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Belgium

For nearly 50 days, undocumented migrants have been on hunger strike in Brussels

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Since 23 May 475 undocumented migrants (called « sans-papiers » in French) have been on hunger strike in Brussels. They hope to draw the attention of the Belgian authorities to their situation and to obtain a Belgian residence permit which they have been refused for 5, 10, 15 or even - for some more than 20 years. While the hunger strikers' health condition has been "critical" since the end of June according to the NGO Médecins du Monde, the Belgian government remains deaf to their calls for help. The strikers say they are ready to "go all the way".

These men and women come mainly from North Africa but also from Afghanistan, Pakistan and Nepal. They have been living in Belgium for many years and have, for the most part, worked for low wages and contributed to the country's wealth. They therefore describe themselves as "unregistered citizens". Their precarious condition, aggravated by the COVID-19 pandemic, pushed them in January 2021 to organize themselves into a collective called the Undocumented Migrants' Union for Regularization (USPR in French). The collective quickly decided to occupy various symbolic places in Brussels in order to make their struggle visible and to assert their rights, and began to demonstrate three times a week in the streets of the capital.

The occupied buildings - the Béguinage church located in the heart of the city center and the premises of the Université Libre de Bruxelles (ULB - French-speaking) and the Vrije Universiteit Brussel (VUB - Dutch-speaking) - are regular sites of the undocumented migrants' protests in Brussels. The migrants' support networks were quickly activated to widely communicate the demands of undocumented migrants and to provide logistical support to the occupations. The organizing committees of each of the occupations are made up of students, activists, researchers and academics, ordinary citizens acting in solidarity, church people, etc. The two major trade unions of Belgium - FGTB and CSC - as well as various left-wing organizations also participate. The undocumented migrant representatives from the different occupations decide together on the direction of the movement and discuss it regularly in larger assemblies with their supporters.

In spite of this powerful mobilization, Belgian politicians continued to ignore the undocumented migrants' calls, forcing the 475 occupants to go on hunger strike. The strike pushed the directors of the two universities, as well as many political and cultural figures, to support the regularization of undocumented migrants but the government has remained unmoved. Nearly 50 days of hunger strike, six suicide attempts, four strikers with their lips sewn shut and the refusal of some to be supplied with water and sugar have not changed anything. How did this situation of desperation come about? And why is there no political solution in sight?

A particularly restrictive policy

It is generally estimated that there are between 100,000 and 150,000 people living in Belgium without access to legal residency status. These figures, probably underestimated, already make up between 1% and 1.5% of the Belgian population. The mechanisms that produce undocumented migrants are the same in Belgium as elsewhere in Europe: inadequate legal channels for migration leading to visa overstays and an exclusionary asylum policy. Compared to other European countries, however, Belgium has particularly restrictive laws on the regularization of residence for undocumented people. The law governing the status of foreigners does provide two mechanisms - firstly for medical reasons, and secondly for so-called "humanitarian" reasons - but its terms remain evasive. The scope of the medical regularization has been reduced to a minimum, while the humanitarian option is entirely subject to the discretionary power of the government. Cases submitted on this basis are therefore very rarely successful, which makes the

current legal channels for regularization inoperative in practice. In addition, the law on the employment of foreign workers states that an undocumented person residing in Belgium is simply not eligible for a work permit that could give him access to a residence permit. Belgium has not transposed into its national law the EU directive allowing the granting of temporary residence permits to victims of exploitation who wish to lodge a complaint against an abusive employer (article 13.4 of the EU Employers' Sanctions Directive).

Faced with this bureaucratic machine that produces illegality, self-organized collectives of undocumented migrants first began to appear in Belgium at the end of the 1990s. Their mobilizations twice forced the authorities to carry out massive "one shot" regularization operations based on a list of criteria, in 1999-2000 and 2009-2010. While the first operation is generally considered a success (about 40,000 people legalized permanently out of 50,000 applications), the 2009 regularization survives in memory as a bitter failure. The long and ambiguous procedure was marked by many pitfalls. The main criterion for regularization, the possession of a work contract, was very restrictive and gave rise to all sorts of abuses and fraud on the part of dishonest employers. In the end, the campaign only regularized a small portion of the small number of applicants, mostly on a temporary basis.

