

## Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

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Committee Secretary  
Youth Justice Reform Select Committee  
Parliament House  
George Street  
**BRISBANE QLD 4000**

**By email only:** [youthjustice@parliament.qld.gov.au](mailto:youthjustice@parliament.qld.gov.au)

Dear Committee Secretary

### **Youth Justice Reform in Queensland**

1. Thank you for the opportunity to provide this submission to the Youth Justice Reform Select Committee inquiry into Youth Justice Reform in Queensland.

### **About LawRight**

2. LawRight is a not-for-profit, community-based legal organisation that coordinates the provision of pro bono legal services to disadvantaged Queenslanders.
3. LawRight improves the lives of vulnerable people by increasing access to justice through strategic partnerships with pro bono lawyers. Each year, LawRight's 65 member firms and 170 barristers deliver 16,000 pro bono hours to help vulnerable Queenslanders resolve complex legal issues that compound existing disadvantage.

### ***LawRight's Homelessness Law program***

4. LawRight's Community & Health Justice Partnerships | Homelessness Law program (**Homelessness Law**) is Queensland's free specialist legal service for people experiencing or at risk of homelessness. Homelessness Law's integrated, holistic legal supports prevent and end homelessness by resolving legal issues connected to a person's housing, money, and experience of violence. We scale the impact of our frontline, client-centred work by advocating for better laws and policies.
5. Homelessness Law provides targeted, intensive legal representation to people experiencing or at risk of homelessness. We have a focus on key priority cohorts including women and their families with an experience of violence, children and young people, and people in or exiting prison.

PO Box 12217  
George Street QLD 4003

ABN 52 033 468 135  
IA 30188

P: 07 3518 8125  
F: 07 3846 6311  
E: [admin@lawright.org.au](mailto:admin@lawright.org.au)  
W: [www.lawright.org.au](http://www.lawright.org.au)



6. Through this program, we assist a significant number of children and young people with an experience of homelessness. These clients, like all our clients, frequently experience multiple, intersecting forms of disadvantage connected with their experience of homelessness and housing instability, including mental illness, severe financial hardship, addiction, physical or intellectual disabilities and complex family backgrounds. Many of the children and young people we assist have an experience with the justice system as an alleged offender or as a victim-survivor. A significant proportion of our clients who have gone through the justice system as offenders are themselves victims of violence, abuse or neglect.
7. Established in 2002, Homelessness Law implements an outreach-based, trauma informed model, with staff lawyers fully embedded in frontline homelessness and health agencies in both Brisbane and Cairns.
8. Homelessness Law's "Stable Futures for Young Queenslanders: Stopping Homelessness for Children & Young People" (**Stable Futures**) project provides ongoing, integrated legal representation to help children and young Queenslanders resolve housing, income, and violence-related legal issues connected to their experience of homelessness and poverty. By resolving legal issues pushing people into housing and financial insecurity, we empower young Queenslanders to establish stable futures.
9. Implementing a best practice, trauma-informed approach, since July 2020 the Stable Futures project assisted 254 children and young people facing homelessness to resolve 730 distinct legal issues. Of these 254 young Queenslanders:
  - 68% received government benefits or had no income;
  - 59% had an experience of family or sexual violence, often directly connected to their experience of homelessness;
  - 38% identified as having a disability; and
  - 17% identified as First Nations.
10. Homelessness Law's "Your Own Home: Preventing Homelessness for Women & their Families with an Experience of Violence" (**Your Own Home**) project assists women and their families, particularly those with an experience of family violence, to avoid homelessness. The Your Own Home project adopts a strength-based, empowerment service delivery model, embedding lawyers in frontline community agencies that assist women and their families. By holistically resolving legal issues pushing women and their children into homelessness, Your Own Home ensure women and their children remain safely housed or can access safe and secure housing, free from violence.
11. Since 2021, the Your Own Home project has holistically helped 124 women and their 132 children facing homelessness to resolve almost 500 distinct legal issues. Of these 124 women:

- 95% received government benefits or had no income;
- 90% experienced family violence, often directly connected to their experience of homelessness;
- 37% identified as living with a disability; and
- 18% identified as First Nations.

