

Historical development of english common law assignment

[Law](#)



New forms of legal action established by the crown functioned through a system of writs, or royal orders, each of which provided a specific remedy for a specific wrong. The system of writs became so highly formalized that the laws the courts could apply based on this system often were too rigid to adequately achieve justice. In these cases, a further appeal to justice would have to be made directly to the king. This difficulty gave birth to a new kind of court, the court of equity, also known as the court of Chancery because it was the court of the king's chancellor.

Courts of equity were authorized to apply principles of equity based on many sources (such as Roman law and natural law) rather than to apply only the common law, to achieve a just outcome. Courts of law and courts of equity thus functioned separately until the writs system was abolished in the mid-nineteenth century. Even today, however, some U. S. States maintain separate courts of equity. Likewise, certain kinds of writs, such as warrants and subpoenas, still exist in the modern practice of common law. An example is the writ of habeas corpus, which protects the individual from unlawful detention.

Originally an order from the king obtained by a prisoner or on his behalf, a writ of habeas corpus summoned the prisoner to court to determine whether he was being detained under lawful authority. Habeas corpus developed during the same period that produced the 1215 Magna Carta, or Great Charter, which declared certain individual liberties, one of the most famous being that a freeman could not be imprisoned or punished without the judgment of his peers under the law of the land -?? thus establishing the

right to a jury trial. In the Middle Ages, common law in England coexisted, as civil law did in other countries, with other systems of law.

Church courts applied canon law, urban and rural courts applied local customary law, Chancery and maritime courts applied Roman law. Only in the seventeenth century did common law triumph over the other laws, when Parliament established a permanent check on the power of the English king and claimed the right to define the common law and declare other laws subsidiary to it. This evolution of a national legal culture in England was contemporaneous with the development of national legal systems in civil law countries during the early modern period.

But where legal humanists and Enlightenment scholars on the continent looked to shared civil law tradition as well as national legislation and custom, English jurists of this era took perhaps mixed with new inspired by the contemporary European movement toward codification, resulted in the first systematic, analytic treatise on English common law: William Blackstone (1723-1780) Commentaries on the Laws of England. In American law, Blackstone work now functions as the definitive source for common law precedents prior to the existence of the United States.