BIZTPOL AFFAIRS

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2 The role of GDPR in forming the 'right to be forgotten' and reevaluating the feeling of "prejudice" from perspective of modernism
KARDELEN GÖKÇEDAĞ

14 Modern horror in the first world – The stolen children of Canada and Australia
FANNI KISS

32 Book review: 30 years of the Visegrad Group
LAURA NYILAS

CORVINUS KÜLÜGYI ÉS KULTURÁLIS EGYESÜLET

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THE ROLE OF GDPR IN FORMING THE 'RIGHT TO BE FORGOTTEN' AND REEVALUATING THE FEELING OF "PREJUDICE" FROM PERSPECTIVE OF MODERNISM

Kardelen Gökçedağ

ABSTRACT

The article aims to situate the feeling of "prejudice" as the main concept in order to understand the benefits and predicted harmful consequences of "The Right to be Forgotten" or "The Right to Erasure" under the issue of privacy, regulated, and promulgated by GDPR which has become a transnational issue in the recent years due to its' disputable content as a human right in terms of the probability to be easily abused and the fact that there have been other actors involved who conduct vague policies in terms of privacy. Therefore, the introduction of this law paved the way for the reconstruction and/or evaluation of the sense of prejudice within individuals. This article will try to connect arguments with the GDPR's "Right to be Forgotten" law and its interaction with the concepts of prejudice, trust, risk, and privacy policy in terms of forming self-identity by questioning the role of modernism.

Keywords: prejudice, modernism, GDPR, privacy

INTRODUCTION

If one assumes that the *grand narratives* in societies changed or transformed with the invention of each new medium, which in fact is the truth, it consequently brought many questions along with itself and created new debates in many disciplines, especially in the fields of international relations, communications and media, and *law*. After the *great modeling* was built, and the book was replaced by newspapers, radio, television, and finally, by the internet, which was regarded as the last revolution, the modeling has begun to be broken down and *fragmented*. Unlike the book, the internet is fragmented in nature. For example; when one looks at social media, s/he can be informed about a wide variety of topics under different caps.

Therefore, it can be said that it is not a mass media that is loyal to the context and sticks to a single theme from the beginning to the end like the book. On top of that, as the internet is fragmented and simultaneous in nature, the connection between *reality* and *truth* started to be *ruptured* and publishing content has become *ungovernable* as it had been wrenched out from the professional editor's hands. As has been said before, the fact that everyone reached the capacity to disseminate information, or *presume* that they did reach, and the fact that people started to open new websites and distribute the content they want on the internet as they wish without being subjected to any editorial control, it brought along new problems needed to be discussed. Perhaps, one of the most nontrivial problems regarding this area is the privacy policy, how it is conducted around the globe, and the ways how to control personal data to be kept private. General Data Protection Regulation under European Union is probably one of the most well-recognized legislations dealing with privacy issues and the concept of *"the right to be forgotten"* which has become a controversial subject matter due to its content that will be addressed later.

If one attempts to analyze the problems regarding privacy from an accurate, objective, and reliable point of view, which is what this article aims to do, the fact that the right to be forgotten has been brought to force seems to be an understandable human right or *has* the right to be understood because modernity has always claimed that an individual has the right to *change* his life and built himself as a project/scheme by using his *rationality*. According to the period

of modernity, it can be enunciated that the indispensable component of modernism is *rationalization*. On that account, the reasons why the European Union put this law into action can be understood more clearly when examined from the perspective of modernism. The very idea of *change* and the right that one can be able to transform his *destiny* if he wants and strives is one of the fundamental igniters that configured the concept of modernism. With the formation of the philosophy by Descartes with his well-known statement, *"I think, therefore, I am"*, the individual begins to see the depiction of the world he has created in his mind. Therefore, one can say that *the modern is how one approaches the world of the subject.* In this sense, it can be deduced from that sentence that the individual is now alone with nature and realizes that there is a reality in nature that is independent of his *control.* Thus, he starts to think that his *mind* is capable of apprehending this reality, that he can comprehend this reality with the aid of his intellect, and that he can use reason to create his own *truth* and his version of events out of this reality. In Okan Bayülgen's famous television program Okan Bayülgen and Muhabbet Kralı, writer Yalın Alpay discusses the distinction between reality and truth and concluded that

> *"While the reality has an ontological character which describes the real existence outside of one mind (consciousness) and without the need of it and is independent, truth has an epistemological character where one transfers his thoughts to his mind about a certain thing and passes a judgment on.".* (Post Truth, 2020).

From that point, *the notion of change* begins to take shape, assisting one in rediscovering reality and maybe changing or altering it by applying reason. On the contrary, unlike the humanist approach of modernism, at this point, these questions can emerge to question the right to be forgotten objectively and to show the other side of the coin: Considering the scope of sanction and the *hierarchy of crimes*; what will be the future of the things and/or annals that should not be forgotten? Are there any circumstances that should not change? If so, what are they? Is the severity of each act of crime or violation the same? Moreover, is it possible for someone to change himself without having to face the consequences of his *past*? Can each person decide for themselves what their *future* holds without the fear of being stigmatized due to something they did in the *past* and subsequently regretted? In this case, what function

does prejudice serve in human society towards those who did unlawful acts in the past?

In this regard, in the context of the questions asked in the previous paragraph, privacy in connection with the right to be forgotten as a human right has brought many question marks and reminds individuals that they should begin questioning and challenging the concept of *prejudice* which is a fundamental aspect of human nature. Contrary to other international organizations, when putting the right to be forgotten into force, The European Union, by giving the individual more control of his life, not only *emancipated* him from the *watchful gaze of others* which ultimately lets him transform his destiny through ejecting the individual *out of the screen,* but also brought the issues regarding *prejudice*, *trust, and risk* in terms of foreign policies. What this article tries to highlight by making this argument is; if data/information consists of *suggestions,* they are sentences, visuals, and therefore, the *representations* of an idea or an act performed in the past which brings prejudice along with it.

In that context, it can be said that search engines, by combining different periods of an individual's life or certain events, act as a *reality/profile stabilizer* which consequently produces prejudice by the other people's gaze towards the subject whose personal information is shared with *or* without consent. In this case, to analyze the feelings of prejudice, it is necessary to first understand the meaning of judgment. How does the judgment positions itself between truth and reality? If one accepts that the concepts of truth and reality are meaningful only in the context of modernity, which is already so; Because, as has previously been said, with modernity, reality has become to be able to be redefined, and reproduced by the will of the continuity of *a mechanism* of rationality, as opposed to the will of God.

