



Inspirational force in reaching out to Asia

MALCOLM SMITH
LEGAL PIONEER
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By **TIM LINDSEY**

PROFESSOR Malcolm Smith, who pioneered the development of Asian legal studies in Australia and championed its cause all his life, has died from a stroke in Melbourne, aged 60.

In 2004, he capped a spectacular career with yet another first, accepting appointment as professor of law at Chuo University in Japan — becoming the first Australian to teach Japanese law in Japanese to Japanese students.

Smith was passionately dedicated to his vision of an Asia-literate Australia, comfortable not only 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, he was a star student at Essendon Grammar before graduating with a first in law from Melbourne University, followed by a first-class masters. Fulbright and Frank Knox fellowships enabled him to complete another masters and a doctorate at Harvard.

He 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. Smith 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.

He was ensconced at the University of British Columbia in Canada, as founding director of its innovative Japanese legal studies program, when he was lured by the challenge of creating a world-class centre for the study of Asian legal systems in his home town. In March 1987, he became founding

director of the Asian Law Centre, a position he held until June 2000; at the same time, he 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.

Smith inspired a generation of Australian lawyers to look north. His influence was vast in Australia, eastern Asia and the US, and reached beyond the bounds of academia or even the legal world, to public servants, policymakers, think tanks, schools and a wide range of community groups, most notably Rotary.

Many of today's experts in the legal systems of our neighbours first came into contact with them through Smith's often ad hoc but inspirational teaching. Others knew him in their roles as researchers,

students or colleagues. Almost everyone he knew benefited at some point from his genuine interest in the people he met.

Smith battled for people and causes others had abandoned, but which he rightly saw as important. He had a knack for finding lateral solutions 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 Smith 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.

Smith's appointment in Japan was an extraordinary testimony to the depth of his knowledge and his genuine capacity to move with ease between cultures, and the movement was as much physical as intellectual.

Smith's friend, Justice Ken Hayne of the High Court, said at his 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."

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 the office doors of colleagues in Melbourne on a Friday suggest-



ing his favourite calamari lunch, as if he still worked down the corridor.

Smith influenced the lives of thousands for the better and leaves a vision to guide his country in its long, unfinished quest to find its place in Asia.

He is survived by his wife, Ros, and their daughter, Cara.

Tim Lindsey is professor of Asian law and director of the Asian Law Centre at Melbourne University.