The failure of the 2009 regularization operation necessarily led, in the years to follow, to a reorganization of the undocumented migrants' movement. A new and dynamic phase of struggle from 2014 onwards has brought the different collectives together around a demand for structural change that had already been made during the previous period. This consists of demanding the inclusion of clear and permanent criteria for regularization in the Law on Foreigners and the establishment of an independent commission to process cases, in order to counter the arbitrariness and opacity of administrative decisions. However, this demand was swept aside by the coalition government in place between 2014 and the end of 2018, known as the most right-wing in Belgium's recent history. The refusal of any so-called "collective" regularization operation was written into the government's coalition agreement and hammered home by the Secretary of State for Asylum and Migration, Theo Francken, who comes from the hardest ranks of the Flemish nationalist right (NV-A). During this period, he had free rein to pursue a deeply repressive policy fuelled by a discourse of racism and criminalization.

Undocumented migrants left behind during the COVID-19 pandemic

As mentioned above, the precariousness in which undocumented migrants are kept in Belgium has been further aggravated by the COVID-19 pandemic. Many of them lost the work that allowed them to survive. Lacking any safety net, they also often lost their housing, which led to an increase in the number of people having to turn to squatting. Conversely, others have had to continue to work regardless of their health status, particularly in cleaning and personal care, making them even more vulnerable to health risks and police controls when they travel. The closure of borders, the closure and/or stripping-back of certain public services, particularly the administration in charge of foreigners, and certain front-line social assistance services, have also made it difficult to access certain rights, such as healthcare. While most workers in Belgium were able to benefit from state support, undocumented migrants were left out of the pandemic response.

In response to this invisibilization, undocumented migrants were the first to deconfine social struggles in Belgium. From the first confinement, campaigns were conducted online to push the government to carry out a regularization campaign as part of the pandemic response, similar to what was done in other European countries (Portugal, Spain and Italy in particular). These mobilizations continued in the streets from the spring of 2020 until the negotiations for the formation of a new Belgian government approached in September 2020. But the new coalition government, which was sworn in on 1 October 2020, has generally continued to ignore the demands of undocumented migrants. It also announced a second lockdown in Belgium on 2 November, precipitating a further decline in the economic and psychological situation of undocumented people. Their continued mobilisations in this context led to the emergence

of the USPR, some of whose members were already among the so-called "victims" of the 2009 regularization.

The USPR had initially taken up the historical demand of the undocumented migrants' movement, namely, the inclusion of clear and permanent criteria for regularization in the Law on Foreigners and the establishment of an independent commission. Today, faced with the deteriorating health of its members, the collective demands an immediate solution for them, in parallel with the opening of a real societal debate on the question of regularization.

Political blockages

How then can we explain that the Belgian government remains deaf, blind and insensitive to the demands of the hunger strikers? As mentioned earlier, the previous coalition government contributed greatly to polarizing the public debate around migration. It had moreover collapsed following the withdrawal of the Flemish nationalist right-wing party NV-A, which had a majority in the coalition, under the very timely pretext of the party's refusal to ratify the Global Pact for Migration, known as the "Marrakesh Pact", in December 2018. After the spring 2019 Belgian parliamentary elections, in which the NV-A emerged as the big winner, led to a political stalemate, a provisional government consisting mainly of the remnants of the former coalition was then appointed in March 2020 to deal with the pandemic.

The coalition that emerged from the September 2020 negotiations aimed to isolate the NV-A and the far-right Flemish party Vlaams Belang (VB), which have been leading in the polls since 2019. A heterogeneous conglomerate of parties oscillating between the French-speaking and Flemish centre-left and right, this is a particularly fragile balance. Although a number of the parties involved are to varying degrees in favour of regularizing undocumented migrants (notably the French-speaking Socialist Party and the green parties), the issue has been sacrificed on the altar of government co-management. In what is increasingly becoming a tradition, the government has thus entrusted asylum and migration matters to a party of the Flemish right, in this case the Christen-Democratisch en Vlaams (CD&V), in the person of State Secretary Sammy Mahdi. While this new face, who was born to a refugee father, is supposed to embody a cooling-off of the "discourse" on migration, the recipes for migration policies remain largely the same. The government, now forced to negotiate in the face of the tragedy unfolding before its eyes, has also positioned the Secretary of State as the only contact point for the strikers and he is inflexible and intractable. Sammy Mahdi has thus become the guard dog of a government that refuses to assume responsibility for the situation, arguing that they must respond to the rise of the extreme right in Flanders.

Years of restrictive migration policies have clearly not prevented the Flemish far right from growing wings. As Andrea Rea, professor of sociology of migration and member of the ULB-VUB support committee for undocumented migrants, recently pointed out on Belgian public radio: "The ideas of Vlaams Belang are already in the heads of all those who govern, which immobilizes everyone." The hunger strikers, who are now particularly weakened, therefore need the widest possible solidarity from below, in Belgium and beyond, in order to make their voice heard and to show the world their dramatic situation, and remind the Belgian government that one cannot fight the extreme right with its own recipes.

16 July 2021

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