12. These submissions will draw on our directly experience working with children and young people facing homelessness.

13. Homelessness Law recognises the impact and substantial overrepresentation of Aboriginal and/or Torres Strait Islander children in the youth justice system. We have had the benefit of reading submissions made by others, including the Aboriginal and Torres Strait Islander Legal Service, and the various reports that address this issue. We support the recommendations made by other services, including community control organisations, to address the overrepresentation of First Nation children as a priority in any youth justice reform.

**Early intervention and prevention: providing appropriate, trauma-informed support to keep children out of the youth justice system**

14. Any reforms to the youth justice system should prioritise early intervention and prevention, with the aim of reducing contact or involvement with the youth justice system. Consideration should be directed towards programs or investments that address the underlying factors that often lead to child offending including homelessness, poverty and financial insecurity, substance misuse, mental health issues and the effects of trauma, including the effects of physical or sexual abuse.

15. As acknowledged in the Government’s Youth Justice Strategy 2019 – 2023, *Working Together, Changing the Story (Working Together)*, approaches that address the underlying experience of insecurity and trauma are effective in reducing crime, while also representing value for money. Specially, these approaches:

- strengthen individuals and communities;
- support families experiencing challenges, including housing and financial insecurity;
- address physical and health concerns, including mental illness, disability and substance abuse;
- respond to childhood delay and educational issues; and
- empower children and their families to engage effectively and productively in their community.

16. Approaches that seek to harshly punish child offenders without consideration of the underlying experience of trauma, are both expensive and ineffective.

17. Working Together outlines the Government strategy to implement recommendations made in the 2018 *Report on Youth Justice*, including the Four Pillars model, and provides examples of early intervention programs that reduce youth offending. Any further reforms should continue to prioritise effective, evidence-based programs that build strength and reliance, while addressing the underlying social and personal issues that increase interactions with the youth justice system.
18. Based off our experience working with children and young people facing homelessness, we further recommend any reforms:
- adopt trauma-informed, rights-based approaches to youth justice.
  - prioritise increased access to safe and secure housing.
  - increase access to early intervention, holistic legal and non-legal supports.

***Understanding the impact of trauma: child offenders' experience of violence, sexual assault, housing insecurity and poverty***

19. The majority of children that come into contact with the youth justice system have a history of disadvantage, adverse childhood experiences,<sup>1</sup> and trauma<sup>2</sup>. Many are themselves victims of crime<sup>3</sup>. Common experiences include:
- homelessness;
  - poverty and extreme financial insecurity;
  - emotional, physical, or sexual abuse;
  - emotional or physical neglect, often in a domestic or family setting;
  - untreated mental and physical health issues or unsupported disability issues;
  - diagnosed and suspected undiagnosed cases of foetal alcohol syndrome; and
  - exposure to or an experience of substance misuse.
20. The relationship between an experience of trauma and possible offending is complex and multifaceted. While it's overly simplistic to say that maltreatment or trauma causes offending, domestic and international research has established a

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<sup>1</sup> Queensland Government Statistician's Office, *Youth Offending* (Research brief, April 2021), 14.

<sup>2</sup> Save the Children, 'Putting young people first: A rights respecting approach to youth justice in Australia' (Report, April 2023), <https://www.savetheyoungpeople.org.au/getmedia/4befc9d7-c9de-4088-b591547714fc8673/Putting-young-people-first-A-rights-respecting-approach-to-youth-justice-in-Australia-April2023.pdf.aspx>, 54; Atkinson B 2018. Report on youth justice. Brisbane: Department of Child Safety, Youth and Women, <https://www.youthjustice.qld.gov.au/reform/youth-justice-strategy/atkinson-report-youth-justice>, 39; Walsh, Tamara, Beilby, Jane, Lim, Phylcia, and Cornwell, Lucy (2023). *Safety through support: building safer communities by supporting vulnerable children in Queensland's youth justice system*. Brisbane, QLD Australia: The University of Queensland.

