

# Women in Prison: Australia

Analysis from the National Preventive Mechanism

| September 2024



# Australia



The Australian National Preventive Mechanism (NPM) acknowledges the Aboriginal and Torres Strait Islander peoples throughout Australia and the Traditional Custodians of the lands across which they conduct their business. The Australian NPM pays its respects to the Custodians of the lands on which they work as well as their ancestors and Elders, past and present. The Australian NPM is committed to honouring Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to the land, waters, and seas, and their rich contribution to society. **Aboriginal and Torres Strait Islander people should be aware that this report contains names of deceased persons.** The Australian NPM recognises and acknowledges that there are different terminology preferences among Aboriginal and Torres Strait Islander peoples across Australia. However, for consistency, this report uses the term 'Aboriginal and Torres Strait Islander peoples'. The report has no intention to disrespect to the Country's Traditional Custodians.

## UNCAT Ratification

8 August 1989

## OPCAT Ratification

21 December 2017

### National Preventive Mechanism (NPM)

Australian National Preventive Mechanism, currently composed of individual NPM members:

[ACT Human Rights Commission](#)

[ACT Office of the Inspector of Correctional Services](#)

[ACT Ombudsman](#)

[Commonwealth NPM](#)

[NT Community Visitor Program](#)

[NT Office of the Children's Commissioner](#)

[NT Ombudsman](#)

[SA Official Visitor Scheme](#)

[SA Training Centre Visitor](#)

[Tasmanian National Preventive Mechanism](#)

[WA Office of the Inspector of Custodial Services](#)

[WA Ombudsman](#)

## NPM legal framework

No overarching national legislation establishing the Australian NPM. Individual NPM members:

- The Commonwealth, *Ombudsman Regulations 2017*
- Tasmania, *OPCAT Implementation Act 2021*
- The Australian Capital Territory, *Monitoring of Places of Detention Legislation Amendment Act 2024*, passed parliament on 28 August 2024 but not yet commenced
- The Northern Territory, *Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Amendment Act 2022*, passed parliament

## NPM operationalisation

Since 2022

on 31 October 2022 but not yet commenced.

Some other bodies established by legislation in other jurisdictions possess many of the characteristics of an NPM.

**NPM structure**

Multi-body NPM composed of individual NPM members nominated by Australia’s national, state and territory governments

## I. Facts and Figures

Prison population	Women in prison - Characteristics	Prisons for women
Total prison population <b>41,929</b>	Pregnant women <b>114</b>	Total number of women’s prisons <b>41</b>
Women in prison (total) <b>3,168   7.5%</b>	Women giving birth in custody <b>25</b>	Women-only prisons <b>19</b>
Women in pre-trial detention <b>1,391</b>	Children living with their mothers in prison <b>69</b>	Mixed prisons with special unit for women <b>22</b>
Sentenced women <b>1,778</b>		
Aboriginal and Torres Strait Islander women (indigenous women) <b>1,309</b>		
<small>Source: <i>Prisoners in Australia, 2023</i>   Australian Bureau of Statistics, June 2023</small>	<small>Source: <i>Australian Institute of Health and Welfare, 2020</i></small>	<small>Source: <i>Prisoners in Australia, 2023</i>   Australian Bureau of Statistics, June 2023</small>

## II. Recommendations

### Body searches

- + All state and territory governments should end the practice of routine strip searches of women in prison and institute alternative ways to conduct searches that are less restrictive, including through the use of body scanner technology.

### LGBTIQ+ women

- + All jurisdictions should make public their policies on the management and placement of trans, intersex, and gender diverse people in prison to increase transparency and promote opportunities for discussion in and with the community.

### Alternatives to detention

- + All jurisdictions should conduct research into, and implement, gender-responsive diversion programs, and suitable pre-trial detention alternatives where appropriate.

## III. Detention Issues

### Body searches

The use of routine strip searches<sup>1</sup> in women's prisons has raised significant concerns regarding privacy, dignity, traumatisation, and the potential for abuse. The majority of women in prison have [experiences](#) of victimisation and trauma, including childhood sexual abuse, intimate partner, family and non-intimate violence, and violence from carers, making the practice of [strip searching particularly harmful](#).

