

# A crying shame:

Pregnant asylum seekers and their babies  
in detention



THE **MATERNITY** ALLIANCE



**BAIL FOR IMMIGRATION DETAINEES**

# INTRODUCTION

Pregnancy and the first months of a baby's life are a time of exceptional physical and emotional vulnerability for both mother and baby. Neglect during this critical period can have lifelong consequences for the health and well being of the child. Yet recent research into the maternity experiences of asylum seekers in England found that "the special needs of pregnant asylum seekers and their babies have been largely ignored in the context of a support system designed to have a deterrent effect on people seeking to come to the UK."<sup>1</sup>

That research did not, however, investigate the impact of being detained (i.e. imprisoned under Immigration Act powers) on asylum seekers who are pregnant or have recently given birth.

This paper aims to highlight the specific problems associated with the detention of vulnerable women and babies. It describes the findings of a small qualitative study of the experiences of pregnant women and mothers who have been detained, and makes recommendations for action by the Home Office and the Immigration Service based on those findings, and on the experience of organisations working with immigration detainees.

Whilst the main purpose of this paper is to consider the impact of detention on pregnant women, new mothers and babies, many of the conclusions are of relevance to the situation of other vulnerable immigration detainees, including children, people with physical and mental health problems, and the survivors of torture (including rape). The conclusions will also be of relevance to the development of policy on Accommodation Centres.<sup>2</sup>

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The **Maternity Alliance** works to end inequality and promote the well being of all pregnant women, new parents and their babies.

**Bail for Immigration Detainees (BID)** is a charity that prepares and presents bail applications for those detained under Immigration Act powers.

**London Detainee Support Group** is an independent charity that exists to visit, befriend and give practical support to people held under Immigration Act powers at Harmondsworth Detention Centre.

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<sup>1</sup> Mcleish J, *Mothers in exile: maternity experiences of asylum seekers in England*, Maternity Alliance 2002

<sup>2</sup> The proposed new Accommodation Centres are not the same as the existing detention centres: "Asylum seekers will not be detained in Accommodation Centres. They will be able to come and go...(but) they will be required to reside at the allotted centre throughout the processing of their application..." - *Secure Borders, Safe Havens: Integration with Diversity in Modern Britain*, HMSO February 2002. Accommodation Centres are not expected to be operative until 2004.

## BACKGROUND

### Immigration detention (see page 10 for more information)

Most people who seek asylum in the UK are allowed to live in the community (or in the future may be required to live at an Accommodation Centre). However, some asylum seekers, who have not been convicted of any criminal offence, are held in detention centres, which are effectively dedicated prisons run on behalf of the Home Office. Any asylum seeker can be detained on the decision of an Immigration Officer at any stage of his or her asylum claim, including on arrival in the UK. An Immigration Officer's power to detain people has been described by Amnesty International as "extraordinary and unrestrained."<sup>3</sup>

There are standard criteria for Immigration Officers to consider in making a decision to detain, including evidence of absconding, likelihood of removal from the UK, previous history of complying with the requirements of immigration control, and ties with the UK and other factors which might afford an incentive to keep in touch with the Immigration Service. The criteria state that there is a presumption in favour of release rather than detention. Once a person has been detained, detention is often for long periods as there is no statutory time limit and there is no routine or automatic review of the detention by a body independent of the Immigration Service.

### The use of immigration detention for pregnant women and babies

The Immigration Service's own instructions set out categories of people who are "normally only considered suitable for detention in very exceptional circumstances...."<sup>4</sup> These include pregnant women (unless there is the clear prospect of early removal), those suffering from serious medical conditions or mental illness, and those for whom there is independent evidence of torture.

Despite these instructions, this study has found that pregnant asylum seekers (and their babies) are amongst those currently detained, sometimes for many months, even where there is no prospect of early removal. There are no figures available about the numbers of pregnant women or babies detained; indeed there are no figures on how many asylum seekers in general are subject to detention each year. The White Paper *Secure Borders, Safe Havens*,<sup>5</sup> whose reforms are enshrined in the Nationality, Immigration and Asylum Bill that began the parliamentary process in April 2002, states an intention to increase the use of detention for families for periods other than immediately prior to removal. It is therefore highly likely that the number of women who will be in detention whilst pregnant or shortly after giving birth will increase.

