

# Equity

## Law

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**Equity**, in Anglo-American law, the custom of courts outside the [common law](#) or coded law. Equity provided remedies in situations in which precedent or statutory law might not apply or be equitable.

By the end of the 13th century, the [English](#) king's common-law courts had largely limited the relief available in civil cases to the payment of damages and to the recovery of the possession of property. They had refused to extend and diversify their types of relief to meet the needs of new and more complex situations. Disappointed litigants had turned to the king with petitions for [justice](#) because the courts had afforded either no remedy or one that was ineffective. These petitions were referred to the [lord chancellor](#), who was the king's principal minister. By the early years of the 14th century the petitions were going directly to the chancellor, and by the middle of that century the [Court of Chancery](#) was recognized as a new and distinct court.

These developments resulted in the fashioning by the chancellor of new equitable remedies. The following are representative: specific performance of [contract](#), whereby the victim of a breach might compel the exact performance promised if damages would be a poor substitute, as in contracts to sell land and unique chattels; the enforcement of trusts, where one who had been given title to property in order to manage it for another was required to fulfill his fiduciary obligations; [injunction](#) to prevent threatened or continuing wrong, such as destruction of the plaintiff's invaluable shade trees; restitution of benefits wrongfully acquired, by compulsory surrender of the ill-gotten gains, in order to prevent unjust enrichment; the correction and cancellation of written instruments for mistake and misrepresentation; and the equity of redemption, which enabled a defaulting mortgagor to reclaim his land if he tendered principal and interest within a reasonable time after forfeiture and before foreclosure. Such new equitable remedies contrasted with the narrow rigidity of common-law remedies.

The full growth of equitable remedies was retarded, however, by political pressures from judges and [Parliament](#) not to trespass upon the province of the separate law courts. As a result, the chancellor was forced to agree not to hear a case unless there was no remedy at law (e.g., trust) or the remedy at law was inadequate or the threatened injury would be irreparable.

Another restrictive influence was the development of [precedent](#) in the [Chancery](#). For generations the chancellors had not considered themselves bound by precedents or rules of law; emphasis had been put mainly upon the discretionary treatment of needs of the individual case. From the mid-16th century on, however, the chancellors were usually common lawyers who began shaping equity into an established set of rules. By the middle of the 17th century the equity administered by the [Court of Chancery](#) had become a recognized part of the law of the land: equity gave justice according to law rather than [executive](#) justice. Finally, by the [Judicature Act of 1873](#), the competitive, separate

law and equity courts, with their attendant delays, expense, and injustices, were abolished and their work combined in a single, departmentalized [Supreme Court of Judicature](#).

Courts of equity also developed early in the United States; but in the late 19th and early 20th centuries most U.S. states similarly abolished the distinctions between actions at law and suits in equity and fused their administration in one procedural system, with only one civil action, in the same court.

Modern equity has been much assisted by legislation. The old notion that equity protects only property rights has been virtually abandoned. Now an employee, for example, can be barred from competing with his employer after discharge or resignation. Statutes have facilitated specific performance of cooperative-marketing contracts and agreements to arbitrate future commercial or labour disputes. An injunction may now be obtained—where other factors of appropriateness permit—against threatened injury to interests of personality, such as civil liberties, privacy, reputation, and domestic relations. Enabling legislation has immensely increased the resort to injunction by government agencies to prevent violation of regulatory statutes, notwithstanding criminal penalties.