There is widespread concern about the inefficacy of strip searches in detecting contraband entering prisons. The impact on a person being searched is disproportionate to the utility of a search. The Queensland Human Rights Commission ([QHRC](#)) found that strip searches were 'successful' in detecting contraband only 0.01 to 0.015% of the time, and the [Western Australia Office of the Inspector of Custodial Services](#) identified that only 1 in every 1500 strip searches yielded a contraband find. Likewise, [Tasmanian Prison Services](#) conducted 841 strip searches of women in a 7 month period, with only 3 items found.

According to the Australian Human Rights Commission ([AHRC](#)), current practices often involve invasive searches that can be traumatising for women, in turn hampering progress towards rehabilitation. It is also [reported](#) that women may elect not to engage in contact visits to avoid undergoing a strip search due to their traumatic nature – compounding their isolation from family and community. The routine strip searching of women is considered incompatible with rule 52.1 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which states that “[i]ntrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary”.

Routine strip searches are still carried out across the country. Uniformly, touching the detained person during the search is not permitted, however all states and territories have provisions allowing for the use of force to affect a strip search in instances of non-compliance.

Depending on the jurisdiction, strip searches typically occur at: reception to or discharge from a facility, movement between facilities, exposure to a non-sterile area, and before and after contact visits. Strip searches may also occur at other times. For example, in the Northern Territory strip searches are undertaken when people enter periods of separate confinement. Often these people can be subjected to multiple strip searches during their period of confinement, despite not having left their cell.

[Additional and targeted strip searches](#) may occur when a suspicion is held by an officer that a detained person is in possession of contraband. According to policy in most jurisdictions, targeted strip searches should be used as a last resort measure when other forms of search are considered insufficient.

Most jurisdictions have detailed legislation which outlines record-keeping relating to strip searches,

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<sup>1</sup> Searches in which the detainee must undress and is subject to a visual inspection, without physical contact.

including details of the officers conducting the search. All jurisdictions state that searches must be carried out by at least two officers/nominees of the prison Governor and must be of the same gender as the individual being searched. There are exceptions to this practice in the case of an emergency or staff availability.

There is consistency in legislation, or internal policies, across the states and territories that strip searches must be carried out in such a way as to minimise the impact on the [dignity](#) of the individual. Where gaps in legislation exist, internal policies are responsible for dictating practices and can be subject to interpretation.

In [Tasmania](#), there have been reports of the overuse of strip searches, which is particularly concerning considering the significant impact on detained people for the extraordinarily few ‘successful’ searches. Alternative search methods must be employed, such as whole-body scanning, x-ray, and wand searches to minimise the need for invasive searches, as recommended by the [Western Australia Office of the Inspector of Custodial Services](#), the [Inspector of Custodial Services of New South Wales](#) (ICSNSW); QHRC, and other bodies.

Additionally, staff training programs should provide instruction on working with young girls and women, and emphasise staff conducting searches with a trauma informed focus, promoting sensitivity, respect, and dignity, as highlighted by the [AHRC](#).

### Case Study: Use of Force to conduct a strip search

[ACT Office of the Inspector of Correctional Services, a member of the ACT NPM](#)

In January 2021, an Aboriginal woman remanded in custody at the Alexander Maconochie Centre (AMC) was subjected to a planned use of force for the purpose of carrying out a strip search in the prison’s Crisis Support Unit (CSU). This incident became the subject of a Critical Incident Review by the ACT Office of the Inspector of Correctional Services (OICS) after the detained woman made a complaint about her treatment, and the Minister for Corrections referred the matter to OICS. The woman became distressed after receiving news that she would not be able to attend her grandmother’s funeral and participate in Sorry Business<sup>2</sup> with her family and community. She was subsequently identified as at-risk and transferred to the CSU. Prior to her being transferred to the CSU, a Corrections Officer saw her touching her crotch area and was concerned she may have been concealing a sharp object that she might use to hurt herself. Due to the woman refusing to comply with a strip search upon admission to the CSU, a decision was made to carry out a planned use of force with the intent of strip searching her.

The use of force involved four custodial staff in full Tactical Personal Protective Equipment (TPPE) and a number of other staff members, including males, in the vicinity. After a prolonged struggle, the woman agreed to comply with the strip search, which was carried out in a bathroom with two female officers. The CSU at the AMC accommodates both men and women and, at the time of the incident, there were men in the unit who could hear what was taking place and were shouting out comments to the woman involved.

