kinship ties and obligations are also incorporated. The development of this mechanism, and other innovations in conflict management, especially around the time of independence, demonstrate the dynamism and adaptability of the *kastom* system—a theme returned to in later chapters.

Finally, we have seen that the main catalyst for the adaptations just discussed was the introduction of competing legal orders—first the Condominium and later the Vanuatu State. This theme is pursued in later chapters, which argue that the state and the *kastom* systems each have a profound effect on each other and so need to be studied together to form a complete picture of conflict-management mechanisms in the country today. The relationship between indigenous conflict-management mechanisms and the government has been shown to have always been ambiguous. In the colonial period, the government relied on these mechanisms to maintain law and order, given its limited reach, but its unease in doing so was demonstrated by the lack of formalisation of any linkages or formal recognition of the right to exercise jurisdiction. The local leaders during this period were likewise wary of the government, keeping the management of conflicts largely under their control, but using the Native Court as an ultimate threat to ensure compliance or to deal with persistent troublemakers. As we will see, this unofficial relationship has changed very little today, with the state government now relying on the chiefs in rural and urban areas to manage conflicts in the absence of sufficient government resources. What has changed, however, is the preparedness of the chiefs to accept these responsibilities in the absence of any support or recognition by the government of their work. This provides the context for the bedevilled question of the relationship between the State and the *kastom* system that is discussed in the rest of this study.

ENDNOTES

[1] With the exception of William Rodman, anthropologists in the first two periods have not focused particularly on conflict management. Consequently, in order to form a picture of how conflict management occurred in these periods, it has been necessary to piece together fragments from many places of information, often included as throw-away comments or in footnotes. Care has been taken to compare as many different sources as possible to achieve a picture that is consistent with the observations of many commentators.

[2] The earliest anthropologists in Vanuatu were Codrington (1891), Speiser (1913) and Rivers (1914), who made some general surveys of Vanuatu; Deacon (1926) and Layard (1914), who carried out in-depth field studies, both in Malekula; and Humphreys (1923), who did an ethnographic survey of the southern islands. In addition to these very early ethnographies, there are some later ethnographers such as Tonkinson (1968, 1981, 1982), Gray (1971) and Facey (1983), who attempt to piece together an understanding of how areas in Vanuatu would have functioned before colonisation or the arrival of the missionaries.

[3] Quoted in MacClancy, *To Kill a Bird with Two Stones*, p. 86.

[4] Rawlings, 'Foundations of urbanisation', p. 80.

[5] Rodman, *Masters of Tradition*, pp. 16–17; Patterson, Mary 2002, 'Moving histories: an analysis of the dynamics of place in North Ambrym, Vanuatu', *The Australian Journal of Anthropology*, vol. 13, no. 2, p. 211.

[6] See also Wawn, *The South Sea Islanders and the Queensland Labour Trade*; Shineberg, 'The sandalwood trade in Melanesian economics, 1841–65'.

[7] Patterson states that 'leadership is a "fuzzy category" in an ill-defined field' and that 'even in the most apparently hierarchical political systems, leadership is resistant to typology and to delineations that emphasise either structure, or process, rather than the complex interaction between them'. Patterson, Mary 2002, 'Leading lights in the "Mother of Darkness": perspectives on leadership and value in North Ambrym, Vanuatu', *Oceania*, vol. 73, p. 127.

[8] Bonnemaison, 'Graded societies and societies based on title', p. 200.

[9] Jolly, Men, women and rank in South Pentecost, p. 291; Rodman, Margaret 1981, 'A boundary and a bridge: women's pig killing as a border-crossing between spheres of exchange in East Aoba', in Michael Allen (ed.), *Vanuatu: Politics, economics and ritual in island Melanesia*, p. 85.

[10] Bonnemaison, 'Graded societies and societies based on title', p. 210.

[11] MacClancy, *To Kill a Bird with Two Stones*, p. 7.

[12] Jolly, Men, women and rank in South Pentecost, p. 284; Bonnemaison, 'Graded societies and societies based on title', pp. 202–3.

[13] Patterson ('Leading lights in the "Mother of Darkness"', p. 129) argues that '[i]n the emergence of leaders, the interplay between precedence in an apparently fixed hierarchy related to place and origin, and achievement in an inherently competitive system that required great organizational skill and political acumen and a forceful personality was a delicate matter'.

[14] The furthest that Deacon goes in this regard is to note that 'such high rank [in the *nimangki*] carries with it considerable influence but probably nothing which could be truly regarded as authoritative powers'. Deacon, Bernard 1934, *Malekula: A vanishing people in the New Hebrides*, p. 47.

