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Ms Anita Coles
Committee Secretary
Parliamentary Joint Committee on Human Rights
Parliament House, Canberra ACT 2600

By email: Human.rights@aph.gov.au

Dear Anita

I have reviewed the transcript of my appearance on 25 August 2023 and have made some minor corrections that I have marked up using the ‘comment’ function. Please let me know if you are unable to see the comments or have any other queries in relation to them.

Following the hearing, Senator Thorpe has asked that the following question be put to me:

Australia has been called out by the UN human rights committee for its “chronic non-compliance” with the committee’s recommendations. The committee said it was “unacceptable” for Australia to “routinely reject” the committee’s views, or “self-judge” international human rights treaties, telling Australia it could not “pick and choose” which laws it sought to follow and which rights it wanted to uphold. How do we best ensure real compliance without relying on good faith or interpretation of the government of the day of their obligations?

My response to the Senator’s question is as follows:

The best way of ensuring real compliance is enforcement. When an international treaty is incorporated into domestic law through the passage of an Act of Parliament it allows for a strong form of enforcement through the national system of domestic courts. Under Australian law, the ratification of an international treaty does not have the effect of incorporating the treaty into domestic law. It does not make the rights and duties under the treaty enforceable through the Australian courts. Instead reliance has to be placed on making complaints to UN treaty bodies such as the Human Rights Committee and the decisions of such bodies are not binding. Enacting a federal *Human Rights Act* with a standalone cause of action, as recommended by the Australian Human Rights Commission, would render the rights and obligations under that Act enforceable in the Australian courts.

Please do not hesitate to contact me if I can be of any further assistance.

Yours sincerely,

Pamela Tate