<sup>3</sup> This is acknowledged in the Government's Youth Justice Strategy 2019 – 2023, *Working Together, Changing the Story*.

correlation between adverse childhood experiences, youth offending and recidivism.<sup>4</sup> Elements of this correlation include:

- adverse childhood experiences have a physical and emotional impact on children's development, increasing the likelihood a child will engage in challenging, aggress or offending behaviour;
- due to their personal circumstances, children in unsafe or unstable housing are more likely to interact with police, regardless of offending; and
- children with an adverse childhood experience can be distrustful of police and other adults in authority, impacting how they engage with these adults. This behaviour can be perceived by service providers and police as aggression or a reluctance to engage.

21. Research shows that an experience of neglect or violence can cause psychological and emotional strain for a young person leading to the use of violence or drug-related strategies to cope<sup>5</sup>. The physiology of the brain can be affected by trauma and prolonged stress resulting '*in difficulties with emotional regulation which may be expressed through 'anti-social' and aggressive behaviour*'.<sup>6</sup> Put simply, children with an experience of neglect or trauma are more like to present with challenging behaviour as a symptom of their trauma or unmet need.<sup>7</sup> Without appropriate support, children that have experienced trauma may be more likely to engage in behaviour that is criminalised, bringing them into contact with the youth justice system.
22. While most children will engage in some kind of illegal activity,<sup>8</sup> not all children come into contact with the youth justice systems. Children in unsafe or unstable housing are more likely to spend time in public spaces increasing the likelihood of an interaction with the police. Our child clients also report feeling targeted by police or other adults in authority due to how they look or the perception that they are 'trouble'. Some clients believe they are treated more harshly because of their circumstances compared to children from wealthier or more privileged backgrounds.
23. An experience of trauma has other lasting impacts. Children and young people with adverse childhood experiences can understandably be distrustful of adults in authority or systems that have 'failed' them,<sup>9</sup> including government agencies and the police. This distrust impacts how children and young people engage with

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<sup>4</sup> See for example the studies discussed in Queensland Government Statistician's Office, *Youth Offending* (Research brief, April 2021), 10.

<sup>5</sup> Cunneen, C, White, R and Richards, K 2015, *Juvenile justice: Youth and crime in Australia*, 5th edn, Oxford University Press, Melbourne cited in Queensland Government Statistician's Office, *Youth Offending* (Research brief, April 2021), 9.

<sup>6</sup> Walsh (n 2).

<sup>7</sup> Ibid.

<sup>8</sup> Ibid, 20.

<sup>9</sup> Ibid, 21.

people in a position of authority, with many children presenting as aggressive, reluctant or defensive. Inappropriate responses to this behaviour by adults in authority can escalate otherwise innocuous interactions. Conversely, appropriate and trauma-informed responses from adults in a position of authority can build trust and strength leading to positive interactions.

24. The experience of trauma and hardship described in the research is consistent with the experience of the children and young people assisted through Homelessness Law. Our clients report experiences of trauma that are often connected to a period of homelessness or housing instability. Most if not all young Homelessness Law clients will have at least one 'adverse childhood experience', with many clients enduring multiple, interrelated experiences of trauma. Many of our child clients report an experience with the youth justice system, either through a formal court process or through regular interactions with the police.
25. Some clients show the adverse impacts of their trauma through difficulties regulating their emotions. However, these clients often respond positively to strength-based, trauma-informed responses. Similarly, while many clients are initially distrustful, these same clients often respond positively to appropriate and consistent services that prioritises mutual trust and respect.
26. In Homelessness Law's experience of providing civil law assistance to children with an experience of poverty and homelessness, many of the 'challenging behaviours' they present with are both directly connected to and a symptom of their trauma. Appropriate, holistic and trauma-informed services can effectively address the underlying causes of trauma, building strength and empowering the child to positively engage with systems and their community. In Homelessness Law's experience, this approach can effectively address the understandable reluctance children with an experience of trauma have to engaging with support programs.