Furthermore, it is no exaggeration to state that as Yalin Alpay explained earlier truth is a judgment that craves consistency and compatibility with reality as it requires the presence of the mind. In that sense, it can be understood that judgments that arise from the mind seek to make decisions that are compatible with the reality that exists outside a person's mind, resulting in the emergence of a notion called *prejudice*. Hence, modernity, which says that the world is *continuous* and deterministic, is based on the logic that the way of the reason is sole; and protects the idea that *all great minds think alike.* It argued that the individual could perceive the reality

outside *by* himself and make the best decisions *for* himself. Therefore, according to the period of modernity, reality and truth can be compatible. As a consequence, it can be stated that modernism can be regarded as very hopeful about the future and looks at the future with hope. In this context, the repatriation of the right to be forgotten is, in a sense, a positive and hopeful and at the same time revolutionary formation that urges the individual to critical thinking in terms of the past and the future...

However is the human mind really capable of perceiving and forming the truth as much as modernity believes? As everyone knows that although normally, human beings cannot be able to perceive the world plenitude, and cannot keep the events, people, and places in their minds particularly, the invention of the internet, and courtesy of search engines that squeezed the individual into a small screen, one now can observe others and know their past with all its detail. Thereby, if one reopens the argument about prejudice, it can be claimed that once judgments cannot reach a definite truth, judgments become *flawed*.

What shall these flawed judgments be called then? In this regard, one can state that any flawed judgment produces *prejudice*. Yet, it is right to say that a person who does not resort to judgment on any issue, cannot move. He disappears and remains without a compass as not resorting to any judgment means that the person has no knowledge of any subject. In that sense, it can be concluded that a person with knowledge begins to produce prejudice.

In this case, what is the role of the internet in producing judgment? As has been stated before search engines squeezed the individual into a small screen, it can be furthermore claimed that an individual's judgments are constituted from the data he has obtained from what he sees on the internet which ultimately brings problems regarding prejudice, trust, and privacy. Thereby, organizations that are in fact individuals themselves who set rules and provide order have come to be having an important role in shaping domestic and foreign policies by activating the right to be forgotten. In doing so, they redefined the quest for truth, which is one of the building blocks of modernism and a significant need of humanity leading them to change and critical thinking.

As mentioned earlier the decentralized nature of the internet has made it possible for anyone to become a content creator and easily disseminate information without consent. The decentralized

nature of this medium created many problems, and since the internet has no precise center, it could not be handled by states alone, increasing the need to regulate privacy policies around the world. Due to the non-central nature of the internet, "privacy" as an overarching term or "right to be forgotten" as a relatively new and more specific term has been becoming a transnational issue day by day. Considering the nature of the problem in this field, there are many controversies, debates, and power struggles, and therefore, are other actors involved, who, so to speak, are not really willing to implement the necessary provisions of the privacy policy as it will prevent them from gaining profits although the European Union put the regulation into action in 2018 in a revolutionary way.

The most relevant actor which is involved in the issues regarding *privacy*, in that sense, is European Union. Within this scope, when one looks at some of the aims and purposes of the European Union, one can understand that the organization is a regulatory power that promotes peace, and the well-being of its citizens; offers freedom, security, and justice, protects, and improves the quality of society, enhances scientific and technological progress by combating social exclusion and discrimination. In that case, it is important to look at and analyze *General Data Protection Regulation* along with the European Union to understand the context of privacy and the right to be forgotten in detail.

With significant advances in technology and the emergence of new opportunities for businesses to monetize users' privacy rights and for personalized and targeted digital advertising, which is a key factor in this issue, the European Union has moved to adopt and introduce a new law called General Data Protection Regulation. General Data Protection Regulation, which came into full force on May 25, 2018, imposes very high demands on data protection, privacy, and security in the digital age. According to The Council of the European Union:

> *"The General Data Protection Regulation's primary aim is to enhance individuals' control and rights over their personal data and to simplify the regulatory environment for international businesses."* (2015.).

The regulation, which strengthens controls over the handling of personal data, is divided into the following 11 chapters which are called: general provisions, principles, rights of data subjects, obligations of data controllers or processors, transfers of personal

data to third countries, cooperation between member states, supervisory authorities, legal remedies, liability or sanctions for infringement, and various final provisions.

According to Recital 18 in General Data Protection Regulation:

> *"The regulation applies if the data controller (an organization that collects data from European Union residents), or processor (an organization that processes data on behalf of a data controller like cloud service providers), or the data subject (person) is based in the European Union. Under certain circumstances, the regulation also applies to organizations based outside the European Union if they collect or process the personal data of individuals located inside the European Union. The regulation does not apply to the processing of data by a person for a "purely personal or household activity and thus with no connection to a professional or commercial activity."* (Recital 18).

In that case, it can be said that General Data Protection Regulation is a substantial sanction that not only gives individuals the right to ask organizations to remove their personal data but also came up to have the role to form foreign policies by introducing general conditions and a requirement for adaptation.

Herein, the first example of a case study can be given by Google against General Data Protection Regulation's privacy policy statement and new digital privacy regime. The main actors that are involved in this case are European Union, General Data Protection Regulation, Google, and finally The French Commission Nationale de l'Informatique et des Libertés (CNIL), also known as the French Data Protection Authority.

According to the article of Golden Data Law:

> *"The essential argument happened between Google and the French Data Protection Authority (the "CNIL") who imposed a fine of €50 million on Google under the European Union's General Data Protection Regulation, also known as "GDPR" for lack of transparency and failure to obtain consent for advertisement targeting. It was put forward by French privacy rights organizations "None Of Your Business" and "La Quadrature du Net".* (Golden Data Law, 2019.).

The fine made headlines but was subsequently challenged by Google with a request to refer the question to the European Court

of Justice for clarification. Google argued that the CNIL is not a relative authority and that the Irish DPA should have been the lead.

