Justice John Fogarty retired from the Family Court on 2 October 1998, after 22 years as a judge in that jurisdiction. Justice Fogarty had an active role with the Australian Institute of Family Studies, being the Presiding Member of the Institute’s Board of Management from 1986 to 1990.

Justice Fogarty was appointed to the Court only weeks after its establishment in 1975, and during his time on the Bench was involved in a number of significant first instance and full court decisions. Many of these have been reported and have thus become a permanent testimony to the judge’s role in the development of family law jurisprudence in Australia. Justice Fogarty was chairperson of the Court’s appeal division from 1983 until his retirement, and also served in a number of extra curial capacities.

He was a member of the Family Law Council from 1980 until 1983 and chaired the Council from 1983 until 1986. He was also a leading player in the child support reforms of the mid-1980s, particularly as Chair of the Federal Child Support Consultative Group which was required to advise on the legislative formula which has become the basis of administrative assessment of child support in this country. The task of balancing the various interest groups affected by the scheme was an extremely difficult one which he achieved with great sensitivity.

Justice Fogarty showed his deep concern for children’s wellbeing, matched with a refusal to bow to political censure, during his chairmanship of the Victorian Family and Children’s Services Council. The two major reports he produced in 1989 and 1993 about the Victorian Government’s role in the management of its child protection system made a number of recommendations for improvement. Most of these have been adopted by the Government.

Undoubtedly Justice Fogarty will continue to play a pivotal role in the advancement of children’s interests as a member of the advisory panels of the Australian Section of Defence for Children International and the Child Protection Society.

At his formal farewell, Justice Fogarty had this to say about the Family Law Act: ‘I have read [the Family Law Act] many times over the years – its meaning is still unclear, and it changes with its environment. Family law really must develop out of society’s perceptions of itself, its relationships, aspirations, wishes and standards, and not the other way around. That is, family law cannot impose standards on society, it needs to reflect the legitimate standards and aspirations of the society.’

Justice Fogarty’s thoughtful contribution to the theoretical, practical and policy aspects of family law will long be remembered.

– Margaret Harrison
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