***Adopt trauma-informed, rights-based approach to youth justice***

27. Trauma-informed, rights-based approaches keep children out of the youth justice system and all approaches or reforms should centre these principles.
28. Trauma-informed, rights-based practices recognises the impact of trauma, including that a history of trauma increases the likelihood a child will have contact with the youth justice system. A rights-based approach to service delivery:
  - requires service providers (including police and Government representatives) to understand the physical and emotional impacts of trauma, including its impact on development;
  - emphasises safety, trustworthiness, choice, collaboration, and empowerment;



- acknowledges the clients experience, including that behaviour perceived as difficult or challenging may be a response to previous traumatic experience; and
  - adopts a strength-based approach that acknowledges individual strength and resilience, notwithstanding the enormity and effects of trauma.
29. Any approach to youth justice reform should explicitly emphasise young people's needs, strength and the child-friendly pursuit of positive behaviour and outcomes. Youth justice, including early intervention and diversionary services, should be child-friendly and child-appropriate, with a focus on holistic responses that reflect their 'life, experiences, perspectives, needs, and contexts with suitable complexity and sensitivity'.<sup>10</sup>
30. A trauma-informed, rights-based approach reduces offending and recidivism. Children that are safe, empowered to engage with their communities, and given opportunities to build a life for themselves are less likely to offend. As succinctly stated by Professor Tamara Walsh, *'if children are safe, and can see a pathway forward in their lives that does not involve crime, they will stop offending. Our interventions need to focus not on punishment, but on meeting these children's basic needs'*.<sup>11</sup> A trauma-informed, rights-based approach will achieve this end.

### ***Prioritise increased access to safe and secure housing***

31. Safe and secure housing is a necessary precursor to addressing the underlying factors that often lead to child offending.<sup>12</sup> Without affordable and appropriate housing options, children (and their families) lack the stability to genuinely engage with their community and/or support services in an effective way. Homelessness and housing insecurity are closely correlated with contact with the youth justice system, with children experience homelessness more likely than children in stable housing to have contact with law enforcement.
32. The inability to access stable and appropriate housing deprives children of an opportunity to engage in positive behaviours that decrease the likelihood of involvement with the youth justice system, including:
- getting appropriate sleep and/or nutrition;
  - engaging in health social connections; and

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<sup>10</sup> Stephen Case and Kevin Haines, Taking the risk out of youth justice, (2016), available online: [https://www.academia.edu/29581613/Taking\\_the\\_risk\\_out\\_of\\_youth\\_justice\\_Case\\_and\\_Haines\\_2016\\_do\\_cx?email\\_work\\_card=view-paper](https://www.academia.edu/29581613/Taking_the_risk_out_of_youth_justice_Case_and_Haines_2016_do_cx?email_work_card=view-paper)

<sup>11</sup> Walsh (n 2), 21.

<sup>12</sup> Australian Institute of Family Studies, 'Child maltreatment, homelessness and youth offending' (October 2017), <https://aifs.gov.au/resources/short-articles/child-maltreatment-homelessness-and-youth-offending>.



- participate in education and/or vocational training.<sup>13</sup>

Children experiencing housing insecurity or homelessness are more likely to experience trauma. These experiences of trauma (both prior to leaving home and a result of being homeless) have been shown to lead to poor self-regulation and coping skills, placing the young person at higher risk of offending behaviour.<sup>14</sup>

33. In our experience, children facing homelessness or living in unsafe housing necessarily enter a survival mode without the level of stability that is necessary to engage effectively with strength-based, education and empowerment services. Without this stability, any reform or early intervention investment is less likely to succeed.
34. Housing insecurity and homelessness can also increase general interactions children and young people have with the youth justice system. Children in unsafe or inappropriate housing are more likely to spend time in public spaces, more likely to become connected to the Child Safety System, and more likely to experience negative interactions with the police.
35. This is consistent with Homelessness Law's experience delivery integrated, holistic legal representation to children and young people with an experience of trauma. Best practice, trauma-informed programs require on-going, consistent engagement with vulnerable young people over an extended period.<sup>15</sup> Housing and financial insecurity creates an inherent barrier to engaging meaningfully with these services. In our experience, children and young people with housing stability are often willing and able to engage with effective, trauma-informed services. Anecdotally, when the barriers to engage are removed, services like Homelessness Law and the community agencies we partner with can have a significant, positive impact on the lives of children and young people at risk of offending.
36. Prioritising appropriate and accessible housing options will both reduce involvement with the youth justice system and provide the necessary stability for children (and their families) to engage effectively with services that seek to address the underlying causes of youth offending.