The practice of detaining pregnant and breastfeeding women has been condemned by the United Nations High Commission on Refugees (UNHCR), whose (non-binding) guidelines state that "as a general rule the detention of pregnant women in their final months and nursing mothers, both of whom have special needs, should be avoided."<sup>6</sup> This guideline should be read in the context of UNHCR's overriding position that the detention of asylum seekers is "inherently undesirable," particularly for "vulnerable groups such as single women, children, unaccompanied minors and those with special medical or psychological needs."<sup>7</sup>

### Pregnancy in prison

To the best of our knowledge, there is no other research on the impact of immigration detention on pregnant women. However, existing research<sup>8</sup> on the prison population demonstrates that the experience of being pregnant in a custodial setting induces fear and stress. Being pregnant in prison has been found to have negative implications for a woman's reaction to the discovery of her pregnancy, her diet, her support network, antenatal care, exercise, birth preparation and her knowledge about her pregnancy. Pregnant women in custody suffer feelings of isolation, insecurity and disempowerment. Antenatal care is compromised by the necessity of negotiating access to midwives and doctors with gatekeepers such as prison officers and nurses.

<sup>3</sup> Amnesty International *Cell Culture: The Detention and Imprisonment of Asylum-Seekers in the United Kingdom*, London: Amnesty International British Section 1996

<sup>4</sup> *Operational Enforcement Manual*, Immigration Service, May 2002

<sup>5</sup> *Secure Borders, Safe Havens: Integration with Diversity in Modern Britain*, HMSO 2002

<sup>6</sup> *Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers*, UNHCR, Revised February 1999

<sup>7</sup> *ibid*

<sup>8</sup> Canvin K *Hard Labour? Pregnancy in Prison*, Howard League Annual Conference, Oxford, 2001; Canvin K. *Pregnant Prisoners' Expectations for Pregnancy*, Human Reproduction Study Group Conference (Medical Sociology Group - British Sociological Association), Northampton 1997

# WOMEN'S EXPERIENCES OF DETENTION

This section draws on in-depth, unstructured interviews with four women who were detained while pregnant or with a young baby. The interviewees were recruited by convenience sampling (they were all in touch with Bail for Immigration Detainees). At the time of interview, two women had been detained for more than four months (one of whom had been released), one woman for three months and one woman (who was detained on arrival) for two weeks. Three women were pregnant and two had babies. Three women were interviewed in detention centres and one was interviewed at her partner's home shortly after release. The interviews were carried out in English and French.

## 1. Physical health of mothers

All of the pregnant women experienced discomfort and pain during pregnancy. One woman also suffered unusually severe nausea and vomiting in the early months of her pregnancy. The pregnant women found the combination of physical pain and their detention conditions hard to bear, particularly without anyone to comfort or assist them.

*I don't sleep at night. I have many pains, contractions and backache. I just cry, cry, cry. You don't want to be disturbing others all the time, so you keep it to yourself, but when the pain is too much I cry loudly and my roommate wakes up.*

*I couldn't sleep. The bed we were using, just ordinary wood - all the time I feel pain, vomiting. It was very freezing all the time. It was really hard. Sometimes I put my sheet down and sleep on the floor, it's not comfortable for me, I come back...*

## 2. Food

Good nutrition in pregnancy is very important for the healthy development of the unborn baby. A baby born to a mother who has not received an adequate diet in pregnancy is more likely to be born at a low birthweight (under 2500g),<sup>9</sup> which puts the baby at increased risk of disability, ill health and death in infancy.<sup>10</sup>

Pregnant women often experience strong food cravings but the women in detention were powerless to satisfy them. Restricted mealtimes meant that pregnant women, who are advised to eat little and often, were hungry at night. They also found the food provided unappetising and repetitive. One pregnant woman who had been detained throughout her pregnancy so far was very worried that she was not eating enough food for her baby to grow (she only ate rice) and this fear had been strengthened when an ultrasound scan had revealed her baby was small for its gestational age. Another woman was eating so little that she was unable to produce enough breastmilk to feed her baby. A baby who is not breastfed is at increased risk of gastro-intestinal illness, respiratory infections, urinary tract infections, ear infections, serious respiratory allergies, eczema and childhood diabetes.<sup>11</sup> The baby in question had already developed eczema.

