



CRITICAL RACE THEORY





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Focuses on intersection between race and law

Grew from scholars of color in CLS movement



CRITICAL RACE THEORY

Law is not neutral, objective ...

... instead legitimizes power in U.S.



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Emphasize race and racism as central pillars of power in U.S.

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In 1970s, CRT scholars recognized that **lawyers** for black plaintiffs in desegregation cases **pulled in two directions**:

- **Integration** (society, CRM orgs, donors)
- Educational **opportunities**, resources, access to jobs (clients)



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Cases on integration

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CRT scholars argued that *Brown* decision didn't come because of **success of legal or moral argument**

...but because integration served interests of whites

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Criticized the legal formalism school and work of civil rights movement

- The value of integration, and that moral suasion and argument would bring equality
- Permanence of racism, role of race, as American as apple pie and stealing land
- CRM leaders were too optimistic about overcoming racism

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Criticized mainstream view that racism was an aberration

- Racism is **normal condition** of US legal and social systems, veiled in “equality” and colorblind language
- Racism so **deeply embedded** that there are little reasonable prospects from removing it

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Progress usually **supported** to the extent that it **serves white interests**

- Segregation may no longer served white interests

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Sees **race-neutral** policy/language (e.g. “merit”) as biased against racial-ethnic minorities

Supportive of **race-conscious** policymaking to combat inherent racism in institutions

- Affirmative action

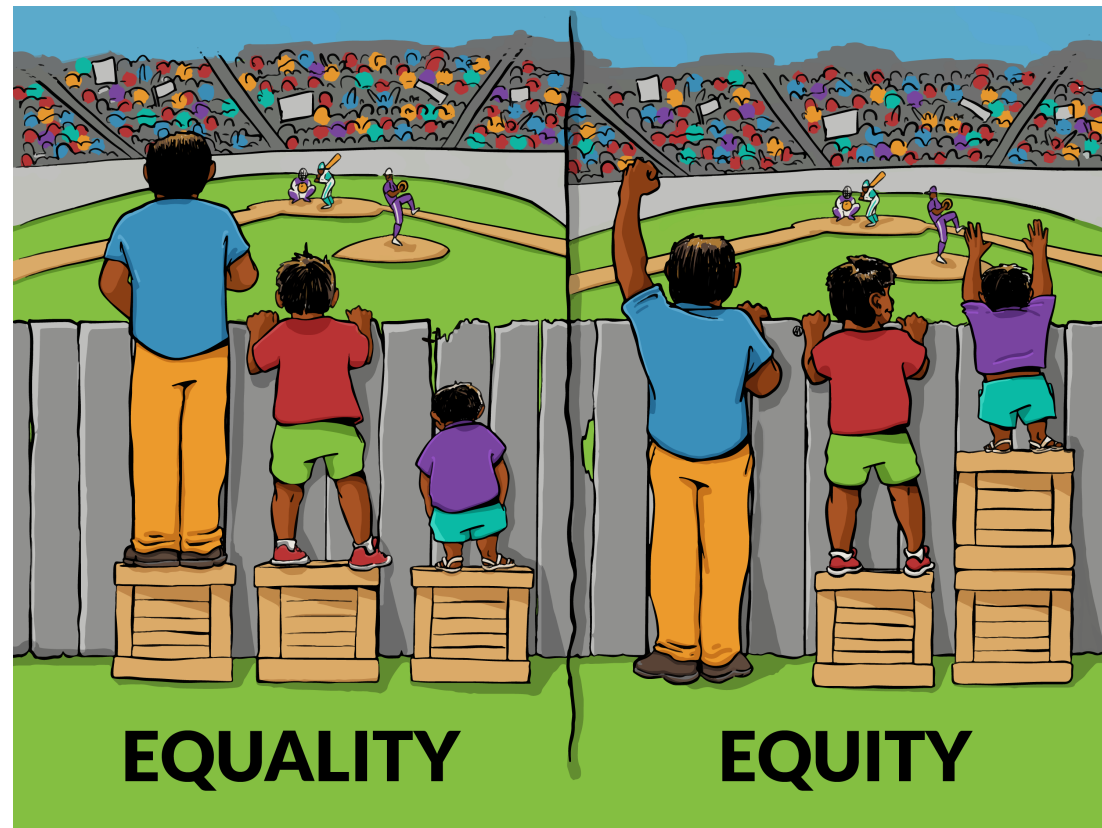
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Race-conscious policymaking needed to offset biased norms, get closer to **equity**

- Reparations
 - Monetary compensation to help **repair** systemic bias against POC given legacies of bias (slavery, segregation, etc)