The woman’s complaint about this incident described this as a highly traumatic experience for her. She had several additional vulnerabilities, which put her at increased risk in a use-of-force situation, and she was also the recent victim of a sexual assault and was menstruating at the time of the incident.

*“At this time, I was menstruating heavily due to all the blood thinning medication I take on a daily basis. Here I ask you to remember that I am a rape victim. So you can only imagine the horror, the screams, the degrading feeling, the absolute fear and shame [!] was*

<sup>2</sup> Sorry Business is “a period of cultural practices that take place after someone’s death”. See: [Death and Sorry Business | Common Ground](#)

*experiencing.*”, an excerpt from her letter outlining the allegations.

The review by OICS made nine recommendations to the ACT Government to improve policy, procedures and practices around uses of force and strip searching, in particular, ending the practice of mandatory strip searching upon entry to the CSU. OICS also recommended that “procurement of body scanner technology to provide options for less restrictive ways than strip searching to search detainees on entry to the Crisis Support Unit” be expedited. This report also raised concerns about ACT Corrective Services’ compliance with human rights considerations under the Human Rights Act 2004 (ACT), which requires human rights to be considered in all decision-making by a public authority. The ACT Government agreed to all recommendations.

## Solitary confinement, isolation

[Isolation](#) of different kinds occurs across the country in both adult and youth facilities. Detained people may be placed in isolation for different reasons, such as: their own safety (e.g. a specific class of person separated from mainstream detained persons); for the safety and good order of the facility; or for behavioural management.

Prolonged isolation has been [shown](#) to have a significantly detrimental impact on the physical and mental health and wellbeing of people in prison. One particular type of isolation is solitary confinement. Under the Nelson Mandela Rules (Rule 44), solitary confinement refers ‘to the confinement of [detained people] for 22 hours or more a day without meaningful human contact’. An individual is locked in a cell often with little more than a bed, sink and a toilet. Depending on the situation (for example, where it is for a disciplinary breach), there may be [limited-to-no contact](#) with other detained people, staff, or visitors and there may be reduced access to other opportunities or facilities.

The Victorian Ombudsman found in their [review of the Dame Phyllis Frost Centre](#) that there were “several” women who had been housed in a solitary confinement unit for over 12 months, and rarely were any steps taken to address the behaviours or circumstances which led to their placement in solitary confinement or to support their transition back to mainstream placement in preparation for their release from custody. The report also acknowledged impacts of solitary confinement on mental health are well-documented and include anxiety, panic attacks, chronic depression, rage, poor impulse control, paranoia and psychosis.

The [AHRC](#) emphasises the need to limit the use of solitary confinement and explore alternative approaches to address behavioural issues, a position supported by human rights organisations and Australian NPM members. These alternatives may include therapeutic interventions and restorative justice practices, as suggested by the [ICSNSW](#).

The AHRC highlights the importance of promoting a supportive and inclusive prison environment that encourages social interaction. Access to educational and vocational programs should also be provided, as recommended by the [ICSNSW](#). Establishing peer support groups can further enhance social connections and support networks for incarcerated women. Additionally, regular mental health assessments should be conducted for women in solitary confinement, and access to mental health services should be prioritised in line with the recommendations of the AHRC.

Decision making around the placement of people in solitary confinement should be rigorously documented and subject to routine review. Detaining authorities in the jurisdictions with human rights legislation (Australian Capital Territory, Victoria and Queensland) must give proper consideration to relevant human rights before making a decision. The right to humane treatment when deprived of liberty is a protected right in all three jurisdictions. [Efforts](#) should be made to [address](#) the factors leading to isolation or segregation, including infrastructure, resourcing, and implementing behavioural interventions, as acknowledged by the AHRC, to reduce the instances and duration of solitary confinement placements.

## Use of means of restraint

### Case Study: Use of restraints on a pregnant woman with disability

WA Office of the Inspector of Custodial Services, a member of the WA NPM

In 2020, the Western Australia Office of the Inspector of Custodial Services highlighted several cases where inaccurate medical records and inconsistent application of policy were resulting in pregnant women being unnecessarily restrained during medical escorts. This included a case in 2018 where a detained woman was remanded in custody at more than 26 weeks into her pregnancy.

