

Contents

Racial Discrimination	1
<i>Tanya Katerí Hernández</i>	
Abstract	1
Keywords	1
Part 1: Comparative Law's Resistance to Race	1
<i>National Exceptionalism and the Denial of Racism</i>	2
<i>Race as a Comparative Law Category of Study—Critical Race Theory</i>	8
<i>The Voices of the Subaltern</i>	8
<i>Cultural Immersion</i>	9
<i>The Efficacy of Equality Law</i>	10
<i>Post-Race Assumptions</i>	11
<i>General Equality Principles</i>	12
<i>Considerations for Comparatists Working with Race</i>	14
Part 2: Procedural Law Comparisons as to Equality Claims	15
<i>Alternative Dispute Resolution</i>	16
<i>Burdens of Proof</i>	19
Part 3: Definitions of Discrimination, Equality and Race Discrimination	23
<i>The Concept of Equality</i>	24
<i>Dignity as a Touchstone of Equality</i>	28
<i>Indirect Discrimination</i>	29
<i>Statutory Exceptions to Discrimination</i>	34
Part 4: Criminal v. Civil Law	34
<i>Constitutional Equality Protections</i>	35
<i>Criminal Law Provisions</i>	35
<i>Judges and Enforcement</i>	39
<i>Civil Law Frameworks</i>	40
Part 5: Multiple Discrimination/Intersectionality	44
<i>Sex-plus Claims</i>	45
<i>Intersectionality Theory</i>	46
Part 6: Affirmative/Positive Action Remedies for Race Discrimination	48
<i>Affirmative Action</i>	49
<i>Positive Discrimination</i>	50
<i>Affirmative Action in Brazil</i>	53
Part 7: Conclusion	57
References	58