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UNSW LAW SOCIETY JOURNAL

Q & A

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What is it like working as a judge in the High Court?

I served as a Justice of the Court from 1996 – 2009. I had previously served 12 years as President of the NSW Court of Appeal. There is a necessary difference in working in the highest court in a nation. More than in courts below, a final court must take responsibility for the conceptual integrity, principled development; and justice of the law that it expounds and applies.

The work was often exhilarating; always demanding and time consuming; and usually enjoyable because of the interaction with Australia's top lawyers, one's colleagues and brilliant legal associates.

I have explained what it is like serving on the High Court of Australia in a brilliant article published in *The Sydney Law Review* ("What is it *Really* Like to be a Justice of the High Court of Australia? – A conversation of Law Students with Justice Kirby" 1996).

What traits and values do you need to be a successful judge?

The answer to this question depends upon the court to which one is appointed. Some of the skills necessary for a trial judge are less

* Justice of the High Court of Australia (1996-2009)

important upon appointment to an intermediate appellate court and different from those necessary in a final court.

However, common to judicial posts generally (from magistrates to the highest court) are the requirements of independence; integrity; impartiality; courtesy; personal humility and yet an appropriate degree of authority and dedication to universal human rights.

If you could give one piece of advice to law students, what would it be?

Law students should be aware that they are entering a most unusual profession. It is one that gives its members a significant access to the levers of power in society. Whether the student goes on to become a barrister, silk, judge, cabinet minister, top solicitor, government adviser, business counsel, politician or a lawyer for disadvantaged and vulnerable clients, the responsibilities and opportunities are enormous. In discharging them, lawyers should remember the influence they have not only upon their clients' causes but also upon the shape of law and justice in their society. They should constantly question the justice of the law. Inevitably, in a time of great technological and social change, rules laid down in earlier generations become inappropriate to new factual and social circumstances. Every lawyer must therefore be interested in, and a contributor, law reform and social justice.

On a practical level, every law student should be a "joiner". He or she should join student societies and civil society organisations. The choice is amazing. It can extend to bodies that help Australia's long neglected indigenous peoples; work with those living with HIV; defend civil liberties;

and get engaged with global legal issues (such as Amnesty International and the Australian section of the International Commission of Jurists).

What are you working on now, given that you have retired from the Bench?

What planet are you living on? If you open newspapers or watch television you will know that I have been chairing a Commission of Inquiry, established by the United Nations Human Rights Council in Geneva, investigating human rights abuses in North Korea. The COI has recently delivered its report and this is now under consideration at the highest levels in the United Nations, including by member states of the United Nations Security Council. As well, I am a commissioner of the UNAIDS/Lancet Commission on Sustainable Health. This is seeking to examine the response of the international community to the HIV epidemic so as to ascertain the lessons that need to be learnt for the universal human right to health generally, from the way in which the international community responded, exceptionally, to the HIV epidemic.

There are other possible avenues of service on the horizon, so watch this space. In between new challenges, I undertake, very successfully, professional mediations. And I also find time to spend with my partner of 45 years, Johan van Vloten and with my brothers. Finding space to smell the roses is often the hardest challenge that a busy lawyer has to face. Not much use being a successful lawyer and a failed human being.