

FOREWORD

Claudia Geiringer and Dean R Knight

This issue of the New Zealand Journal of Public and International Law features a selection of papers from "From Professing to Advising to Judging: A Conference in Honour of Sir Kenneth Keith", held at the Victoria University of Wellington in August 2007.

It was a great honour for Victoria's Faculty of Law, in association with the New Zealand Centre for Public Law, to hold this conference in celebration of one of the Faculty's (and indeed the New Zealand legal community's) greatest exports. The conference marked Sir Kenneth's retirement from the New Zealand judiciary, celebrated his ascension to the giddy heights of the International Court of Justice and honoured his distinguished career as academic, law reformer, legal advisor, international advocate and judge.

The conference was an opportunity to reflect on Sir Kenneth's own contribution to the law but it was much more than that. It was a chance to hear from judges, academics and practitioners who are doing cutting edge work in areas of concern to Sir Kenneth. A full collection of the papers from the conference will be published later this year as a book entitled *Seeing the World Whole: Essays in Honour of Sir Kenneth Keith*.¹ Additionally, participants who wished to were invited to submit their papers for separate consideration by the New Zealand Journal of Public and International Law in accordance with its standard peer-review processes. We were delighted to receive submissions from the seven authors represented in this issue.

The papers are presented here in the order that they were delivered at the conference. The first day of the conference explored the constitutional, international, and methodological foundations of our system of law, politics and government. With a nod to Sir Kenneth's personal career progression, the second day moved from professing to advising to judging, reflecting on contemporary issues arising from each of those lawyerly tasks. The predominant theme of the conference, however, was one of integration and linkages, not sequestration. The conference sessions and papers reflect Sir Kenneth's preoccupation with the connections that underlie the legal universe — between the local and the international, the past and the present, the practical and the theoretical; between law and policy, law and history, law and literature; between the varying

¹ Claudia Geiringer and Dean R Knight (eds) *Seeing the World Whole: Essays in Honour of Sir Kenneth Keith* (Victoria University Press, Wellington, 2008, forthcoming).

sources that underlie the law and legal reasoning, and between the varying professional roles that may constitute a legal career.

Professor David Feldman's paper explores connections between constitutional principles and international law, asking whether international organisations should be required to give effect to the value of constitutionalism and exploring how domestic states should respond if their municipal constitutional standards conflict with their obligations under international law.

Professor Janet McLean uses a historical lens to explore ambivalences underlying references to "the Crown" in contemporary dialogue over the Treaty of Waitangi. She finds explanations for these ambivalences in both colonial and pre-colonial conceptions of the Crown.

A recent Supreme Court decision on the role of the New Zealand Bill of Rights Act 1990 in influencing the interpretation of legislation provides the focus of Claudia Geiringer's article. She contextualises the decision by considering the broader relationship between rights-mandated interpretation under the Bill of Rights and value-oriented interpretation at common law.

Ben Keith discusses the controversy surrounding judicial utilisation of "external sources", that is, sources beyond the domestic constitution, legislation and case law of the particular jurisdiction. Focusing particularly on judicial references to international and comparative law, to social science evidence and to literature, he poses three accounts to explain the objectives served by such usages.

The methodology employed by judges when supervising administrative decisions is examined by Dean Knight. He seeks to synthesise and refine the approaches adopted by the courts when applying the emerging variegated version of the ground of reasonableness in judicial review cases.

Gary Hawke, the only non-lawyer to have braved submission, offers an "outsider's" perspective on the role of lawyers in the policy process, provocatively suggesting that policy advisors should not be lawyers. His beef, however, is with myopic discipline specialisation generally, not lawyers themselves, as he commends a more holistic vision for policy advisors.

Finally, Justice Blanchard offers an "insider's" perspective on the first five years of the operation of the New Zealand Supreme Court. His Honour reflects on a number of significant (and some routine) cases over this period and translates them into the broader developing principles that are in play in our highest court.

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