[15] Rodman, Men of influence men of rank, p. 14.

[16] Jolly, Men, women and rank in South Pentecost, pp. 297–8.

[17] Bonnemaison, 'Graded societies and societies based on title', pp. 202–3.

[18] Premdas and Steeves, *Decentralisation and political change in Melanesia*, p. 53.

[19] Rodman, 'The law of the State and the state of the law in Vanuatu', pp. 60–1.

[20] For example, Blackwood describes the authority a powerful high-ranked man in Ambae (a *ratahigi*) would have had as follows: 'In the pre-contact period of endemic hostility between groups, *ratahigi* enjoyed an extreme position of dominance and some real sanctions in exercising control in the community. Underpinning such a leader's position and authority were the *matagelos* [a following of youths] who provided a police force and an element of coercive sanction to a leader's power.' Blackwood, Peter 1981, 'Rank, exchange and leadership in four Vanuatu societies', in Michael Allen (ed.), *Vanuatu: Politics, economics and ritual in island Melanesia*, pp. 51–2.

[21] Speiser, Felix 1923, *Ethnology of Vanuatu: An early twentieth century study*, p. 218.

22 Though 'Polynesia' itself was never completely chiefly in this respect—for example, Tuvalu, Tokelau and Niue all had very weak chieftaincies, if any at all.

23 Rawlings, Gregory 1995, *Urbanisation, Kastom, Economic Practice and the Dynamics of Social Change in a Vanuatu Peri-Urban Community: The case of Pango Village, South Efate—a field report*, p. 78.

24 MacClancy, *To Kill a Bird with Two Stones*, p. 14; Guiart, Jean 1996, 'Land tenure and hierarchies in Eastern Melanesia', *Pacific Studies*, vol. 19, no. 1, p. 17.

25 MacClancy, *To Kill a Bird with Two Stones*, p. 14.

26 Guiart, 'Land tenure and hierarchies in Eastern Melanesia', p. 18.

27 Spriggs, Matthew 1981, *Vegetable Kingdoms: Taro irrigation and Pacific prehistory*, p. 58.

28 Facey, Ideology and identity, p. 52.

29 Ibid., p. 47.

30 Gray, The emergence of leaders in the New Hebrides, p. 96.

31 Humphreys notes that '[i]n the case of any delinquency amongst his people the chief dealt with the offender, pronounced judgement and ordered punishment. Even if death was the penalty commanded, his prerogative seems to have been absolute.' Humphreys, C. B. 1926, *The Southern New Hebrides: An ethnological record*, p. 35.

32 Speiser, *Ethnology of Vanuatu*, p. 304. It should be noted that as Spesier was on a 'bus-stop' tour of the islands when he made his survey, his observations can be only superficial in most cases.

33 Guiart, 'Land tenure and hierarchies in Eastern Melanesia', p. 19.

34 Ibid., p. 21. A more sophisticated and nuanced explanation of the leadership structure can be found in Bonnemaison's ethnography of Tanna. Although the period in which he lived in Tanna (at various times from 1968 to 1981) was significantly after contact, his discussion of the three traditional 'images of power' that existed in Tanna helped to explain the confusion of other earlier commentators on the nature of authority in Tanna. According to Bonnemaison, the first of these images of power is the *yremera*, the 'honour' of the community, who is linked with great ceremonial exchanges and controls the traditional roads of alliance. The second is the *yani niko*, who represents the political will, takes control in times of war and highlights the *yremera*'s glory and speaks on his behalf. The third is the *naotupunus*, who works with agrarian magic and is the sanctioned mediator of supernatural forces. Further, the titles for these different forms of leadership are transferred in different ways. The clan leaders choose the *yani niko* on the basis of his human and intellectual properties, while the *yremera* receives his title as a child. Bonnemaison (*The Tree and the Canoe*, pp. 150–1) concludes: 'Thus, Tannese society seems to be a syncretic combination of "Melanesian" and "Polynesian" elements.'

35 Speiser, *Ethnology of Vanuatu*, p. 306.

36 Deacon, *Malekula*, p. 47.

37 Speiser, *Ethnology of Vanuatu*, p. 306.

38 Ibid.

39 Ibid.

40 Some even go so far as to describe warfare as 'endemic' in parts of Vanuatu—for example, Tattevin, in regard to South Pentecost, noted in Jolly, Margaret 1979, Men, women and rank in South Pentecost, PhD thesis, The University of Sydney, p. 298.