In another article by Karen Holden, it is stated that:

> *"Generally, you would expect the Irish regulator to have addressed this however, the CNIL found that the overarching decisions about the processing operations complained of (targeted advertising of Android users) were not made by Google's Irish offices, or by anyone in the European Union. It was discovered those were made by a US company. As this case was not about a data controller's main European Union establishment, CNIL was at liberty to take its own action. This conclusion was reached following communications with other European Union supervisory authorities, including the Irish DP."* (Holden, 2019.).

In this regard, according to the CNIL, an independent non-governmental organization, Google's breach is based on the idea that the information presented to users about the areas of data collection and use is vague. It is difficult for users to obtain accurate information about what data is collected and how it is used. In this sense, the CNIL, as a non-state, independent actor, is an important factor that plays an important role in protecting the privacy rights of individuals. One can therefore further emphasize that the French government is particularly vocal about data protection rights. Moreover, looking back at the case study of Google and the European Union's General Data Protection Regulation, one shall add those non-state actors can also play an important role in mandating companies that violate data protection regulations. In this case, the General Data Protection Regulation and the CNIL have determined that Google has no legal basis to safely and correctly process one's own data. Hence, if one asks the question: Who can be investigated by the French Commission Nationale de l'Informatique et des Libertés? It can be said that the CNIL may cast about anybody that is assessing information and who has an establishment in France. In that case, it can be said that some of the main principles to regulate an individual's data processing are that the information shall not be collected illegally. When obtaining the data, the processor should clearly state the purpose.

In a similar vein, it is possible to assert that certain forums, laws, and acts of certain countries also significantly contribute to

enhancing the significance of preserving the moral context of privacy issues. Google can be given as an example of which has to comply with PIPEDA in Canada.

However, as it was stated in the article *Google is Subject to PIPEDA* in one of *Canada's* online legal magazines, *Slaw:*

> *'In 2017, a complaint was made to the Privacy Commissioner of Canada that Google violates the Personal Information Protection and Electronic Documents Act, by displaying links to news articles with personal and sensitive information about him. This wasn't the first privacy complaint that the Commissioner faced about Google, which previously included Wifi data collection. The Commissioner has also investigated other businesses that index private information that is maintained or removed on Google, or businesses that have taken private information from social media and indexed it. This complaint about the news articles was followed by a draft position by the Commissioner, and referred to the Federal Court in 2018.'* (Slaw, 2021.).

Due to the fact that the commercial activity is broadly defined under PIPEDA, and Google sells advertising space and profits from advertisements associated with searches, its activities meet the definition of commercial activity under the Act. The court rejected Google's submissions on the information economy, suggesting that it collected and used information for the use of others.

The interconnected nature of the internet brought many problems as it was mentioned before. The new *"connected modern or post-modern society"* operates commerce and opens many opportunities for companies and individuals to develop and interact with people on a global scale. Due to globalization and the transformation of media, individuals' private lives are highly at risk in terms of cyber security. The concept of *risk* in that sense is one of the essential notions to best describe the period of modernity.

According to Anthony Giddens in his book called Modernity and Self Identity: Self and Society in the Late Modern Age:

> *'Modernity reduces the overall riskiness of certain areas and modes of life, yet at the same time introduces new risk parameters largely or completely unknown to previous eras. These parameters include high-consequence risks: risks deriving from the globalized character of the social systems of modernity-is apocalyptic, not*

> *because it is inevitably heading towards calamity, but because it introduces risks which previous generations have not had to face.'* (Giddens, 1991. p. 4.).

In this regard, the invention of the internet and the growing community of exchanging goods altered the businesses of marketing and advertising by increasing the risk by opening people's chances of contingent happenings and altering the way foreign policy is formed. These developments in technology and the increase of *connectedness* of organizations around the globe also shaped the entertainment, media, and publishing industries by forcing the individual to question the way the concept of *trust* is generated. Therefore, it can be stated that the way institutions, companies, and civil society are organized also transformed dramatically due to the globalized nature of late modernity as Giddens believes. The influence of media on individual behavior and attitudes, in this regard, is one of the most problematic topics today, as it has been discussed in the context of various communication theories in the past. How does the media (the internet in the context of this article) affect how trust is built between individuals and between individuals and organizations?

The influence of media on society varies compared to specific historical periods. These differences are due to the characteristics of each means of communication tool and their effect on people's emotional states and lives. Internet by strengthening this interconnectedness and *surveillance*, in this regard, not only produced prejudice but also increased privacy-related problems in foreign policy as has been discussed previously in the two Google case studies examples. In this respect, the internet represents a very different version of *reality* by squeezing one into a small screen, allowing his past to be transparent to the public eye and his future to be precarious where *trust* among people has declined and the feeling of *prejudice* is stiffened with the other's gaze.

The internet created a world beyond the limitations of the physical realm and made the past *non-erasable*. In this way, it paved the way for the feeling of prejudice to be dominant. When the two case study examples against Google are elaborated in detail, it can be further said that the information of the violation of privacy rights by Google will always exist in the google search engines. Or the proper question shall be, should it be? In that sense, what will be the future of Google? If the future should be designed with hope as modernism claims, how can the past change? In this case, the

right to be forgotten gets on the stage not only helping to reconstruct self-identity but also remodeling foreign policies.

Concordantly, the fact that the right to be forgotten has emerged and is open to discussion allows and even encourages human beings to have more control over their own destiny. As has been stated before if one considers that modernity already advocates change and a lifestyle centered on *the individual* as opposed to fatalism, it is certain that the right to be forgotten will profoundly transmute the concept of fate. In addition to these positive aspects, should every violation of rights be forgotten and erased from the internet? What should be the role of organizations before these discussions come to fruition? What values should organizations protect about individuals' privacy rights so that the foreseen problems can be resolved without recoursing to the right to be forgotten? Thereby, it can be said that the main responsibilities and priorities of organizations in terms of protecting individual privacy are: *consent*, *accountability*, *purpose*, *content*, *accuracy*, *transparency*, *openness*, and *safeguarding*.

These acts and laws give individuals the right to collect, use or disclose personal information in an appropriate way while expecting organizations to protect the personal information securely, and the personal information held by to be accurate, complete, and up to date by giving the right to the individuals the access to their personal data and ask for any corrections or have the right to make complain towards the organizations. Within that context, actors whether they are governmental or non-state shape global governance by implementing their own control when it is needed while forming foreign policies. They set expectations from other companies and organizations to comply with the laws that they conduct, and require responsibilities from other organizations to protect individual rights around the globe.