She had no history of escape or attempted escape, and had bilateral amputation and used prosthetic legs. She was escorted by a contractor to medical appointments on three occasions. On the first occasion, she was noted as being 28 weeks pregnant and no restraints were used. On the second occasion, two days later, she was noted as being 29 weeks pregnant and both handcuffs and leg irons were used. Three weeks later, she was recorded as being 31 weeks pregnant and again no restraints were used. The records of her pregnancy were inconsistent and, even if accurate, the use of restraints was not aligned with policy or risk given her physical abilities.

At the time, departmental policy required women in custody who were less than 26 weeks (6 months) pregnant to be routinely restrained during external escorts. The Inspector recommended that no pregnant woman be restrained unless there was a documented specific risk which could not be mitigated by other means. The Department of Justice supported this recommendation in principle, and policy now prohibits the use of restraints on pregnant women unless they are deemed necessary following a risk assessment.

## Access to mental healthcare

### Case Study: Suicide and Self-harm cell

Office of the Custodial Inspector, Tasmania, the nominated Tasmanian NPM

Mary Hutchinson Women's Prison (MHWP) is Tasmania's only female prison and is located within the Risdon Prison Estate. It is entirely separate from the male prison facilities. Women in MHWP at significant risk of suicide and self-harm (SASH) are housed in the safe cell located in the Maximum-Security Wellington Unit.

Access to the safe cell is through the common area of the Wellington Unit, which is utilised as a 'day room' for detained people housed in the Wellington Unit. If the safe cell has to be accessed, detained people in the common area have to be cleared. This cell was formerly a laundry before being converted into a safe cell. Entrance to the safe cell is through an airlock, which provides little privacy for detained people accommodated in that cell and is not soundproof.

If a detained person in the safe cell is self-harming or in distress, it can be heard clearly from the Wellington common area. Likewise, the location of the cell, adjoining the common area, allows detained people in the common area to communicate with the detained person in the safe cell, which can sometimes have a negative impact. Detained people in Wellington have expressed distress at hearing and/or witnessing what has occurred in the safe cell whilst in the common area.

Detained people can only be accommodated in the MHWP safe cell if they are deemed to be at the lower end for potential SASH behaviour. If they are at the higher end for potential SASH behaviour, the detained person has to be accommodated in either the Inpatients Unit

or the Crisis Support Unit (CSU). Both the Inpatients and CSU are located wholly inside the men's prison. Some detained women who have been accommodated at Inpatients or CSU have experienced significant trauma associated with male treatment in their past and therefore accommodating these women in a male prison tends to negatively impact their behaviour and can exacerbate existing mental health conditions.

The current practice by Tasmania Prison Service of sending detained women to Inpatients or CSU does not provide privacy and means that they are in the constant view of male correctional officers and detained people. This practice is not reflective of trauma informed practice. However, it is currently one of the limited options for managing detained women with severe behavioural or mental health issues due to the design and capacity of the custodial infrastructure at MHWP. The Tasmanian Custodial Inspector recommended in 2022 that infrastructure funding and redesign in MHWP needs to focus on immediate priorities such as a new purpose-built crisis support/mental health unit. The Department of Justice has indicated that the construction of a purpose-built crisis support unit is part of their strategic infrastructure plans, but it is unclear when or if this will occur.

## IV. Women in special situations of vulnerability

### Pregnant women and women with children in prison

Pregnant women in prison [represent a relatively small though particularly vulnerable prison cohort](#) in Australia and are subject to various policies and practices depending on where they are incarcerated. In some jurisdictions, pregnant women and new mothers are permitted to live in separate mother and baby units in correctional facilities. The detrimental impacts of mother-infant separation at or shortly after birth are well known<sup>3</sup> and a child's development is significantly shaped by the nature of their relationship with their primary caregiver during infancy<sup>4</sup>.

The antenatal and postnatal needs of women and their children in prison should be supported. Particular consideration should be given to the unique needs of Aboriginal and Torres Strait Islander women and cultural child-rearing practices. The Australian NPM encourages all state and territory governments to develop policies and practices that reflect the unique needs of pregnant women and mothers in prison.

