

# Equity

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## 2. Frame

If you opened an explanatory dictionary and tried to look up word "equity", you would find a definition like "when everyone is treated fairly and equally". Another way of finding meaning of "equity" is to look for some synonym. Then you can find word "fairness".

But why are we talking about fairness as a source of Common law? Because there is one more way of understanding word "equity" - as a shortcut of Equity Law.

## 3. - 7. Frame

By the 14th century many people in England were dissatisfied with the inflexibility of common law. Lord Chancellor, king's chief legal administrator, and his court wanted to modify existing system or just to create another system which would be able to solve disputes which can't be solved by common law courts. So the Court of Chancery was established.

This new equity system recognized rights that were not enforced as a common law, but which were considered equitable or just. E.g. To enforce someone to fulfill a contract rather than simply pay damages for breaking it.

If an equitable principle would bring different result from a common law, then the general rule was that equity should prevail.

## 8. Frame

One problem resulting from the existence of two systems of justice was that person had to begin actions in different courts to get a satisfactory solution. E.g. in breach of contract claim, person had to seek specific performance (it means to force the other party to do something) in the court of equity and monetary compensation for his loss in the common law court.

## 9. Frame

By the early 16th century a fairly jurisdiction was exercised by the court of chancery in rivalry with the common law.

In the 17th century it was definitely established that the court of chancery would decide any claim that the courts of common law disputed.

The coexistence of two systems of justice had so procedural difficulties that a Judicature Act was adopted to connect and unify law and equity. The old courts of common law and the Court of Chancery were abolished and in their place was established a single Supreme Court of Judicature.

## 10. Frame

How does it work now?

The purpose of equity is to achieve justice and fairness. The courts have developed a set of rules called MAXIMS. Maxims are different from the rules of common law, so the distinction between common law and equity continues.

- ⦿ Equity will not suffer a wrong to be without remedy. – Equity acts only when there is no remedy in the common law.
- ⦿ Equity follows the law. – Equity recognizes legal rights and doesn't take the place of the common law.
- ⦿ He who comes to equity must come with clean hands. –Who behaved unfairly in the dispute will be denied an equitable remedy.

Zdroj obrázku:

[http://www.google.cz/imgres?imgurl=http://www.nekompromisnipravnik.cz/ladyjustice.gif&imgrefurl=http://www.nekompromisnipravnik.cz/&usg=\\_\\_C4bNAGnu-xjJOTCXpWUjgE8mXHE=&h=1104&w=640&sz=30&hl=cs&start=0&zoom=1&tbnid=24oE0SHFh794IM:&tbnh=197&tbnw=142&prev=/images%3Fq%3Dladyjustice%26hl%3Dcs%26sa%3DX%26gbv%3D2%26biw%3D1280%26bih%3D923%26tbs%3Disch:1,isz:m&itbs=1&iact=rc&dur=575&ei=eTawTN9O0pXiBtftjcgG&oei=eTawTN9O0pXiBtftjcgG&esq=1&page=1&ndsp=25&ved=1t:429,r:0,s:0&tx=138&ty=98](http://www.google.cz/imgres?imgurl=http://www.nekompromisnipravnik.cz/ladyjustice.gif&imgrefurl=http://www.nekompromisnipravnik.cz/&usg=__C4bNAGnu-xjJOTCXpWUjgE8mXHE=&h=1104&w=640&sz=30&hl=cs&start=0&zoom=1&tbnid=24oE0SHFh794IM:&tbnh=197&tbnw=142&prev=/images%3Fq%3Dladyjustice%26hl%3Dcs%26sa%3DX%26gbv%3D2%26biw%3D1280%26bih%3D923%26tbs%3Disch:1,isz:m&itbs=1&iact=rc&dur=575&ei=eTawTN9O0pXiBtftjcgG&oei=eTawTN9O0pXiBtftjcgG&esq=1&page=1&ndsp=25&ved=1t:429,r:0,s:0&tx=138&ty=98)