To conclude, concerning trust, prejudice, human dignity, and autonomy as primary sufferers in terms of privacy issues, it is *ethics* that is the main branch every organization shall consider. The moral preferences of each organization under *ethics*, in that case, are to protect the freedom and security of human beings and inflict rules and regulations for other businesses to comply with when presenting new technologies and content for its users. Therefore, major privacy frameworks and foreign policies can be best analyzed and understood through the achievement of a mutual understanding of the ethics that every organization can constitute. In this case,

European Union along with General Data Protection Regulation, by enacting the law of the right to be forgotten proposes the concept of change for the agenda in a revolutionary way which is an actual framework for self-actualization although this could lead to an ambiguous process considering the hierarchy of crimes.

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ESSAY

MODERN HORROR IN THE FIRST WORLD – THE STOLEN CHILDREN OF CANADA AND AUSTRALIA

Fanni Kiss

ABSTRACT

Cultural genocide poses a particular threat to the world's indigenous peoples. It is clear that the common policy of the Australian and Canadian governments were aiming assimilation, with residential schools constituting an assault on Aboriginal children. As a result of such discoveries, members of the stolen generations have filed lawsuits in both Canada and Australia. Intervening the fields of education policies and cultural genocides, relying on comparative case studies whilst using qualitative methods and considering key factors such as the environment at the premises, the targeted group, as well as litigation and liability, this article seeks to find the similarities and differences between the boarding school system of the two countries.

Keywords: cultural genocide, Canada, Australia, assimilation policies, Catholic church

INTRODUCTION

Racial justice is still something that is yet to be achieved all over the world even in the 21st century. Many individuals have been subjected to inhumane prejudice, and suffered individual discrimination, and some still do. According to the European Commission, racial discrimination is "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life".[1] Besides the European Commission, the United Nations also addresses the problem, with its mission continuing to be focused on combating racism and eliminating racial discrimination, and international organizations, whether universal or regional, governmental or non-governmental are called upon to cooperate in the fight against the tyranny and oppression of racism, racial segregation, apartheid, and genocide, so that all peoples of the globe might live in peace[2].

The term cultural genocide, a form of racial discrimination, is appropriate to describe the aboriginal experience in Canada and Australia. The recent discovery of nearly 1,300 unmarked graves[3] at four former residential schools in western Canada has startled and horrified Canadians. This number will only grow as more inquiry is conducted, considering fresh gravesites being discovered every year. Indigenous people have long anticipated such discoveries, as the legacy of Canada's Indian residential school system has haunted their families and lives. However, the news has reopened old wounds. Stories of pupils digging graves for their peers, unmarked burials on school grounds, and students who disappeared in mysterious circumstances have long been told by survivors of residential schools. The poor treatment of Aboriginal people in Canada is similar to that of Indigenous Australians, Australia's Stolen Generation, the generations of children removed under various government policies. The Truth and Reconciliation Commission of Canada, as well as the authors of the Australian report titled Bringing them Home[4], the name given to the final report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families conducted by the Human Rights and Equal Opportunity Commission (now called the

Australian Human Rights Commission), have received and collected many of these experiences, these being examined by this article.

GENOCIDE

The word genocide was first used by Raphael Lemkin, a Polish lawyer, in his book titled 'Axis Rule in Occupied Europe'.[5] The word itself consists of two parts, the Greek prefix being *genos*, meaning tribe, and the Latin suffix *cide*, meaning killing. It was partly in response to Nazi practices of systematic slaughter of Jews during the Holocaust that Lemkin developed the term, and on the other hand, in response to previous events in history where actions were targeted against a certain group based on their religion or race. [6] It was also Raphael Lemkin, who later took part in a campaign to have genocide classified and codified as an international crime, which happened in 1946, being recognized under international law by the United Nations General Assembly. Two years later, it was codified as an independent crime in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide , also known as the Genocide Convention. „The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish." [7] As of 2024, this Convention has been ratified by 149 states, and it has been stated numerous times by the International Court of Justice, that it incorporates concepts that are part of general international customary law, meaning that even if States have not ratified it, as a matter of law, they are all bound by the premise that genocide is a crime punishable under international law.[8]

The Second Article of the Convention contains the definition of genocide. "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a)Killing members of the group;

(b)Causing serious bodily or mental harm to members of the group;

(c)Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d)Imposing measures intended to prevent births within the group;

(e)Forcibly transferring children of the group to another group"[9].

This definition is reproduced verbatim in Art. 6 Rome Statute of the International Criminal Court (ICC), Art. 2 Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and Art. 4 Statute of the International Criminal Tribunal for Rwanda (ICTR).[10] According to the Convention, for an offender to be guilty of genocide, the group targeted, intended to be destroyed must fall under one of the following four categories: national, ethnic, racial, or religious group.

Comparing Canadian and Australian residential schools

As some governments, including Rwanda, are being forced to address the unpleasant reality that genocide is still not eliminated today due to indigenous peoples increasingly asserting allegations of past and continuing maltreatment through international legal procedures, the two above-mentioned cases, these being Australia's 'Stolen Generation', and Canada's 'Hidden Holocaust, specifically draw our attention to this problem. The forceful removals of Australian Aboriginals were classified as genocide by an Australian government study, while similar allegations have been made in studies concerning native experiences in Canada's residential schools. [11] Both in Canada and in Australia, forcible removal of First Nations children from their homes was part of the Assimilation strategy, which was founded on the misguided assumption that assimilation would improve the lives of First Nations people.

The development of residential schools, which were typically run in collaboration with Christian missions with the stated goal of Christianizing indigenous peoples, was the primary technique for attaining this integration. As Australia and Canada progressively come to terms with the harsh truth of European settlement's impact on indigenous peoples, and with more and more evidence coming to light, we can see that the two situations are quite close to one another. Examining them deeper, how similar are they? This article will compare the two from three perspectives, these being the establishment of the schools, as well as the conditions and the targeted group of assimilation.