41 Interview with Andrew Hoffman, Vanuatu Kaljoral Senta (Port Vila, 12 November 2004).

42 Speiser, *Ethnology of Vanuatu*, p. 211.

43 Layard, John 1942, *Stone Men of Malekula: Vao*, p. 594.

44 Tonkinson, *Maat Village Efate*, pp. 16, 18.

45 Facey, Ideology and identity, pp. 41–2.

46 Speiser, *Ethnology of Vanuatu*, p. 213.

47 Deacon, *Malekula*, p. 224.

48 Ibid.

49 Speiser, *Ethnology of Vanuatu*, p. 215.

50 Layard, *Stone Men of Malekula*, pp. 598–9.

51 Layard in Vao documents this escalation of violence—depending, in part at least, on the degree of separation between the disputing parties. He states that attempts will be made to settle peacefully disputes between members of the same clan and, if not, then only clubs will be used. With regard to disputes between villages on the same side of the island, the conflict is fought with clubs or spears at

pre-arranged times in special fighting grounds. With regard to disputes with other small islands or villages on the mainland, however, the methods are ambush and surprise and poisonous bows and arrows. Layard (*Stone Men of Malekula*, p. 598) observes that 'man-traps and poisonous spined shells laid in the path are used only against a foreign foe'.

[52] Deacon, *Malekula*, p. 47.

[53] Ibid.

[54] Ibid., pp. 47–8.

[55] Speiser, *Ethnology of Vanuatu*, p. 303.

[56] Bonnemaison, *The Tree and the Canoe*, p. 179.

[57] Spriggs, *Vegetable Kingdoms*, p. 59.

[58] Tonkinson, 'Church and kastom in Southeast Ambrym', p. 241.

[59] Deacon, *Malekula*, pp. 49–50.

[60] The story that is told widely today is that in order to restrict tribal fighting, Roy Mata requested that representatives gather in the centre of Efate, bringing with them an item of importance such as yam, breadfruit or octopus. These then became the symbols of the new matrilineal clans that were established throughout Efate, whose members were thus prevented from engaging in warfare with each other. Rawlings, Gregory 1999, 'Foundations of urbanisation: Port Vila Town and Pango Village, Vanuatu', *Oceania*, vol. 70, no. 1, p. 79. Although the legend of Roy Mata as the origin of this system is contested, the *naflak* system continues today and is becoming increasingly important in land-dispute cases and even disputes over chiefly title, largely because it is a matrilineal system and all the other systems on Efate are patrilineal (Interview with a chief from Efate, Port Vila, 20 March 2007).

[61] He does point to one specific offence, which is a certain type of curse such as 'you are as good as dead'. He observes that such curses are held to be serious insults and the compensation of a pig may be demanded (Deacon, *Malekula*, p. 50). This appears to continue to be the case today: in a discussion with an anthropologist living on Maewo, I was told about a recent case in which a man had made such a curse to someone else and this was treated very seriously and he was required to pay a pig as compensation.

[62] Speiser, *Ethnology of Vanuatu*, p. 306.

[63] Each of the two powers retained sovereignty over its nationals, and people who were present in the Condominium who were not French, British or indigenous were required to 'opt' for either system within one month of their arrival.

[64] The *Protocol Relating to the New Hebrides* between Britain and France signed in 1914 and ratified in 1922.

[65] Article VIII(4) in Weisbrot, David 1989, 'Custom, pluralism and realism in Vanuatu: legal development and the role of customary law', *Pacific Studies*, vol. 13, no. 1, p. 68.

[66] See New Hebrides Condominium, *Joint Regulation 12 of 1962*.

[67] Jacomb, *France and England in the New Hebrides*, pp. 30–3, 68–70.

[68] Jacomb (ibid., p. 68) records in that when the 'natives' have troubles 'it is not to the Government they instinctively turn, it is to the Missionary'.

[69] Scarr, *Fragments of Empire*, p. 241. See also ibid. (p. 65), where Jacomb says that the 'police force inspires the beholder with mingled feelings of admiration and despair'.