*I started to be sick, I can't eat. You know the food they gave us in detention, every time I smelled it I started to vomit. All I could take was milk and water. I used to cry and tell (the midwives) 'I can't eat, and I'm very concerned, when I can't eat what will happen to the baby?'*

*Breakfast there is only 8-9 o'clock, lunch is 12 to 1, and dinner is 6 to 7. So by later, by late night when I was feeling hungry, there is nothing - overnight there is nothing. It is not easy.*

*We don't eat good here. Sometimes I eat just once a day because it's not nice food. I can't breastfeed my baby because I don't eat well.*

## 3. Pregnancy care

Under normal circumstances women who are more than three months pregnant receive medical care and pregnancy advice from midwives, and to a more limited extent from obstetricians. The first principle of

<sup>9</sup> Low Birthweight. A tabulation of available information. WHO/UNICEF 1992

<sup>10</sup> Growing Up in Britain: Ensuring a healthy future for our children, BMA1999; MacFarlane A. & Mugford M., Birth Counts: statistics of pregnancy and childbirth, TSO 2000, Table A3.5.2

<sup>11</sup> Information Sheet, UNICEF UK Baby Friendly Initiative 1996

good maternity care, as defined by the Department of Health's Expert Maternity Group, is that "(t)he woman must be the focus of maternity care. She should be able to feel that she is in control of what is happening to her and able to make decisions about her care, based on her needs, having discussed matters fully with professionals."<sup>12</sup>

Generally the health care centres within the detention centres did not provide the type of care or support that women wanted (see also section 7). At one detention centre, midwives came in fortnightly from the local hospital. The pregnant women valued the care and kindness they offered, although one woman reported that she had not been offered the normal blood tests (this may have been because the midwife was unable to communicate with her - see section 4). On the other hand, the women remained dependent on the detention centres to escort them to hospital appointments, and in one instance the detention centre failed to take a pregnant detainee to an important appointment for an ultrasound scan.

*The midwives came from outside. They came twice. They just checked my blood pressure, nothing else... They were good, but there was nothing they could do - it wasn't their fault.*

*(The hospital) organised a scan, but we were supposed to go there at 9 o'clock and the detention centre took me there at 12 o'clock. So I missed the scan ... That would have been the 20 week scan.*

*The medical care is OK, but they (the health care centre) won't give me anything for the pain.*

*I couldn't talk about my worries to the medical centre.*

The Expert Maternity Group also noted that "continuity of carer is seen as being one of the fundamental principles underpinning woman-centred care."<sup>13</sup> The experience of being detained and moved between detention centres fractured this continuity and in one case the detention centre had failed to forward the results of blood tests to a pregnant woman who had been released. (See also section 5 on loss of contact with health professionals).

*The medical people collected some blood for some tests, but I haven't got the results. They said they would send it to me, but until now - no.*

#### 4. Access to interpreters

Three of the women spoke English (as a second language) but one woman did not. She had no access to an interpreter while in detention, including during her appointment with the midwife. She had only understood part of what the midwife said to her and as far as she could tell had not been offered the standard blood tests (to establish blood group, rhesus status, rubella status and to screen for anaemia and sexually transmitted diseases including HIV).

No attempt was made to enable this woman to communicate fully with the midwife, but there is currently a widespread practice in detention centres (acknowledged by the Home Office) of using fellow detainees to interpret for medical consultations. The Medical Foundation for the Care of Victims of Torture has commented on this practice: "This is absolutely unacceptable. It is also dangerous unless the interpreter is a trained professional fluent in English. It breaches all medical confidentiality requirements... Using family members to interpret, which is what usually happens (in the community), is done with the informed consent of the patient to use someone they know and trust... In a detention centre, another detainee will probably be a stranger (or worse, may not share the same ethnic, national or political background as the patient, making them an actual or perceived threat)."<sup>14</sup>

#### 5. Child health care and welfare

One four week old baby who had been born six weeks prematurely was taken into detention with his mother, in circumstances which abruptly broke off her contact with the health professionals who had been caring for them. The detention centres they passed through withheld the baby's medical treatment (oral vitamin K to prevent the serious disorder vitamin K deficiency bleeding) and made no contact with the external child health services to provide support and advice for the mother and health surveillance for the baby.