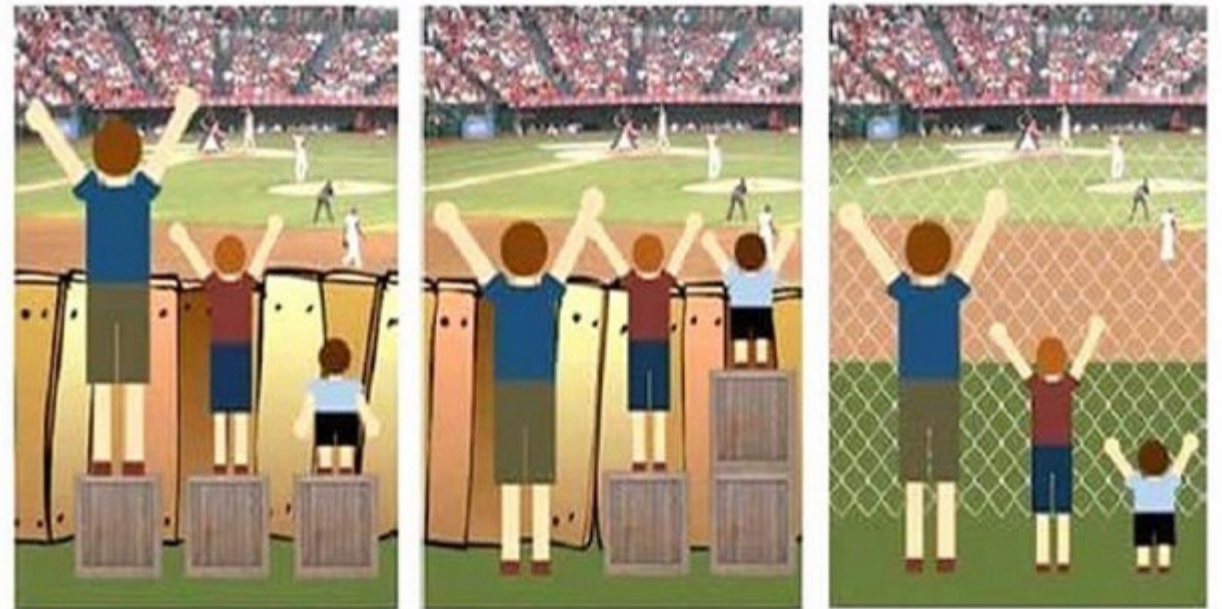
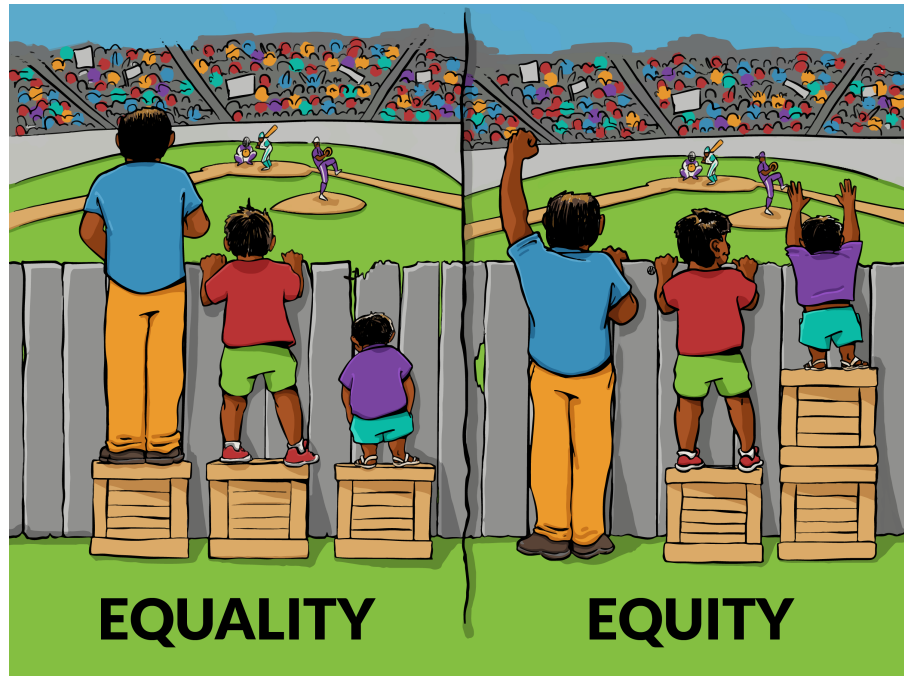
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Race-conscious policymaking needed to offset biased norms, get closer to **equity**



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Equity? Justice?



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Use of the “victim’s perspective” through narrative

- To determine if **discrimination** has occurred, don’t focus on **intention** or **individual action**, but rather on the **effect** it has
- Discrimination may be **unintentional**, even when it has occurred, so **effect** is more appropriate focus
- Storytelling, **narrative**, is appropriate for gleaning effect