[70] The anthropologists who worked in Vanuatu during this period were as follows: Jolly (1979, Men, women and rank in South Pentecost) conducted fieldwork in south Pentecost, focusing on questions of rank in the graded system and what these meant for men and women; Tonkinson (1968, *Maat Village Efate: A relocated community in the New Hebrides*) did a study that investigated the social and cultural changes and continuities of community for south-east Ambrym people who resettled near Vila; Gray (1971, The emergence of leaders in the New Hebrides, MA thesis, University of Auckland) studied the factors affecting the development of leaders among the 'New Hebrideans'; Margaret and William Rodman conducted extensive fieldwork in Longana, Ambae, first during the Condominium (1968–71) and follow-up fieldwork at later intervals after independence. Rodman, Margaret 1976, Spheres of exchange in a northern New Hebridean society, Masters of Arts thesis, McMaster University; Rodman, William 1977, 'Big men and middlemen: the politics of law in Longana', *American Ethnologist*, vol. 4, p. 525. Although their interests were originally in land use and the graded society, both developed an interest in issues surrounding law and order. William Rodman in particular went on to write a series of articles in which he discussed the legal innovations that took place in Longana due to the withdrawal of the Condominium Government, which will be discussed in the next section. Lindstrom conducted fieldwork

in Tanna, focusing on the way in which knowledge conferred power in that community. Lindstrom, Lamont 1981, Achieving wisdom: knowledge and politics on Tanna (Vanuatu), PhD thesis, University of California, Berkeley. Finally, Rubenstein did an ethnography of Malo Island, examining the connections that men and women had to land. Rubenstein, Robert 1978, Placing the self on Malo: an account of the culture on Malo Island, New Hebrides, PhD thesis, Bryn Mawr College.

[71] Jolly, Men, women and rank in South Pentecost, p. 36; Bolton, Lissant 1998, 'Chief Willie Bongmatur Maldo and the role of chiefs in Vanuatu', *Journal of Pacific History*, vol. 33, no. 2, p. 183.

[72] Rawlings, 'Foundations of urbanisation', p. 82.

[73] Jolly, Men, women and rank in South Pentecost, p. 36.

[74] Ibid., p. 36.

[75] Ibid.

[76] MacClancy, *To Kill a Bird with Two Stones*, p. 20.

[77] Bolton, 'Chief Willie Bongmatur Maldo and the role of chiefs in Vanuatu', p. 182.

[78] Rodman, 'Big men and middlemen', pp. 527–8.

[79] Rodman, 'Gaps, bridges and levels of law', p. 75.

[80] Ibid., p. 80.

[81] Facey, Ideology and identity, p. 152.

[82] Rodman, 'Big men and middlemen', p. 532.

[83] Allen, Michael 1981, 'Innovation, inversion and revolution', in Michael Allen (ed.), *Vanuatu: Politics, economics and ritual in island Melanesia*, p. 131.

[84] MacClancy, *To Kill a Bird with Two Stones*, p. 24.

[85] Gray, The emergence of leaders in the New Hebrides, p. 31.

[86] Ibid., p. 32.

[87] Scarr, *Fragments of Empire*, p. 237.

[88] Ibid., p. 237.

[89] Bonnemaison, *The Tree and the Canoe*, p. 65.

[90] Gray, The emergence of leaders in the New Hebrides, p. 205.

[91] Charpentier, 2002, p. 169.

[92] Ibid.

[93] Ibid.

[94] Jacomb, *France and England in the New Hebrides*, p. 71.

[95] See Tonkinson, who describes the changes in belief in sorcery in Ambrym resulting from the widespread conversion to Christianity. Tonkinson, Robert 1981, 'Church and kastom in Southeast Ambrym', in Michael Allen (ed.), *Vanuatu: Politics, economics and ritual in island Melanesia*, pp. 256–61.

[96] Gray, The emergence of leaders in the New Hebrides, p. 206.

[97] Tonkinson, 'National identity and the problem of kastom in Vanuatu', p. 311.

[98] Making peace in Longana is the same as restoring law—both are accomplished by the payment of a pig to a *ratahigi*. Rodman explains, 'The legal system is flexible, not in its categorisation of offenses, but in the options available to a leader after a wrongdoing has been discovered.' Rodman, William 1973, Men of influence men of rank: leadership and the graded society on Aoba, New Hebrides, PhD thesis, University of Chicago, pp. 256–7. He points out that the leader can ignore it and refer it to either another leader or the Condominium Government; or he can call a public meeting; or he can summon the misdemeanants, determine relative guilt and decree *haradai* (the payment of a pig to 'wipe away blood'). Rodman suggests that public meetings are called to resolve a dispute or shame a wrongdoer in preference to a private hearing based on a number of different factors, including whether or not witnesses must be summoned.

[99] See, for example, Tonkinson's ('Church and kastom in Southeast Ambrym', pp. 240–1) discussion of village councils during the pre-contact period.