<sup>12</sup> Department of Health *Changing Childbirth Part 1: Report of the Expert Maternity Group* HMSO 1993

<sup>13</sup> *ibid*

<sup>14</sup> *The use of interpreters at detention centers: Medical Foundation response to Home Office note*, Medical Foundation for the Care of the Victims of Torture, May 2002

*My baby was born prematurely, at 34 weeks. I stayed in hospital for three weeks and then went home. They came to get me after one week at home. There was a knock on the door at 7 a.m., they said 'Your case is over, you are going into detention.' They started to put my things into bags. I could not tell the midwives or health visitor where we went... Here (in the detention centre) they don't even weigh the baby, they do nothing to protect him, even though he was born premature. I was there with a premature baby, and the midwives (outside the detention centre) had given me vitamin K to give to the baby every day. They took away the vitamin K to the health centre. You had to ask to go to the health centre, but the officers would never bring me to there, they always said 'Later, we are busy.' So he only got vitamin K for the first month, before we were detained.*

The health care centres had also failed to provide or arrange the baby's first three sets of immunisations, which caused the mother intense anxiety (the routine immunisations against diphtheria, tetanus, whooping cough, Hib infection, polio and meningitis C should have taken place when he was two, three and four months old - during all of which time he was in detention).

*My baby (now four months old) has not had his immunisations. Every day I ask and they say, 'We're looking into it.' I'm really worried about him: there are many people here, many children, from many different countries, who may have diseases. What will happen if he catches a disease? Every baby here has flu. The rooms are very cold...*

The mother was also very worried about how life in the detention centre was affecting her baby's development:

*This place is not for children...They told me detention is not prison but it is. The baby is closed up in one place. You can't do so many things, see people, get fresh air...*

## **6. Provision of baby milk, food and nappies**

One detention centre had a policy of only giving out three nappies at a time, which meant the mother of a young baby having to queue up for nappies at least twice and probably three times a day. Staff also adopted a policy of only giving out one bottle of formula milk at a time, which again meant the mother of a bottlefed baby queuing up every couple of hours both day and night.

*You have to go to the office every time you need nappies or milk. Sometimes the office is closed or you have a very long wait. They only give out three nappies at a time. One time when his milk was finished I asked for a new tin and they said they wouldn't give me a tin, just enough for one bottle, so I should go to the office every time he needs a bottle. But he needs a bottle every two hours! So I prefer to use the milk which my friends bring me from outside. But sometimes they refuse to give me milk which my friend has brought.*

One mother was concerned about the quality of food provided for her 12 month old child: she found it too sweet, and she believed some other children had developed diarrhoea because of the food. She had arranged for a relative to bring food in for her baby instead.

## **7. The health care centre**

The health care centres in the detention centres were perceived by the women as at best useless, and at worst colluding with the detention centre regime against the best interests of the mother and child.

*My baby has eczema. For three months the medical centre wouldn't give me anything for it, they said it was dry skin. They don't do nothing, just speak, speak. Now they say it is eczema.*

*My glasses got broken and the medical centre won't give me new ones. So now I can't watch the TV and reading gives me eyestrain.*

*They tried to remove me (from the UK), but they didn't tell me that. They came to me and said 'Give your baby to the nurse, we need to weigh him.' I said 'No, I'll come to the medical centre with him if he needs attention.' When I was there, they took the baby from me and then put me in the van to the airport. They only gave him back to me when I was in the van. It was a trick. But in the end there was no place for me on that airplane, so they brought me back here.*

## 8. Activities/daily routine

Mothers described a generally very solitary and sedentary routine, largely keeping to their rooms unless there was some particular reason to come out. The fact that recreational facilities existed did not mean that they were, in practice, available to the women.