CANADA

Looking at the targeted group in Canada, it was the First Nations, Métis and Inuit children who were removed due to the government policies concerning the integration of Aboriginal peoples into the community. According to Statistics Canada, the three groups defined as the Aboriginal peoples of Canada in the Constitution Act, 1982, Section 35 are First Nations (North American Indian), Métis or Inuk (Inuit). A person may be in more than one of these three specific groups.[12] According to the 2016 Census, there are about 1.67 million persons in Canada who identify as Aboriginal. They are the fastest growing population in Canada, whose number grew by 42.5% between 2006 and 2016, and also the youngest population, about 44% were under the age of 25 in 2016.[13] The central goals of Canada's Aboriginal policy for over a century have been to eliminate Aboriginal governments, ignore Aboriginal rights, terminate the Treaties, and cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada through a process of assimilation. Against them, residential schools were only one of the elements in a larger agenda of "aggressive assimilation" and colonialism.

As far as the establishment is concerned, in Canada, because competing European powers sometimes required armed alliances, full-scale efforts to “civilize” aboriginal peoples did not commence until British control was established in 1812. At a conference in Orilla, Ontario in 1846, the government decided to fully commit to Indian residential schools.[14] A few years later, the British North America Act stipulated that the new colonial powers were responsible for "Indians and lands reserved for the Indians" when Canada became an independent country in 1867. The policy used was “save the man; kill the Indian.” In other words, for Native peoples to become fully “human,” they would have to lose their Native cultures[15], the goal was to completely assimilate the Indians into the society. The idea was to purposely disconnect children from their families' and communities' educational, cultural, and spiritual influences. The first residential schools were built in New France by the catholic missionaries to offer care and education, however, due to the fact that First Nations people were mainly self-sufficient, it was difficult to compel them to attend school. Until the 1950s, the

federal government and mainline Canadian churches collaborated closely to administer most schools in Canada. By 1896, the Canadian government had financed 45 church-run residentials schools, of which the Catholic Church ran nearly 60%, the Anglicans ran around 30%, and the Presbyterian, Methodist, and United Churches ran the majority of the rest. Residential schools were also seen as a way of attempting to integrate Aboriginal people into the growing North American economy, but this was not the situation, as unfortunately, they were also considered as a way of forcing integration and exposing them to a virulent and harsh form of Christianity.[16]

The impact of these institutions on First Nations students, families, and communities was disastrous. The schools were known for their exposure to white settler culture. Isolated from their peers, youngsters were instilled with a mindset that was entirely strange to them. Children grew ashamed of being indigenous since education was solely in English and aboriginality was widely mocked in the curriculum. Academic and vocational instruction were both abysmal, and the schools' 'graduates' never learned the information and skills they required to thrive in Euro-Canadian society.

The kids were frequently crammed into small rooms, fed insufficient amounts of food, refused required medical treatment, and were mistreated mentally, physically, and sexually. "The physical abuse was every day," one survivor, John Jones says. "And being assaulted verbally — if I didn't do things the way that they wanted me to do, I was called a dirty, stupid Indian that would be good for nothing."[17] Roulette, another survivor said the following about her first day of school: "A nun silently handed me a pencil and paper and, when I didn't respond quickly enough, punched me in the face. There was blood everywhere. I didn't know what I did wrong. I just cried and cried, and then I had to clean up all the blood."[18] Quoting another survivor, Kiyowil, "They were pretty mean. I don't know why they were so mean. I was getting strapped every morning because I had weak kidneys and I wet myself,". [19]

This system and its structure elicited one of two responses: passivity or aggression. The rewards for those who were "passive" were quite beneficial. Acceptance of the foreign language, religion, and culture was rewarded in a number of ways, including more positive attention from the adults in authority, as well as perks such as better treatment, food, and clothes. It has to be pointed out that this behavior did not mean that the student did not experience any form

of abusement, but much less than those who responded to the system with aggression.[20] These students broke the norms of the institutions, occasionally refusing to participate with classroom or vocational teaching, stealing food to supplement the meager institutional meals, fleeing in terror and frustration, and sometimes attempting to burn the schools down. When detected, these young people were typically brutally punished since they were considered as a major danger to individual staff members' authority as well as the general purpose of integration and Christianization.[21] About the meals, survivors reported the food was inedible and insufficient. Children would attempt to eat it and end up throwing up, then were forced to taste their own vomit.[22]The sanitary conditions at these schools were also very poor, with fatality rate within them being above 50% as early as November 1907, according to the Canadian press. [23] In File Hills Industrial school in Saskatchewan, 69 percent of students died of tuberculosis in one decade at the turn of the century. A medical inspector carried out an investigation and warned of outbreaks, but his report was largely ignored. [24]

For a very long time, these stories were all hidden from Canadians, and from the whole world. It was later the Commission, which was established by the Indian Residential Schools Settlement Agreement, who spent six years traveling across Canada to hear from Aboriginal people who had been taken from their families as children, forcibly if necessary. More than 6,000 people testified before the Commission, the majority of whom had lived at the institutions as children. The reports of that experience are often difficult to believe, as events that could have occurred in a nation like Canada, which has long prided itself on being a model of democracy, peace, and prosperity. As of January 2022, more than 1,300 unmarked graves have been confirmed or suspected so far, but this number will only rise with more investigation being done, as each week, there are news of new gravesites being found. The revelations have shocked a country that has endured centuries of widespread and systemic mistreatment of Indigenous peoples. “This was a crime against humanity, an assault on a First Nation people,” as told by Chief Bobby Cameron, of the Federation of Sovereign Indigenous Nations, the provincial federation of Indigenous groups.

AUSTRALIA

Aboriginal Australians may very well be the world's oldest human group, having come from Africa on boats 70,000 years ago, according to one theory.[25] They can be divided into two groups: Aboriginal peoples, who are descended from those who already lived on the island when Britain colonized it in 1788, and Torres Strait Islander peoples, who are descended from residents of the Torres Strait Islands, a group of islands off the coast of Queensland, Australia. Legally, "Aboriginal Australian" is recognized as "a person of Aboriginal or Torres Strait Islander descent who identifies as an Aboriginal or Torres Strait Islander and is accepted as such by the community in which he or she lives." [26] The life of Aboriginals in Australia was similar to those of Canada. Victoria was the first state to establish legislation authorizing the removal of Aboriginal children from their parents in the 1860s. Other states and territories soon followed, as did the federal government when it was founded in the early 1900s. Thousands of Aboriginal children were forcibly removed from their families, communities, and culture for over a century, many never to be seen again. There isn't a single Aboriginal and/or Torres Strait Islander community that hasn't been irreversibly impacted by this catastrophe, affecting 1 in 3 children.[27] Indigenous peoples and cultures were devastated by Australia's colonization: populations were decimated, traditional lands and means of self-sufficiency were taken, and government policies aimed at assimilation legitimized the separation of Indigenous children from their families so that they could grow up to be "white" Australians. [28]