[100] Proctor, 'Scottish missionaries and the governance of the New Hebrides', p. 353. There are also suggestions that 'Native Courts' were promoted by the Presbyterians on other islands as well, particularly Futuna.

[101] Scarr, *Fragments of Empire*, p. 236.

[102] Ibid., pp. 236–7.

[103] Premdas and Steeves, *Decentralisation and political change in Melanesia*, p. 53.

[104] Tonkinson, 'Church and kastom in Southeast Ambrym', p. 255.

[105] Jolly, Men, women and rank in South Pentecost, p. 294.

[106] Rodman, Men of influence men of rank, p. 270.

[107] Ibid., p. 271.

[108] Ibid., p. 273.

[109] Ibid., p. 271.

[110] Ibid., p. 274. Jolly (Men, women and rank in South Pentecost, p. 292) undertakes a similar analysis of conflict-management meetings in South Pentecost, noting that such meetings are called primarily for disputes over women and land, but also for sorcery accusations, disputes with Christian natives and debts. She states (p. 294) that the meetings follow the contours outlined by Rodman for Ambae.

[111] Muller comments that there had been substantial prejudice against the defendant before the court hearing and that he had been convicted of poisoning some time before. There had been a good deal of discussion about whether or not to give him over to the government, but people were dissuaded by the fact that they were afraid that he would die in jail, and also that if he did go to jail the father would not have received the money and the pig. Muller, Kal 1972, 'Field notes on the small Nambas', *Journal de la Société Des Oceanistes*, vol. 28, no. 35, pp. 248–9. While these accounts present functioning conflict-management mechanisms, this does not appear to have been the case everywhere throughout the archipelago. For example, in regard to Malo, Rubenstein observes that although traditionally the Maloese saw their traditional land-tenure system as almost a codified body of laws that was completely respected and final, the knowledge and respect for these laws had diminished. This was a result of the 'perceived failure of powerful individuals within society to create, constitute, or enforce rules for land tenure' and also 'confusion as to what land principles may now be and how some of these principles rank in respect of relative strength and efficacy' (Rubenstein, Placing the self on Malo, p. 33).

[112] Nagriamel was a political movement based in Santo and led by the charismatic Jimmy Stevens. The movement called for a return to customary ways of life and the return of land to ni-Vanuatu.

[113] Rodman, Men of influence men of rank, p. 247.

[114] Ibid., p. 15.

[115] Ibid., p. 17.

[116] Ibid., p. 268.

[117] Jolly, Men, women and rank in South Pentecost, p. 297.

[118] Tonkinson, 'Church and kastom in Southeast Ambrym', p. 255.

[119] Lindstrom, Lamont 1981, 'Speech and kava on Tanna', in Michael Allen (ed.), *Vanuatu: Politics, economics and ritual in island Melanesia*, p. 385.

[120] Lindstrom, 'Traditional cultural policy in Melanesia', p. 375. Lindstrom discusses the procedures followed in meetings in some detail and makes two important observations. The first is that the consensus that is reached might not indicate much about the future of the behaviour of those consenting. As no meeting member has executive powers to enforce the decisions 'discovered' in the debate, there is no obligation, other than a moral one, to support a meeting's decision. Although disputes are therefore rarely permanently resolved through such meetings, they do have value because the dispute is at least temporarily resolved and can thus end the social avoidance that is the automatic result of a continuing dispute between participants. The second point is that in meetings the participants build up a public and communal version of the 'truth' of the dispute. In doing so, the meetings reproduce relations of inequality and power. Consequently, the parties depend on the mediation of powerful third parties, and parties who do not have the right to speak, such as women and young men, might have their voices unheard and unrepresented in the final story that emerges.

[121] Rodman, Men of influence men of rank, p. 291.

[122] Ibid., p. 292.

[123] Ibid., p. 266.

[124] Rubenstein, Placing the self on Malo, p. 35.

[125] With regard to Ambae, Rodman (Men of influence men of rank, p. 285) similarly notes: 'Murder and major assault are the only two instances of lawbreaking in which Native Court is inevitable; for any other transgression, outside intervention is an unpleasant option to be exercised after all other attempts at mediation fail.' In regard to Malo, Rubenstein (Placing the self on Malo, p. 35) commented on the fact that of the 16 cases he observed, only five were considered to be 'finally settled', as follows:

'The Maloese themselves recognise their inability to solve many of these cases, as the record indicates. Judges are themselves in conflict of interest, principles and facts are muddled, and political factionalism is rife. In many such cases, participants may turn to the government in an attempt to solve them. This is, in a sense, an ultimate threat. Regardless of how capricious the government may seem at times, there is a recognition by the Maloese that the government does hold an ultimate power.'