*Most of the time I don't feel well. I stay in my room and read my Bible. You can go outside, but it's too cold outside.*

*When you are pregnant you are supposed to be going around, doing exercise - but no...We have TV inside our room, so I just stayed inside the room and watched TV, there was nothing else.*

*They have a library here and a church - but suddenly they say you can't take your baby with you into the church. I want to go to pray, to forget this place. But I'm nervous of leaving the baby, being separated from him.*

## 9. Emotional and psychological impact of detention

### 9.1 Depression

Pregnancy often intensifies emotional reactions and in the context of indefinite, sometimes prolonged and poorly understood detention, the women experienced acute depression about their circumstances. Irrespective of the physical conditions in the centres, the women were overwhelmed by their confinement and loss of liberty.

*Having a baby in here would be like asking a person to commit suicide. Having a baby in here, that's the most inhumane thing you can do to another person. We are crammed in here, we are fenced in. I find it hard to breathe... I am very depressed.*

*Always the same place, always the same faces...I am fed up, fed up, fed up, fed up of being here. Sometimes I wake up weeping. Sometimes I think it would be better to suffer in (my country) but I think of my child and the baby - sometimes I think if it wasn't for them I would go back because here is double suffering - you have no visitors, you can't go out. It's so hard. I'm fed up, I want to get out, everything would be better if I got out... I am tired, tired, tired, tired...*

### 9.2 Loneliness

Feelings of despair were compounded by the profound loneliness and isolation which the women felt. Whereas pregnancy and birth are normally times of increased social support when family and friends cherish and protect mother and child, women in the detention centres were entirely on their own with their problems, pain and fears. Phone calls from a visitors group were, for one woman, a vital lifeline to the outside world.

*People in here keep apart...I'm alone in this place. You don't trust anyone. I have lots of friends outside, but in here I have nobody to ask advice or tell my worries.*

*Outside it would be hard to meet people who can give support, but in here it's impossible...Only (the visitors group) calls me...No one has visited me. I don't know anyone in England. I'll be alone for the birth.*

### 9.3 Powerlessness, insecurity and stress

The uncertainty of their situation created chronic stress. The women did not know from one moment to the next whether they would continue to stay in that centre or be moved, released or (if detained at the end of their case) removed from the UK. They also experienced a frightening powerlessness in their daily lives in detention, even to the point of feeling unable to protect a baby from potential harm. This combination of long term and daily insecurity, examined in more detail in sections 9.3.1 to 9.3.4, put the women under enormous stress.

Where a pregnant woman is subject to unusual stress, the healthy growth and development of her baby can be affected.<sup>15</sup> The women were painfully aware of this and expressed fears that the stress they were under was harming their own health and could harm their unborn babies.

<sup>15</sup>Stress is significantly associated with low birthweight and spontaneous preterm birth: Copper RL, Goldenberg RL, Das A et al "The preterm prediction study: maternal stress is associated with spontaneous preterm birth at less than 35 weeks gestation", American Journal of Obstetrics and Gynecology, vol 175, no 5, Nov 1996, pp 1286-1292

*I am worried what will happen if the stress affects the baby - you can lose a baby spontaneously because of stress.*

*(The midwives) said 'There is nothing we can do.' If I told them I've got this problem (severe pregnancy sickness) they said 'It's because of the stress, because they have detained you.'*

### **9.3.1 Place and length of detention**

The indeterminate nature of detention was extremely demoralising for the women. They were also aware from experience that they might be moved from one detention centre to another without notice or explanation. One pregnant woman had been moved between four different places during her four and a half months in detention and had been separated from her brother who was initially detained with her. Another woman was moved after three months in one detention centre from one end of the country (where she had friends who visited regularly) to the other, where she knew no one. This unpredictable movement of detainees has the potential to disrupt such support networks as may tentatively be built (with fellow detainees, visitors' groups, and health professionals).