Living standards at Australian residential schools were terrible, minimal requirements essential to life were barely met. Physical labor was prioritized above education, and although nonindigenous children got five hours of instruction each day, indigenous children received two hours of education before being sent to work. Quoting one of the survivors on the topic of education, "I wanted to be a nurse, only to be told that I was nothing but an immoral black lubra, and I was only fit to work on cattle and sheep properties … I strived every year from grade 5 up until grade 8 to get that perfect 100% mark in my exams at the end of each year, which I did succeed in, only to be knocked back by saying that I wasn't fit to do these things … Our education was really to train us to be domestics

and to take orders."[29] Apart from the lack of education and opportunities, avoiding assigned chores frequently resulted in public humiliation, head shaving, and bread and water diets. Children were often gathered together like animals and humiliated, their skin colors being evaluated for official records. The condition at the schools was so bad that students regularly ran away, many of whom committed suicide, or died in harsh geographical surroundings. Disease exposure and inadequate medical treatment were also distinguishing characteristics of the institutions, to the point that "Residential Schools endangered the bodies of aboriginal children through exposure to disease, over work, underfeeding and various forms of abuse". [30]

Quoting one of the survivors, "I've seen girls naked, strapped to chairs and whipped. We've all been through the locking up period, locked in dark rooms. I had a problem of fainting when I was growing up and I got belted every time I fainted and this is belted, not just on the hands or nothing. I've seen my sister dragged by the hair into those block rooms and belted because she's trying to protect me … How could this be for my own good? Please tell me."[31]Furthermore, the institutions generally had poor physical infrastructure, and resources were insufficient to fix it or to make sure the children were decently clothed, nourished, and housed. According to Doris Pilkington, author of the Australian Book Follow the Rabbit-Proof Fence, the conditions were "more like a concentration camp than a residential school for Aboriginal children". [32] "There was no food, nothing. We was all huddled up in a room … like a little puppy-dog … on the floor … Sometimes at nighttime we'd cry with hunger, no food … We had to scrounge in the town dump, eating old bread, smashing tomato sauce bottles, licking them. Half of the time the food we got was from the rubbish dump.", "It's a wonder we all survived with the food we got. For breakfast we got a bit of porridge with saccharine in it and a cup of tea. The porridge was always dry as a bone. Lunch was a plate of soup made out of bones, sheeps' heads and things like that, no vegetables. For dinner we had a slice of bread with jam and a cup of tea. After our dinner we were locked

up in a dormitory for the night. "[33] Every child in every placement was at risk of sexual exploitation and abuse, with girls being at more risk than boys. Citing Confidential evidence 679, from a man in Western Australia, "When I was at Castledare I was badly interfered with by one of those brothers. I still know the room [in

the church]. I was taken, selectively taken, and I was interfered with by one of those brothers. And if you didn't respond in a way, then you were hit, you were hit hard. I never told anyone that.". Almost one-fifth (19%) of inquiry witnesses who spent time in a facility said they were physically assaulted there.[34] Children at these institutions grew up without anyone to really care for them, anyone to love them, this leaving them scarred for life, and depressed. "I've often thought, as old as I am, that it would have been lovely to have known a father and a mother, to know parents even for a little while, just to have had the opportunity of having a mother tuck you into bed and give you a good-night kiss – but it was never to be" – said Tasmania, who was fostered at 2 months in 1936. [35] Removing the children from their parents also had a negative impact on their skills and learning. Separation can have an impact on a variety of abilities. Some developmental phases regress just momentarily, while others become melancholy for the rest of their lives. When the organization of attachment behavior is disrupted, it is more than likely to result in learning issues, poor ego integration, and substantial control fights with caregivers. Professor Beverley Raphael, an international trauma specialist, warned the Inquiry that many separated children would have issues in relationships because their feelings had been dulled as a result of the trauma they had experienced. Several witnesses described how this had affected them, as well as their unwillingness to trust people. "One of the biggest ones is I cannot really love anyone no more. I'm sick of being hurt. Every time I used to get close to anyone they were just taken away from me. The other fact is, if I did meet someone, I don't want to have children, cos I'm frightened the welfare system would come back and take my children." [36]

WERE RESIDENTIAL SCHOOLS INSTITUTIONS OF "GENOCIDE"?

The guilt of Australia is assessed under Article 2, subsection (e) and (b) of the United Nations Convention of the Prevention and Punishment of the Crime of Genocide 1948[37], while the culpability of Canada is assessed by Article 2, subsection (b) and (c). As stated previously, Article 2 of the Convention on Genocide defines "genocide" as:

> Any of the following acts committed with intent to destroy, in whole or in part, a

national, ethnical, racial or religious group, as such:

(a) killing members of the group;

(b) causing serious bodily or mental harm to members of the group;

(c) deliberately inflicting on the group conditions of life calculated to bring about

its physical destruction in whole or in part;

(d) imposing measures intended to prevent births within the group;

(e) forcibly transferring children of the group to another group[38]

CULPABILITY OF AUSTRALIA

According to subsection (e), in order for the act to classify as genocide, the removal of children must have been forcibly accomplished, meaning that it was done by physical or mental compulsion, or without consent. Looking at the situation in both countries, this was definitely the case. In Australia, the testimony of Aboriginal tribes in Bringing Them Home illustrates the dread they faced: survivors tell of hiding their children beneath mats and shrubbery to avoid being apprehended by armed police. When children who had been concealed were discovered, there was frequently a physical confrontation, which was usually led by the mothers of the children. Furthermore, subsection (e) mentions the transferring of children of the group to another group, something that also happened with Australia's Stolen Generation. The main goal of the residential schools that aboriginal children were transferred to was breaking the bonds that bind Aboriginal children to their communities and ensuring that they never return "to the black." [39] "They changed our names, they changed our religion, they changed our date of birth, they did all that. That's why today, a lot of them don't know who they are, where they're from." [40] White Australians working for the church or the government re-parented, educated, and cared for the children. Dr Brent Waters, a child and adolescent psychiatrist, has spoken with a number of people who have been forcefully taken in NSW. "The people that I've talked to who were placed in white families were – and I haven't seen any that were absolutely fulsome about their family experience, most of them had some reservations – things seem to have gone quite well until they got into the teenage years. Then they started to become more aware

of the fact that they were different. Some of these were quite light kids, but nevertheless that they were different. And it was the impact of what peers were doing and saying which seemed to be most distressing to them. And sometimes their families didn't deal with that very well. They were dismissive. 'Look, the best thing to do is just forget you were ever Aboriginal' or 'Tell them that you came from Southern Europe'. To pass off what was obviously a difference in skin colour. But in none of those families was there a sense that one way to manage this situation was to recapture your sense of Aboriginality. There seemed to be no honor and dignity in being an Aboriginal, even if you'd been brought up by a family." [41]