126 Tonkinson, *Maat Village Efate*, p. 73.

127 Colonial law was enforced by a Native Court, a meeting of colonial and local Mewun leaders held every month. The BDA essentially dealt with any cases that included assault, statutory rape and adultery. The assessor was responsible for dealing with the rest. Appeals went to the BDA and he had the power to imprison people. Larcom notes that '[e]ven when the BDA presided, most legal cases were in effect settled according to Mewun rather than European standards of justice'. Larcom, Joan 1990, 'Custom by decree: legitimation crisis in Vanuatu', in J. Linnekin and L. Poyer (eds), *Cultural Identity and Ethnicity in the Pacific*, pp. 179–80. An extremely useful insight into the operation of the Native Courts and the work of the district agents is provided in Bresnihan, Brian and Woodward, Keith 2002, *Tufala Gavman: Reminiscences from the Anglo-French condominium of the New Hebrides*, edited by two former district agents. It appears from most accounts that, as suggested by Larcom, the district agents adapted Native Court procedures very much to fit in with the local circumstances. Bresnihan (p. 99) remarks, 'Criminal cases…were also very time consuming. All parties involved had to be allowed to speak and it sometimes took many hours to unravel the facts and establish why the crime had been committed in the first place.' A number of district agents also commented on the fact that their work was made much easier because the defendants almost never pleaded not guilty and they 'provided the police with necessary evidence, as a point of honour', 'happily' accepting their sentence (pp. 247, 273, 216). It appears that at times even the substantive law was changed to fit local conditions and needs. Charpentier (in Bresnihan and Woodward, above) comments that in south Malekula traditionally adultery was punishable by death, however, '[w]ith the arrival of the missions, such a settlement was no longer possible'. He (pp. 161–2) explains that 'a kind of legal hiatus had come into being with which the District Agents were often asked to deal. Thus, a substantial proportion of the prisoners in the gaols of the Condominium had been convicted for reasons that in the West, would certainly not have brought them there.'

128 Rodman, William 1993, 'The law of the State and the state of the law in Vanuatu', in Virginia Lockwood et al. (eds), *Contemporary Pacific Societies: Studies in development and change*, p. 61.

129 Scarr, *Fragments of Empire*, p. 237.

130 Tonkinson, *Maat Village Efate*, pp. 72–3.

131 There are six anthropologists whose work is particularly relevant to the central issues in this study. Rodman on Ambae: Rodman, William 1983, 'Gaps, bridges and levels of law: middlemen as mediators in a Vanuatu society', in William Rodman and Dorothy Ayers Counts (eds), *Middlemen and Brokers in Oceania*, p. 69; Rodman, William 1985, 'A law unto themselves: legal innovation in Ambae, Vanuatu', *American Ethnologist*, vol. 12, p. 603; Rodman, 'The law of the State and the state of the law in Vanuatu', p. 55. Lindstrom on Tanna: Lindstrom, Lamont 1984, 'Doctor, lawyer, wise man, priest: big-men and knowledge in Melanesia', *Man*, vol. 19, no. 2, p. 291; Lindstrom, Lamont 1990, 'Straight talk on Tanna', in K. A. Watson-Gegeo and G. M. White (eds), *Disentangling Conflict Discourse*, p. 373; Lindstrom, Lamont 1997, 'Chiefs in Vanuatu today', in Geoffrey White and Lamont Lindstrom (eds), *Chiefs Today: Traditional Pacific leadership and the postcolonial state*, p. 211. Larcom on Malekula: 'Custom by decree'. Facey on Nguna: Facey, Ellen 1983, Ideology and identity: social construction of reality on Nguna, Vanuatu, PhD thesis, University of Sydney. Rousseau on Port Vila: Rousseau, Benedicta 2004, The achievement of simultaneity: *kastom* in contemporary Vanuatu, PhD thesis, University of Cambridge. Hess on Vanua Lava: Hess, Sabine 2005, Person and place on Vanua Lava, Vanuatu, PhD thesis, The Australian National University.