***Increase access to early intervention, holistic legal and non-legal supports***

37. Holistic legal and non-legal support to resolve issues connected to people's housing, money, and health issues keep children out of the youth justice system.

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<sup>13</sup> Australian Institute of Family Studies, 'Child maltreatment, homelessness and youth offending' (October 2017), <https://aifs.gov.au/resources/short-articles/child-maltreatment-homelessness-and-youth-offending>.

<sup>14</sup> Ibid.

<sup>15</sup> Justice Reform Initiative, Submission to the Inquiry into the Strengthening Community Safety Bill 2023, <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=167&id=4235>, 27.

Integrated, place-based legal services can resolve the ‘everyday’ issues faced by children and their families experiencing the underlying experiences of hardship that are known risk factors to future offending. Frontline holistic health, education, and social welfare services that operate outside the formal youth justice system, including place-based specialist civil law services, are key to any evidence-based, early intervention reforms.<sup>16</sup>

38. The Law Council of Australia’s Justice Project Report highlights the well-established connection between disadvantage and unresolved legal issues, particularly for at-risk young people.<sup>17</sup> The connection between an experience of trauma and legal issues is multidirectional: trauma and hardship can lead to legal issues, while legal issues can increase the likelihood someone will experience trauma and hardship. Health, legal, and financial issues also reinforce the disadvantages that can lead to youth offending. Community legal services, particularly outreach-based legal services, that address legal issues connected to a person’s experience of hardship are an effective, essential component to early intervention and prevention.
39. Working collaboratively with frontline health, youth and community services, Homelessness Law provides holistic, wrap-around services that resolve issues connected to a person’s experience of mistreatment and trauma. Adopting a strength-based, empowerment service delivery model, Homelessness Law’s work extends beyond just resolving legal issues: Homelessness Law lawyers work with individuals and their support teams to build trust and strength, equipping clients with the skills and confidence to engage effectively with their communities.
40. In 2023-2024, Homelessness Law provided 969 legal services, including 289 high intensity representations, to 470 new and returning clients. Of our clients:
  - 55% experienced domestic violence;
  - 49% identified as living with a disability;
  - 23% were under 26 years old;
  - 19% identify as First Nations.
41. Through this work, Homelessness Law:
  - resolved \$934,020.00 in consumer credit and debt disputes;
  - addressed \$327,380.00 in infringements and fines;
  - accessed \$326,395.00 in victim assist payments for victim-survivors of violent crimes; and
  - defended 11 unlawful evictions.

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<sup>16</sup> C Taylor, Review of the Youth Justice System in England and Wales, 2016 (UK Ministry of Justice) 3.

<sup>17</sup> Law Council of Australia, ‘Children and young people’ Justice Project Report (August 2018), <https://lawcouncil.au/files/web-pdf/Justice%20Project/Final%20Report/Young>

42. However, the positive impact of integrated legal and health services extends beyond the resolution of legal issues. Working collaboratively with other frontline workers, Homelessness Law clients are empowered to effectively engage effectively with Government and community systems, including the youth justice sector.
43. Any reforms to the youth justice sector should prioritise support for multidisciplinary, holistic approaches that including legal, health and community services.

### **Reducing contact with the youth justice system**

44. Reforms to the youth justice system must prioritise legislative and policy changes, coupled with a continued commitment to improved police practices, that minimise unnecessary or disproportionate contact children have with the youth justice system. Two ways to reduce contact with the youth justice system include:
  - decriminalised certain offences for children, particularly offences commonly connected to an experience of poverty or trauma; and
  - improve interactions between vulnerable children and the police.
45. Homelessness Law acknowledges the importance of diversionary responses to alleged child offending and supports the recommendations to improve these processes outlined in Chapter 4 of *Safety through support: building safer communities by supporting vulnerable children in Queensland's youth justice system*<sup>18</sup> (**Safety Through Support**).
46. Homelessness Law also supports the recommendation in Safety Through Support to consider decriminalising certain, survival-related offences for children. Youth Justice reforms should consider decriminalising for children:
  - transport related offences including fare evasion;
  - low level offensive behaviour offences including public nuisance, begging, urinating in public, and public intoxication;
  - low-level drug offences; and
  - property offences, particularly offences connected to an experience of poverty.
47. The majority of offences faced by young Homelessness Law clients fall into the above categories. It is uncommon for our clients to face more serious charges, including charges for violent or threatening behaviour. By criminalising the above

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<sup>18</sup> Walsh (n 2).

survival and poverty-related behaviours, children with an experience of poverty and trauma are more likely to be introduced to the youth justice system.

