

TRIBUTE

AUSTRALIA'S ASIAN LAW PIONEER

PROFESSOR MALCOLM D H SMITH
21 AUGUST 1945 – 22 JUNE 2006

Professor Malcolm Smith pioneered the development of Asian legal studies in Australia and persistently championed its cause all his life. He was passionately dedicated to his vision of an Asia-literate Australia, comfortable with its own identity (especially when it involved football and his beloved Essendon) but an engaged and equal partner in its region.

Born in Melbourne in 1945, Mal stood out as a star student at Essendon Grammar, before graduating with a first in law from the University of Melbourne. This was followed by a first-class masters at Melbourne and then a Fulbright Fellowship and Frank Knox Fellowship to Harvard, where he completed another masters and then his doctorate.

On the way, Mal found his mission in life in words of advice from Melbourne's Professor Harold Ford, who suggested that Japanese law might help the young man stand out from his peers. It certainly did: Mal quickly established himself as one of the world's foremost authorities, ultimately winning respect and admiration from the most senior Japanese judges, lawyers and scholars.

Mal was already ensconced at the University of British Columbia, Canada, as Founding Director of its innovative Japanese Legal Studies Program, when he was lured back to Melbourne by the challenge of creating a world-class centre for the study of Asian legal systems in his hometown. In March 1987, he became Founding Director of the Asian Law Centre, a position he held until June 2000, and, at the same time, was appointed to the Foundation Chair in Asian Law, occupying that post until 2004. This was pioneering work of national and international importance. For the first time an Australian law school looked beyond its roots in the Anglo-American tradition to engage with the legal systems of Asia.

Mal's achievements were, however, always more than institutional. He inspired a generation of Australian lawyers to look north. He was a mentor and model to so many who had contact with the Asian Law Centre. His influence was vast in Australia, East Asia and America, reaching far beyond the bounds of academia or even the legal world, to public servants, policymakers, think tanks, schools and a wide range of community groups (Rotary, most notably).

Many of today's experts in the legal systems of our neighbours first came into contact with them in classes taught by Mal and knew his inspirational, often ad hoc, teaching style first-hand. Others knew him in their roles as researchers, students or colleagues. Almost everyone he knew, however, benefited at some point from his real, personal, interest in people he met. Time and again, Mal would do battle for people and causes others had abandoned but which he rightly saw as important. He had a knack for finding the lateral solution to the complex problems that baffled others, especially if it gave him the opportunity to indulge his instinctive dislike of bureaucracies and pompous authority and his mischievous sense of humour.

It was this exceptional pastoral skill with people, born of the same deep compassion that made him so successful as a cross-cultural mediator, that led to his appointment as Dean of Studies (and then Acting Master) at Ormond College, building on previous work on the councils of Trinity College, International House and the Graduate Union. This was a demanding job — supervising more than 100 tutorials every week — but he carried it off with typical aplomb while maintaining his extensive duties in the Law School. It was a typical Mal arrangement. He would rush backwards and forwards across the campus, his famous smile and imperturbable cheerfulness welded in place, doing the work of two or three lesser beings and driving administrative staff at both institutions to the edge of madness.

In 2004, Mal capped a spectacular career with yet another first, accepting appointment as Professor of Law at Chuo University in Japan and becoming the first Australian to teach Japanese law in Japanese to Japanese students. As his friend, Justice Kenneth Hayne of the High Court, said at Mal's funeral:

Japan was undergoing a revolution in legal education. He would be a part of that revolution. He would take a new set of students in a different society and set them on the start of their journey in the law. And he would do that there, as he did it here — with that same smile, that same generosity, that same willingness to help others.

Mal's appointment was an extraordinary testimony to the depth of his knowledge and his genuine capacity to move with ease between cultures, but the movement was as much physical as intellectual. Remaining a Professorial Fellow in the Faculty of Law and a Senior Associate in his beloved Asian Law Centre, he regularly flitted backwards and forwards between his homes in Tokyo and Melbourne, just as he had between Ormond and the Law School. He soon developed the disconcerting habit of appearing without warning at his colleagues' office doors in Melbourne on a Friday suggesting his favourite calamari lunch, as if he still worked down the corridor.

Still young in his ideas and energy, Mal at 60 was a constant blur of activity and a continuing inspiration to his friends, when he died suddenly on 22 June, from a stroke.

Mal was a distinguished scholar, a leader and a mentor, who influenced the lives of thousands for the better. He will be sorely missed. What he achieved

will, however, long live on, not only in the hearts and minds of his family, especially his wife, Ros, and only child, Cara, and his thousands of friends, but also in the generations of students whom he taught, in the work that he pioneered, and in the institutions he established and nurtured during his life. Most of all, however, he leaves a vision to guide his country in its long, unfinished quest to find its place in Asia.

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