132 Curtis explains that one of the main ideas behind the moratorium is the idea that *kastom* belongs to the future ni-Vanuatu and should be 'kept' for them to write up. Curtis, Tim 2002, Talking about place, PhD thesis, The Australian National University, p. 78. See also Bolton, Lissant 1999, 'Introduction', *Oceania*, vol. 70, no. 1, p. 1; Regenvanu, Ralph 1999, 'Afterword: Vanuatu perspectives on research', *Oceania*, vol. 70, no. 1, p. 98.

133 Rousseau, The achievement of simultaneity.

134 See, for example, Keesing, Roger 1982, 'Kastom in Melanesia: an overview', *Mankind*, vol. 13, no. 4, p. 297.

135 Bolton, Lissant 1993, Dancing in mats: extending kastom to women in Vanuatu, PhD thesis, University of Manchester, p. 69.

[136] Ibid., p. 85; Jolly, Margaret 1992, 'Custom and the way of the land: past and present in Vanuatu and Fiji', *Oceania*, vol. 62, pp. 340–1.

[137] Jolly, 'Custom and the way of the land', p. 341.

[138] Philibert, Jean-Marc 1986, 'The politics of tradition: toward a generic culture in Vanuatu', *Mankind*, vol. 16, no. 1, p. 3.

[139] Bolton, Dancing in mats, p. 84.

[140] Jolly, 'Custom and the way of the land', p. 341.

[141] Ibid., p. 343.

[142] Bolton, Dancing in mats, p. 94.

[143] Hume, 'Church and custom on Maewo, Vanuatu'. Although, see Tonkinson, Robert 1982, 'National identity and the problem of kastom in Vanuatu', *Mankind*, vol. 13, no. 4, pp. 308–9.

[144] Jolly, 'Custom and the way of the land', p. 343.

[145] Selywn Garu (Author's notes from the Conference on *Kastom* and the Constitution, University of the South Pacific, Emalus Campus, Port Vila, Vanuatu, 4 October 2004).

[146] Tonkinson, 'National identity and the problem of kastom in Vanuatu', p. 310.

[147] This debate was initiated by the pioneering special edition of the journal *Mankind*. See Keesing, Roger and Tonkinson, Robert (eds) 1982, 'Reinventing traditional culture: the politics of *kastom* in island Melanesia', *Mankind* Special Issue, vol. 13, no. 4.

[148] Keesing, Roger 1989, 'Creating the past: custom and identity in the contemporary Pacific', *The Contemporary Pacific*, vol. 1, nos 1–2, p. 29.

[149] Tonkinson, 'National identity and the problem of kastom in Vanuatu', pp. 311, 312. He discusses how in Ambrym in the years around independence there was a self-conscious revival of old practices, even to the extent of one chief importing people from other areas who still had memories of how to make *kastom* objects, even though there were private criticisms that imported *kastom* might not be the '*tru*' (real) *kastom* of the *ples* (p. 311).

[150] Larcom, Joan 1982, 'The invention of convention', *Mankind*, vol. 13, no. 4, p. 336. She observed that several copies of Deacon's ethnography of the Mewun were circulating in the community, and discussed the propensity to draw on Deacon's book to search for precedents to be used in settling disputes in preference to the consensual ways of settling land disputes at public meetings that had hitherto occurred.

[151] Ibid., p. 330.

[152] See, for example, Rodman, 'Gaps, bridges and levels of law', pp. 603–4.

[153] This was due to their view of indigenous society as essentially static and also to the enormous rate at which the population was dying out as a result of diseases introduced by the Europeans. In a letter home in 1926, Deacon wrote, 'Probably during the next 50 years civilization will have penetrated to every area of the world & we shall see then what races have gone under & which are going to survive as competitors in the evolution of mankind. We have a long start in the race; & should eliminate a good many: e.g. the New Hebrides are almost bound to go.' Gardiner, Margaret 1987, *Footprints on Malekula: A memoir of Bernard Deacon*, p. 33.

[154] Jolly, Margaret 1992, 'Spectres of inauthenticity', *The Contemporary Pacific*, vol. 4, no. 1, p. 57.

[155] Rodman, 'Gaps, bridges and levels of law', p. 621.

[156] Tepahae, Chief Philip 1997, *Chiefly power in Southern Vanuatu*, reference" > Discussion Paper 1997/9, State, Society and Governance in Melanesia Research Paper Series, The Australian National University, <http://rspas.anu.edu.au/melanesia/research.php>, p. 1.

[157] Author's notes from the Conference on *Kastom* and the Constitution, University of the South Pacific, Emalus Campus, Port Vila, Vanuatu, 4 October 2004.

[158] Jolly, 'Spectres of inauthenticity'.