***Decriminalising fare evasion to provide fairer responses***

48. Homelessness Law interacts with many children and young people whose first engagement with the criminal justice system is a result of fare evasion offences. These children and young people often report poverty and necessity as the reason they used public transport without paying the fare.
49. Children and young people tell us that they receive fines for using public transport on their way to and from school or on their way to work, medical appointments and social work appointments where they were unable to top up their Go Cards due to poverty or lack of support from adults in their lives. These fines are then later enforced against them when they become adults, further entrenching their circumstances of hardship and poverty.
50. Unfortunately, many of the children and young people we work with who have received fare evasion fines or being intercepted by TransLink officers report to us that these interactions are negative, and they are often treated in a way that is demeaning or disrespectful. Homelessness Law's clients have told us of incidents where they have attempted to explain to officers the reason for travelling without the correct fare, including when on their way to school, work or to medical appointments, and been told to "find the money" or that it is "not our [the officer's] problem". These responses entrench the distrust many of our clients have in people in position of authority.
51. Lastly, when requesting information from TransLink about fines issued against children and young people for fare evasion, we have often received a response from the Fines Investigation Unit stating that a child or young person has been "deemed a repeat offender" and that they will not consider the person's hardship when determining whether the fines are to be enforced. Given the compounding hardship of children and young people who are unable to afford public transport fares, this response from the Fines Investigation Unit is both unnecessary and inappropriate.
52. Being able to attend school, work and appointments and other social activities ensure children and young people are engaged and supported in their communities. Being able to use public transport without being penalised due to poverty ensures that children and young people can leave unsafe situations and participate in their communities thus reducing their engagement in the youth justice system.

### ***Improving interactions between police and young people***

53. Many children experiencing homelessness will first come into contact with the youth justice system when approached by police in a public space or when reporting as a victim of crime.
54. The importance of the initial interaction with police is hard to overstate. If the interaction is positive, respectful and fair, it can have a significant positive impact on the child. Done well, these interactions are an opportunity to build rapport, establish mutual trust and respect, and provide necessary support to a young person experiencing hardship. Warnings, counselling and referrals are an important part of a holistic, early-intervention framework. However, these interactions and the opportunity to have a positive impact turns on more than just avoiding a charge. Police that treat children with respect, consistency and honesty help to address the inherent distrust in authority often felt by children with an experience of trauma.
55. Positive experiences with police can lead to good outcomes for vulnerable members of the community, including:
  - positive interactions that lead to referrals to community and youth agencies, connecting young people to necessary supports; and
  - initial engagements that build trust, encouraging young victim-survivors to engage with police following an experience of violence.
56. Unfortunately, most of the young clients we assist do not report positive interactions with police. While some interactions can be classified as neutral, others are better described as negative interactions. Through our casework, young clients have shared stories of:
  - feeling targeted or discriminated against;
  - being treated disrespectfully, not being believed, and/or being dismissed;
  - being turned away from police stations when attempting to report violence or unsafe situations at home;
  - being unfairly questioned about their reasons for using public spaces, such as parks, playgrounds and attending shopping centres;
  - not being informed by police officers of appropriate social support services when presenting after an experience of violence, or when experiencing homelessness or other disadvantage; and
  - for children in out of home care, being criminalised for behaviour that would otherwise constitute a parenting matter.
57. Homelessness Law acknowledges that the experience reported by our young clients may not be fully representative of the experience of all young people that engage with police. Some of the frontline workers we collaborate with speak positively about their relationship with specific police officers or the police

generally. However, that many of children and young people we work with speak negatively of their interaction with police suggests a need for improved interactions.

Thank you for considering this feedback.

Yours faithfully



Stephen Grace

**Director**

Community & Health Justice Partnerships | Homelessness Law and Multicultural Law