### Case Study: Mothers and Babies units in the Northern Territory

#### Office of the Children's Commissioner NT and NT Ombudsman

In the [Northern Territory](#), the purpose-built Mothers and Babies unit at Darwin Correctional Centre (DCC) is understood to have been reopened following a closure due to overcrowding. The Office of the Children's Commissioner NT and the NT Ombudsman are aware of occasions where women were not permitted to have their infant children reside with them in prison. In the NT, issues have arisen around practicalities involved in caring for a newborn, for example, provision of consumables and arrangements for expressing and appropriate storage of breast milk. These were ultimately resolved.

It is incumbent on Corrections to maintain accommodation, facilities, consumables,

<sup>3</sup> Breuer E, Remond M, Lighton S, Passalacqua J, Galouzis J, Stewart K and Sullivan E (2021) '[The needs and experiences of mothers while in prison and post-release: a rapid review and thematic synthesis](#)', Health Justice 9(31); Dowell CM, Mejia GC, Preen DB and Segal L (2018), '[Maternal incarceration, child protection, and infant mortality: a descriptive study of infant children of women prisoners in Western Australia](#)', Health Justice 6(1):2.

<sup>4</sup> Moore, T.G., Arefadib, N., Deery, A., & West, S. (2017). The First Thousand Days: An Evidence Paper. Parkville, Victoria; Centre for Community Child Health, Murdoch Children's Research Institute.



practices, and procedures that appropriately and safely support babies and young children residing with their mothers in prison.

## LGBTIQ+ women

Increasingly, consideration is being given to the experience of trans and gender diverse people in custody, including staff. This is reflected in the policy framework which increasingly addresses the specific situations of trans, gender diverse and intersex people deprived of liberty.

### Good practice: Specific policies acknowledging the unique experience of trans, gender diverse and intersex people in custody

[Tasmania](#), [Victoria](#), [New South Wales](#), [Western Australia](#), [Queensland](#), and [Australian Capital Territory](#) ([South Australia and Northern Territory](#)'s internal policies are not publicly available) all have policies acknowledging the unique experience of trans, gender diverse and intersex people in custody, and have instructions dedicated specifically to the daily management and placement of trans, gender diverse, and people with innate variations of sex characteristics, including providing instructions on the conduct of searches. Generally, these policies outline that a detained person should be treated and managed according to their chosen gender identity, and where a strip search is to be conducted that the officers conducting the search should be of the same gender as the individual identifies.

However, how these policies are implemented in a practical way remains unclear. In particular, there is inconsistency in how detained transgender people are accommodated in prisons. Although current [Australian Federal Police Policy](#) states that, where the person identifies as transgender, searches should be conducted by a person of the gender to which the person identifies, the Commonwealth NPM has observed that this doesn't always occur in practice, either because the person is not a 'recognised transgender person' (a person whose record of sex is altered under Part 4 of the Births, Deaths and Marriages Registration Act 1997 (ACT) or under the corresponding provisions of a law of a state or another territory), or because the officer undertaking the search does not feel comfortable doing so.

While the consideration given to the experience of trans, intersex, and gender diverse people in custodial policies is improving, they continue to experience significant barriers in prison environments. The Australian NPM encourages all jurisdictions to promote opportunities for discussion of these policies in and with the community. In addition, policies for prisons should be amended to ensure they do not assume a difference between legal sex and gender presentation. They should also be amended to ensure they do not conflate innate variations of sex characteristics with being gay, lesbian, bisexual, trans, gender diverse; or being about gender identity or sexual orientation.

## Indigenous Women – Aboriginal and Torres Strait Islander Women

Aboriginal and Torres Strait Islander women accounted for almost half (41%) of the total population of women in prison in 2023. Aboriginal and Torres Strait Islander women were imprisoned at a rate nearly [20 times greater](#) than non-Aboriginal and Torres Strait Islander women.

In addition to over-representation in prison, the [experience of Aboriginal and Torres Strait Islander women](#) is often additionally challenging, due to the history of institutional trauma. Aboriginal deaths in custody are a serious and ongoing issue, requiring the attention of Australian, state and territory governments. Between 1991 and 2023, [49 women died](#) in custody in Australia, and 20 of those were

Aboriginal and Torres Strait Islander women.