Australia's culpability can also be shown by subsection (b) of Article 2 of the United Nations Convention of the Prevention and Punishment of the Crime of Genocide 1948, which defines genocide as "causing serious bodily or mental harm to members of the group". [42] The book Bringing Them Home describes the anguish endured by Aboriginal children whose parents never visited them and who were "routinely told that the circumstances of their removals were that their mother couldn't take care of them or had not wanted them". "Your family don't care about you anymore; they wouldn't have given you away. They don't love you. All they are, are just dirty, drunken blacks." [43] These children were scarred mentally. After being placed in state care, fostered or adopted out, or sent to work, a large percentage of Indigenous children were psychologically, physically, and sexually assaulted. The facilities' living conditions were severe, with rigid regimens, and the children were frequently hungry and cold. There was little tenderness, but lots of corporal punishment. As punishments, children were lashed, beaten, thrown in dark locations, or tied up. Depression, anxiety, low self-esteem, post-traumatic stress, and suicide are all widespread among the Stolen Generations, according to psychiatrists. [44]

This act meets the definition of cultural genocide, the systematic destruction of traditions, values, language, and other elements that make one group of people distinct from another. Children who were removed from their parents for an undetermined period of time had their hair chopped off, were prohibited to speak their native language, and were given a number instead of a name. They could not practice any of their traditions and were constantly told to forget everything they knew about it, as it was something to be ashamed of. [45] Losing their language was one of the most devastating effects.

"It was like somebody came and stabbed me with a knife. I couldn't communicate with my family because I had no way of communicating with them any longer. Once that language was taken away, we lost a part of that very soul. It meant our culture was gone, our family was gone, everything that was dear to us was gone. When I finally met [my mother] through an interpreter she said that because my name had been changed, she had heard about the other children but she'd never heard about me. And every sun, every morning as the sun came up the whole family would wail. They did that for 32 years until they saw me again. Who can imagine what a mother went through?"[46]

All of these conditions definitely support the culpability of Australia.

Culpability of Canada

According to subsection (c), in order for the act to classify as genocide, it has to be "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;", meaning the circumstances must be harsh enough to kill a significant portion of the targeted population. [47] Prosecutor v Akayeshu is a case that clarifies the requirements that must be met to meet paragraph (c), while Prosecutor v Kayishema[48] broadens this list, adding other elements to it. According to these two judgments, conditions include: bare subsistence diet, scarcity of medical supplies, as well as inadequate housing, hygiene, and clothing. [49] Looking at the conditions of residential schools in Canada, this list of requirements is definitely met. When not obeying the laid-out rules, children experienced harsh forms of punishment, which very often lead to their deaths. "Boys sometimes peed their bed, and the counselor would make us form two lines facing each other with our belt in our hands. And as each of the person that was being punished for peeing the bed [passed], we would have to whip them with our belt as they passed to the lines. I chose not to with my friends, and as a result, I had to go through that line and get whipped myself. And each time their punishment took place, I chose not to whip them, but to get punished with them."–John Jones, residential school survivor stated.[50] Many Indigenous children who were taken to residential schools never returned home, according to the Truth and Reconciliation Commission. Some perished of illnesses such as tuberculosis, while others died while attempting to flee, therefore

subsection c), this being "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part" is definitely met. According to the Truth and Reconciliation Commission's (TRC) report on Canada's residential school system, up to 6,000 Indigenous children may have died in the 150 residential schools run by the Catholic and Anglican churches from the 1880s to 1996, and that is only a conservative measure. Since investigation is still ongoing to this day, this number is expected to rise significantly in the coming months, years. Furthermore, according to the report, living circumstances are no better than those in prisoner of war camps, with minimal clothes, sleeping on the ground, a maize and water diet, physical and sexual abuse, and wind-torn, structurally unstable school structures.[51] Quoting the Report, students were "treated like they were animals in a herd", calling the whole experience "frightening, degrading, and humiliating." Children who died of sickness, children who murdered themselves, and mysterious and unexplained deaths were also recounted to the Commission.[52] When looking at subsection b), this being "causing serious bodily or mental harm to members of the group;", we can see that this exactly happened at these institutions. Phyllis Kretschmer, now 86, is a residential school survivor herself, and stated the following: "I received a strap along both hands and forearms. Even more traumatic was witnessing an older relative being beaten on her bare bottom in front of everyone. Seeing the rage in the priest's face as he struck my cousin repeatedly is a memory I can't forget."[53] Qouting another survivor, "I am deaf in my right ear from being slapped in the ear and the head, and my left earrings constantly.". [54] Apart from being beaten, children, as mentioned before in the chapter on conditions at Canadian residential schools, were often abused. As was told by Alsena, a surviror who was taught at the Blue Quills Indian Residential School near St Paul, Alberta, "I was molested by a nun." In an interview with her, after long, heavy gasps and sobs, Alsena talks about the abuse, one instance in particular, when she was eight years old and being washed by a nun.[55] Cultural genocide was definitely the situation at these institutions. It was clearly a systematic destruction of traditions, values, language, and other elements. ""We have been told that native culture was not good, and that our customs were no-good," Alsena recalls.[56] Students were disciplined for speaking their mother tongue, everything was done in order to eradicate their native culture. All was done to destroy any memory left of

their culture. All of the above-mentioned conditions definitely support the culpability of Canada.

