

# STICKY BEAK

## An irregular column of profiles

**Jennifer Coate is Senior Magistrate of the Children's Court in Victoria.**

**Jennifer Coate began her professional life as a primary school teacher. Later, turning to law, she worked as a solicitor in private practice for a number of years. She has also worked for the Legal Aid Commission of Victoria, and in Policy and Research for the Attorney-General. In 1991 she was appointed to the Victorian Women's Consultative Council. In March 1992, she became a magistrate. In 1993 she was appointed to the Violence Against Women Taskforce of the Victorian Community Council Against Violence. In December 1995 she took up her present position.**

**In this interview with Michelle Schwarz, Jennifer Coate reflects on some of the complexities of gender and power which face women operating within key institutions such as the courts.**

**Q:** *Do you view the female response and the judicial response as mutually exclusive?*

**A:** On the contrary, they should be one and the same thing.

**Q:** *Do women bring to the judiciary an alternative way of looking at the crimes that women commit?*

**A:** I think that women in the judiciary have an impact on general discussions among other members of the judiciary and can bring a different perspective to a number of issues.

**Q:** *Do you agree that the criminal justice system has evolved in a way that sometimes ignores women's experience?*

**A:** Yes. Our legal system has grown up in a male-dominated environment. It is evidenced by examples like the rules in relation to self-defence which contemplate male to male combat. A number of rules have been developed inside a male-dominated world where the gender differences have not been calculated. Terminology like the 'reasonable man', ignores the existence of women. In the last ten years the development of feminist legal thought has put the legal system under the microscope. My view is that this must benefit not only women but the entire community. I don't think

men can be disadvantaged by the equal treatment of women before the law.

**Q:** *What other gender issues have you identified during your time in law?*

**A:** One of the things that makes me quite sad and frustrated from time to time when I watch women in the courtroom, or on the floor of Parliament, is the realisation of how difficult it is to develop a successful 'female style' — one that doesn't require a louder voice than your opponent or a thick skin to withstand the jibes to prove your 'ability'.

**Q:** *Can you think of any very successful women who haven't done that?*

**A:** I think women like Joan Kirner, Cheryl Kernot and Carmen Lawrence, for example, have developed their own styles based on their personalities and individual capacity, rather than a capacity to shout down opponents and trade insults.

It is difficult in politics, as in the law, where the role models have traditionally been male, to develop a style that does not attempt to compete or 'tackle down' or 'annihilate the opposition'. It will still take some time for women to feel comfortable being themselves. It is pleasing to see some women practising in the legal system who have the maturity

and courage to develop a style far more suited to themselves as individuals.

It is not only refreshing, but important to the growth of women in the legal profession that this occurs to counter-balance the reports one hears of alienation and isolation, in particular from women at the bar who are reluctant to develop a 'warrior like' role.

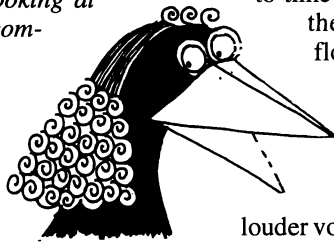
**Q:** *Are there any issues you have been confronted with since you became a magistrate which were matters you had not previously contemplated?*

**A:** There is no formal opportunity for debriefing and I think this is an issue that will have to be tackled at some stage. Whilst we, as disciplined and trained lawyers, deal with the facts at a professional level in a clinical fashion in the courtroom, it is impossible not to be affected at an emotional and human level by some of the horror and suffering we deal with. My impression is that this has not been dealt with in any open sense by either the judiciary or the legal profession.

I'd like to share a thought that I had when first appointed. I had previously puzzled over why some judges and magistrates were abrupt, abrasive and rude. I thought perhaps what was required was a level of distance and a gruff exterior to control the sometimes very strong personalities and tensions encountered in the courtroom. I have to say that within a short time I discarded the idea that a requirement of the judicial process and the courtroom, was to be rude or impolite for the purposes of control or authority and discipline. In fact, treating all with respect and dignity usually produces the best responses. The very necessary dignity of the courtroom is preserved fairly.

**Q:** *You are involved in a great deal of voluntary community work. How does that help you as a magistrate?*

**A:** First, it helps me to keep in touch with people and how they perceive the legal system. That's important because it's easy to become removed from people's thoughts and concepts when you're working in the environment that I am, and it assists me to remain aware of how best to communicate the sometimes difficult concepts of the court-





Jennifer Coate

room. Second, I am rewarded by the knowledge that I'm assisting people to understand the institution that's controlling them. I know understanding helps them to feel stronger, more powerful and more in control. It also means at a pragmatic level for me, that the litigant, especially the unrepresented litigant who comes into my court, who understands the process, will be a much easier person to manage, and ultimately less hostile.

**Q:** *Do you find the position of power you hold at all daunting?*

**A:** When I arrived at teacher's college aged 18, I had to reassess my view of power, money, privilege and authority. I realised for the first time where my

community fitted in the world of achievement and power, and it didn't even get a ranking. I have been haunted by this feeling from time to time and it can shake one's confidence and create feelings of alienation and isolation. On the positive side these realisations can also assist one to maintain a less rigid view of the world.

**Q:** *Do you think that such a feeling is common among people in positions such as yours?*

**A:** I think it's a regular response for women in positions of power in our community and I think it comes from the same sense of not coming from the traditional ranks of the power base. I've spoken to women in public positions

and positions of power who say that they regularly suffer from an attack which can best be described as 'they'll soon find out I don't really know anything and they'll get rid of me because I'm a fraud'.

**Q:** *Do you think men in positions of power suffer from it as well?*

**A:** Yes. I think some men do but I don't think it's as common.

**Q:** *Can you identify any trends emerging in the criminal justice system?*

**A:** In broad terms, I think we are becoming more sophisticated in our responses, in understanding the criminal offender and moving away from a brutal, vengeful, response to someone who commits a crime, to a more calm, thoughtful and intellectual response. I think Victoria's *Sentencing Act* is an example of a more intellectual and thoughtful approach. Now that's not to say that legislation changes all minds or attitudes. But language in law as in all things plays an important part in shaping attitudes and perceptions. There is a tremendous amount of thought and discussion going on, continuously, among criminologists and magistrates and the judiciary generally about sentencing, and a great deal of time is given to it.

**Q:** *What are your interests other than the law?*

**A:** It's interesting for me to think about what I do in my so called spare time. It feels as though almost whatever I am doing, I'm doing the same thing. When I say that, I mean I'm talking, listening and thinking, whether I'm reading a book or watching a film or talking with people. What I'm doing is listening to words and thinking about words and trying to fathom the meaning of things. I enjoy going to films and the theatre, and reading books.

**Q:** *Do you have a favourite poet or author?*

**A:** I have a few, but Dylan Thomas, was one of the first poets who added a dimension to my experience of words and imagery and poetry. When I first travelled to England I wanted to walk on that same ground. I went to the town where Dylan Thomas lived and wrote most of his work. It was a powerful experience that has remained with me.

**Michelle Schwarz**

*Michelle Schwarz is a Melbourne lawyer working at AUSTEL.*