### Case study: The death of Veronica Nelson, a Gunditjmara, Dja Dja Wurrung, Wiradjuri, and Yorta Yorta woman

The [death of Veronica Nelson](#) at the Dame Phyllis Frost Centre in 2020 received significant attention with a subsequent Coronial Inquest identifying systemic failings which contributed to Ms. Nelson's preventable passing.

Ms. Nelson was arrested and remanded for shoplifting and a breach of bail on 31 December 2019. Ms. Nelson weighed 33 kilograms upon reception to the prison and disclosed her withdrawal from opioids. CCTV recordings showed her significantly deteriorating health. Ms. Nelson attempted to obtain medical assistance via her prison cell intercom on over 30 occasions in a 2-day period. Medical assessments were cursory at best. Prison staff spoke with Ms. Nelson via intercom and stated that although they could return her to the medical facility, the nurse on duty "probably couldn't give [you] anything else". When no response was received from Ms. Nelson to this offer, staff made no attempt to check in on her or follow up. She was found deceased the following morning, after her absence from morning count was noticed.

Coroner Simon McGregor made [39 findings](#) highlighting the unique experience of Aboriginal and Torres Strait Islander women in the criminal justice system, many informed by breaches of the Victorian Charter of Human Rights including:

- The current Victorian Bail Act has a discriminatory impact on Aboriginal and Torres Strait Islander people, resulting in disproportionate rates of remand custody.
- Justice Health, the contracted healthcare provider for Victorian Prisons, have program guidelines regarding opioid substitution therapy which deny detained people equivalent care to that available in the community, and furthermore infringe on a detained person's right to be treated humanely and their right to life on discharge, by failing to reduce risk of overdose.
- Timely notification to an Aboriginal Wellbeing Officer after reception to prison was not made, and Ms. Nelson was culturally isolated, lacking culturally competent or specific care or support.

The [Victorian Government](#) has amended the Bail Act, and reform is occurring regarding healthcare, pharmacotherapies, and Aboriginal and Torres Strait Islander healthcare services in custody. A separate, independent Cultural Review of the Adult Custodial Corrections System in Victoria released its [final report](#) in March 2023. That final report included various recommendations including relating to the treatment of Aboriginal and Torres Strait Islander women in prison, and the implementation of OPCAT in the state of Victoria.

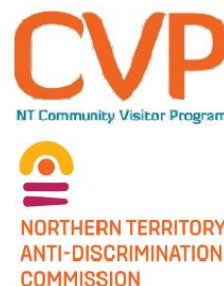
## V. Alternatives to detention

Between 2009 and 2019, the female prison population in Australia increased by [64%](#), and between 1994 and 2021, the proportion of the prison population made up by women has risen [from 5% to 8%](#). Over the last few years, the rate of imprisonment for women in Australia has begun to stabilize; however, this [increase in a single decade](#) highlights the need for gender-specific services and pathways to support women who come into contact with the legal system.

Non-custodial sentences such as suspended sentences, good behaviour bonds, and community-based orders (such as community treatment orders and community work orders) are frequently utilised in sentencing women. Facilities such as the Wandoo Rehabilitation Prison and Boronia Pre-Release Centre for Women in WA, the Bolwara House Transitional Centre in NSW, the Helana Jones Centre, and Townsville Correctional Centre Female Farm in Queensland, provide alternatives to the standard prison environment, providing increased autonomy, a heavier focus on rehabilitative programs and building skills pre-release to support women upon re-entering the community. While these facilities are not alternatives to prison and still see women deprived of their liberty, it is important to acknowledge investment in environments which are more conducive to rehabilitation.

This report has been endorsed by the following members of the Australian NPM:

- Australian Capital Territory (ACT) Office of the Inspector of Correctional Services
- ACT Ombudsman
- Commonwealth NPM
- Northern Territory (NT) Office of the Children’s Commissioner
- NT Ombudsman
- NT Principal Community Visitor, Community Visitor Program
- South Australian Training Centre Visitor
- Tasmanian NPM
- Western Australian Office of the Inspector of Custodial Services



This report is part of the Global NPM report on Women in Prison.  
Access the full report here: [www.apt.ch/global-report/](http://www.apt.ch/global-report/)