CONCLUSION

The Canadian and Australian state's true goal was to integrate Aboriginal children by erasing their cultural identity and replace it with that of a white settler. In these circumstances, I conclude that the assimilationist aim carried out on such a large scale to destroy Aboriginal society as it existed historically fulfills the Convention of the Prevention and Punishment of the Crime of Genocide's provisions, making this an act of direct cultural genocide in both countries. There was a direct intention to accomplish the goal effect of integrating Aboriginal people into white society, using boarding schools as the tool for destroying their own culture. The *mens rea* requirement is premised upon the idea that one must possess a guilty state of mind and be aware of his or her misconduct[57], and the physical destruction has to have been planned, premeditated, and purposefully inflicted. There is no argument on whether or not these requirements are met, it is clear they are. The infliction was intentional, the school circumstances were not by chance. The government knew about the conditions, knew about the death rates, knew about everything that was going on at these institutions. It was all part of one big plan, eradication of Aboriginal cultures. In Canada, Murray Sinclair, Chairperson for the Truth and Reconciliation Commission, stated in an interview that: "mass graves, deaths, no surprise really, of course we knew".[58] In Australia, it was all the same. They were aware that children were being abused, that no true education was being provided, and that the impact of these schools on children were horrible. The churches can justly be blamed for the everyday atrocities the children faced, but the federal government of both countries bears the ultimate responsibility for handing over education to churches without proper financing, accountability mechanisms, or monitoring. That is to say, the government can be considered to have purposefully sought destruction as a goal since it acted knowing that such devastation was occurring on a huge scale and would continue unless it interfered, and it had the ability to change the situation but chose not to.

The aforementioned meets the criteria of the Convention, demonstrating that Canada and Australia both perpetrated genocide against its indigenous peoples through the Residential

Schools, and there is there is sufficient evidence to show this. The loss, sorrow, and suffering that Aboriginal people have suffered as a result of separation laws, policies, and practices can never be repaid sufficiently. The loss of a child's or parent's love and devotion cannot be replaced. Children's psychological, physical, and sexual abuse by adults who saw them as part of a "despised race" cannot be fully compensated. These people in Australia and Canada have been scarred, scarred for life. There is no respite. There is no relief. There is no respect, and no recompense.

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BOOK REVIEW

30 YEARS OF THE VISEGRAD GROUP: THE WAR IN UKRAINE AND THE POLICY OF THE V4 COUNTRIES

Laura Nyilas[1]

SUMMARY

This is a short review of the book 30 Years of the Visegrad Group, edited by Ewelina Kancik-Kołtun, Volume 3: The war in Ukraine and the policy of the V4 countries.

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The editor of the book, Ewelina Kancik-Kołtun, has many years of experience in conducting empirical studies for several academic institutions, mainly on election support and strategy building. She has participated in more than 80 academic conferences and has organised several international conferences, such as the Visegrad Group 30 Years - Successes, Failures and Prospects. He has written more than 50 papers on local level advocacy, the Visegrad Group, territorial e-marketing, e-government, political marketing, information society and election campaigns. He is currently an adjunct professor at the Department of Public Administration, Faculty of Political Science and Journalism, Maria Curie-Skłodowska University of Lublin.

The book, written by Polish, Czech, Slovak, Hungarian and Ukrainian authors[2] and currently under review, presents the politics of the Visegrad countries and the current challenges and problems in the relation of the Russian-Ukrainian conflict.

After Russia's attack on Ukraine under the banner of special operations, the Visegrad countries faced a challenge of unprecedented proportions, not least because three of the four countries became neighbours of a country at war overnight. Many countries in the world, most notably Russia, expected the conflict to be quick and end in a Russian victory. However, the armed conflict has been going on for more than two years and the end is still not in sight.

In the politics of the Visegrad countries, Russia's war in Ukraine has caused several problems not only within the states but also internationally. This book, in twelve chapters, addresses these problems from the perspective of the individual states, considering international political, security and defence aspects. The chapters provide an insight into the policies and approaches of the Visegrad countries to the war, as well as a closer look at the Polish, Czech, Slovak and Hungarian positions on the war and the military and humanitarian assistance to Ukraine.

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[2] See the joint work of them for instance in: Rada, Péter, Jan, Jires, Tomas Valasek, Wojciech Lorenz (2013): Missiles and misgivings: the US and Central Europe's security. *CEPI TRANSATLANTIC POLICY BRIEFS*, 2013, pp. 1-5.; Rada, Péter, Jaroslav, Usiak, Ewelina, Kancik, Ladislav, Cabada (2023): Highlights of Visegrad in our Perspective. In: Rada, Péter (szerk.), *The Past, Present and Future of Visegrad Cooperation*. Budapest: Budapesti Metropolitan Egyetem, pp. 2-12.; Rada, Péter (2019): 30-20-15 and the Changing World. *BIZTPOL AFFAIRS*, 7:1-2, pp. 6-21.; Rada, Péter (2022): 30 years of Visegrad Cooperation and the Transatlantic Relations. *BIZTPOL AFFAIRS*, 9:1, pp. 1-12.

The armed conflict between Russia and Ukraine is also a test for the Visegrad countries both individually and as an international grouping. In the first chapter of the book, the reader is introduced to the Visegrad countries' positions towards the Russian-Ukrainian conflict, which the author analyses in the light of future global and regional challenges.

Then, another author analyses the problems of the crisis unfolding within the four countries because of the war, this time from a Hungarian perspective, considering the historical and political context.

The international system is in a state of constant change and is therefore constantly evolving. Today, a new world order is emerging, which is becoming more and more apparent as a result of the Russian-Ukrainian conflict. The following chapter will highlight the changing trends in the strategic international environment affecting the EU and, through the EU, the Visegrad countries.

As mentioned above, the main challenge of our time and of the Central and Eastern European region, the war has also created a few other security challenges that the countries neighbouring Ukraine and the region must deal with. One such challenge is the wave of refugees caused by the war. The book addresses the issue of double standards in this area. According to several international actors, the Visegrad countries apply double standards to Ukrainian and non-Ukrainian refugees.

The book thus provides a detailed insight into the Visegrad Group's reaction to the war in Ukraine, with analyses of political reactions in the early stages of the war as well as in the later stages. The book reveals the security challenges that the four countries concerned have had to face and continue to face, such as the refugee and energy crises. The study also examines NATO's ability to deal with hybrid threats, as all four countries are committed members of the North Atlantic Treaty Organisation and clearly see it as a cornerstone of security.

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