

2012

**Dictator or Dialogue? The relationship between
the Supreme Court of the United Kingdom
and the European Court of Human Rights**

The Rt Hon the Lord Phillips of Worth Matravers KG PC

Introduction

Lord Phillips is the first President of the Supreme Court of the United Kingdom, an office to which he was appointed in 2009. Before that time he was the Senior Law Lord and before that the Lord Chief Justice of England and Wales.

The subject matter of the oration touches on a topic of some potential controversy in Australia. It is the question of human rights law. Proponents of, and detractors from, the benefits of legally enforceable human rights principles will agree alike that the United Kingdom's experiences since the *Human Rights Act* was passed in 1999 represent a substantial body of material from which inferences and conclusions may be drawn.

The United Kingdom's journey into human rights jurisprudence has come in three steps. The first was its ratification in 1951 of the Convention for the Protection of Human Rights and Fundamental Freedoms, more commonly known as the European Convention on Human Rights. It is often not clearly understood in Australia that the signatories to that Convention do not correspond with the membership of the European Union; nor that its principal judicial organ, the European Court of Human Rights, is quite distinct from that of the European Union, the European Court of Justice. The European Convention on Human Rights is an instrument of the Council of Europe, a much larger body than the European Union. The European Union has 27 members, whereas the Council of Europe has 47 members, including former Soviet and Yugoslav states. The European Convention on Human Rights protects the rights of people on the west coast of Ireland, the easternmost tip of Russia and most places in between.

At the time of the entry into force of the Convention in 1953, the European Court of Human Rights had not yet been convened and the treaty establishing the European Coal and Steel Community – which would become, in time, the present

This is a preview. Not all pages are shown.