[159] Keesing, 'Creating the past', p. 19.

[160] White, Geoffrey M. 1997, 'The discourse of chiefs', in Lamont Lindstrom and Geoffrey White (eds), *Chiefs Today: Traditional Pacific leadership and the postcolonial state*, p. 232.

[161] Bolton, Dancing in mats, p. 79.

[162] Curtis, Talking about place, p. 76.

[163] Keesing, 'Creating the past', p. 37.

[164] See also Facey's doctoral study on Nguna in which she is concerned to illustrate 'how a particular construction of the past is being propagated…by present day holders of positions of power and authority in order to lend authority to the politico-religious structures in which their positions lie' (Ideology and identity, p. 188).

[165] See also Chanock, Martin 1978, 'Neo-traditionalism and the customary law in Malawi', *Journal of African Legal Studies*, vol. 16, p. 80, in which he argues that 'historical research into the "legal environment" in which pre-colonial law turned into the "customary law" of the colonial period could help to correct the process by which Africa is being given an authoritarian law invalidly claiming to embody its indigenous legal genius'.

[166] Bolton, 'Chief Willie Bongmatur Maldo and the role of chiefs in Vanuatu', p. 180.

[167] Ibid., p. 185.

[168] Lindstrom, 'Chiefs in Vanuatu today', p. 212.

[169] Bolton, 'Chief Willie Bongmatur Maldo and the role of chiefs in Vanuatu'.

[170] Ibid., p. 185. Bolton notes that this illustrates a change of role for the chiefs from representing their community in non-traditional contexts, as they did during the Condominium, to representing the community's traditional face to outsiders, and suggests that this 'significantly, and subtly, underlines the identification of chiefs as traditional leaders'.

[171] Ibid.

[172] Facey (Ideology and identity, p. 248) noted that the difficulty stemmed from the fact that the structure of Melanesian society differed from district to district and from island to island, with the result that there was no uniform system of chiefly authority.

[173] Bolton, 'Chief Willie Bongmatur Maldo and the role of chiefs in Vanuatu', p.185.

[174] '*Mal*' meaning chief and '*vatu*' meaning stone, island or place. In the past, when they ordained chiefs, they took their authority from stones. '*Mauri*' means something that is alive, that grows in the light. Bolton 'Chief Willie Bongmatur Maldo and the role of chiefs in Vanuatu', pp. 190–1.

[175] Lindstrom, 'Chiefs in Vanuatu today', p. 218.

[176] Ibid., p. 219.

[177] See, for example, ibid.; Bolton 'Chief Willie Bongmatur Maldo and the role of chiefs in Vanuatu'; Jolly, *Women of the Place*, p. 249.

[178] Sherkin, Samantha 1999, Forever united: identity construction across the rural–urban divide, PhD thesis, University of Adelaide, p. 66.

[179] Lindstrom, 'Chiefs in Vanuatu today', p. 227.

[180] Rodman, 'A law unto themselves'.

[181] Rodman, 'The law of the State and the state of the law in Vanuatu', p. 64.

[182] Ibid.

[183] Ibid., pp. 63–4.

[184] Rodman, 'A law unto themselves', p. 615.

[185] Facey, Ideology and identity, p. 162.

[186] Ibid., p. 166.

[187] Ibid., p. 170. She noted that at the time of her study there was a widespread perception of a number of contemporary problems facing Ngunese society. Moreover, while there was agreement that the problems existed, there were two different points of view as to what was causing them. The general population lay the blame on the behaviour of individual chiefs, who were accused of no longer serving as examples for people to follow, thus leading to people losing respect for them and making them in turn unable to control their people (p. 224). The chiefs, on the other hand, argued that Nguna's troubles stemmed from a general lack of respect for customary and Christian rules and for those authority figures whose job it was to see those rules were upheld. This difficulty is said to derive from things beyond their control, including loss of chiefly sacred spirits, inadequate support from their aides and widespread deviation from traditional behavioural patterns (p. 230). As is discussed in Chapter 5, these two opposing views also came across clearly during my fieldwork.

[188] Larcom, 'Custom by decree', p. 180.

[189] Rousseau, The achievement of simultaneity, p. 45.

[190] Ibid., p. 139.

[191] Mitchell, 'Violence as continuity', pp. 196–7.

[192] Ibid., p. 198.
[193] Ibid.
[194] Ibid., p. 204.
[195] Ibid., pp. 201–3.
[196] Hess, Person and place on Vanua Lava, Vanuatu, p. 201.