

Comparative Law Report: Legal jurisdiction of the UK compared to USA

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Summary:

This report initially gives a brief overview of the two different legal systems in the countries the United Kingdom and the United States of America. It then compares the legal systems of the USA and the UK, it does this by comparing the admissibility of evidence across the two legal systems by focusing on the area of technology, information and its standards. It concludes on the notion of the lack of standards in technological information and technology in the USA when compared to the UK and the aspects of admissibility of evidence in the USA steers more towards competent types of evidence where the UK seems to steer more towards weighted evidence along with its standards therein.

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1 - Introduction

The USA legal system can be defined as a devolution of the UK legal system, from the foundations of English common law. This report is a comparison of the UK and USA legal system and is aiming to find any distinct similarities between the two, by looking at the aspects of evidence admissibility across these two legal systems specifically in relation to technology and evidence and how they relate and do not relate to each other.

2 - Overview of legal systems

2.1 - A brief overview of the UK Legal system

The UK legal system has some laws apply to all countries contained within it and some to only particular countries. UK law is made up of four sources which consist of legislation, common law, European Union law and the European convention on human rights. The main legislature in the UK is the houses of parliament situated in London, where acts of parliament create a new law or make changes an existing law.

2.2 - A brief overview of the USA Legal system

The USA legal system applies to the entirety of the country with the constitution as one of the most important sources of law, it is made up of many other sources, as well as each state being able to set individual laws therein. The main sources of law in the USA can be defined as being constitutional law, statutory law, administrative law, common law and treaties. Most USA law consists of state law because of the derived aspects of English common law from when it was a British Colony.

3 - Evidence admissibility

3.1 - Evidence admissibility in the UK

Admissibility of evidence in the UK means a form of evidence that is reliable and relevant, without it being harmful to others. Hearsay evidence however may be heard in a courtroom as a form of written statement, it will be dismissed as evidence unless it is from an expert in such relevant area. Evidence can take on many forms, whether relevant to a person, digital, written, physical etc... although not specifically and categorically specified in the UK, this makes for more admissible evidence when compared to USA court of law as it allows for more effective litigation and therefore a fairer trial in terms of how such evidence is utilised throughout the case. The weight of such evidence would determine the outcome of a case, in regards to electronic information this can get quite complex, there is a standard set in the UK which indicates that (BSI Group, 2014, p4) "this document outlines a set of requirements and guidance on how such electronic information, inclusive of storage and transfer of such information, this is so such information becomes more legible where presented and disputed."

3.2 - Evidence admissibility in the USA

Admissibility of evidence in the USA means a form of evidence that is competent, material and relevant. The USA categorise evidence into four types:

1. Demonstrative, a reenactment of what happened in a certain time and place.
2. Documentary, a form of document whether or digital or physical.
3. Real, these are physical things such as a knife etc...
4. Testimonial, a witness testimony.

They also categorise the evidence relevant to the law in terms of circumstantial, corroboration, hearsay and the exclusionary rule which is a rule which obliterates the evidence if it was obtained in a way that violates a defendant's constitutional rights. Where the UK will take into account the weighting of evidence USA courts take into account the competency therefore the reliability of such evidence more, however they do tend to steer more towards weighting on occasion, the problem of which I believe compared to the UK, specifically technology they do not seem to have any type of standards in terms of information or anything similar, this could make relying on weighting of evidence rather than competency problematic in comparison.

4 - Conclusion

Initially I believed the USA legal system would be very similar to the UK system as it has similar foundations in common law when compared to the UK system, however the similarities seem to stop here, when the USA declared independence from the UK the way the country developed from here became very different to the UK, especially in regards to the differences in laws, standards and such in the area of technology. One of the key differences I noticed throughout was that the USA rely on the constitution where the UK does not really have anything similar, we seem to rely on law in terms of human rights and such more so in EU law rather than UK law, where the only other similar type of inter-state type law in the USA is the fact there country is made up of almost independent states therefore state law.

Overall the way in which they approach and deal with cases and the evidence therein, is completely different to the UK and I believe that it creates less of a fair trial where not all avenues of evidence and accountability are being explored throughout a trial, in respect of competent evidence in the USA being used over weighted evidence in the UK, it seems that the USA have there evidence more open to interpretation whilst trying to establish facts and the UK legal system utilises facts in a more adept way as evidence.

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