*Just being in here is the whole problem. That's the pressure - you don't know when you are going, you don't know how long you are staying. It's the stress of being pregnant. Your whole world is crumbling.*

*You don't have any information about when you will be moved or released. People disappear. You don't know if tomorrow you're going to be here. In the night, neighbours disappear.*

*They woke me at 7 am and said "In 15 minutes you're going to (another detention centre)." I had no time to say goodbye to anyone. I managed to make two bottles of milk, but the journey was really hard - eight hours in a van with a baby who had been sick for the two days before they moved us. They haven't told me why they moved us.*

### **9.3.2 Reasons for detention and circumstances of being taken into detention**

Other circumstances added to the women's feelings of vulnerability. One woman, detained at the beginning of her asylum claim, was very distressed because she had no clear understanding of why she was being held. Another woman was bewildered by the manifest injustice of her situation. Her asylum appeal was dismissed in her absence without a hearing because the Home Office sent the papers to the wrong address, even though she was living at an address provided by their own agency, the National Asylum Support Service (NASS). As a result, she was classed as someone whose asylum claim had failed. She and her baby had been in detention for more than four months as a result of this administrative error.

*They sent me to an address but that address was full, so they sent me to another place. But they sent the court papers to the first address and so I missed the court hearing and when I did not come they dismissed the case... But how can they remove me when they have not heard my case? I can't back down, because I have a baby... You write, write, write to immigration. One day my baby will ask me 'Why, why, why?'*

Two of the women, who had been in the UK for long periods before they were detained, described how they were arrested out of the blue. One woman, arrested at home, was given 15 minutes to pack (see section 5); the other, arrested at a police station when she went there to comply with a reporting restriction,<sup>16</sup> was taken straight to a detention centre without an opportunity to go home and collect her or her baby's belongings, none of which she had ever recovered.

### **9.3.3 Hopes of release**

All the women were preoccupied with the possibility of being released from detention, but none of them had any confidence that there would be independent scrutiny of their cases. The immigration authority which had detained them was seen as an unfathomable, arbitrary and inaccessible bureaucracy. There were formidable obstacles to obtaining bail: the women lacked access to good legal advice, and in one case excessive financial sureties of £5000 were demanded.

*Immigration (officers) don't give me an answer - maybe they forgot me... Tell me, why should they keep us here? How can I run away when I have a baby and no money? Where can I go?*

*I really felt depressed. There was nothing I could do... If I tell them (the staff) 'I want to see the*

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<sup>16</sup>It is common for asylum seekers living in the community to have to "sign in" regularly at a police station or immigration office. While sometimes onerous, this is obviously preferable to detention.



*immigration,' they would be asking 'What do you want to see them for? You can't see them to argue with them or to talk to them. Why go to them while you are in detention, because they are the ones who have detained you? So what are you going to do?'*

*I used to think about getting out on bail ...I used to think, 'I don't have money, I don't have people to stand (as surety) for me, I've only got my boyfriend.' They were requesting for £5000, and you know I am not a criminal, so where am I going to get £5000? So I just hoped, one day I would be out.*

*The lawyer has not been in touch. I have called them many times but they don't answer and never call back.*

For one woman, the fact that she was refused bail when she was pregnant and very sick made her fear for the outcome of her asylum application.

*I used to think 'Oh my God, I am pregnant, the judge refused me bail, so what's going to happen to me when I do the asylum hearing? They are going to refuse...' So I used to think 'My God, what's going to happen to me?'*

In fact having been refused bail during four and a half months in detention she was then unexpectedly released without explanation.

### **9.3.4 Powerlessness in daily life**

The women described the profound insecurity and powerlessness of their daily life in detention. The fact that mothers felt powerless to safeguard their babies' welfare was particularly traumatic, especially for the mother whose baby had once been taken from her by deception during an attempt to remove her from the UK (see section 7).

*Because they came to take my baby, I am worried all the time, whenever I hear keys. I can't sleep at night - a small noise and I'm awake. I walk around at night - just walk, walk.*

*I'm depressed. If I was outside and my baby was sick, I'd go to hospital, or buy medicine. Here you go to the medical centre and you have to wait two weeks to get one cream. Every day wait, wait.*

*Today, when I came back from church, my room had been searched. They went into my cupboard and took away all the milk and baby food my friend had brought me. I went to them and told them it was mine, they said 'Do you have a receipt?' So I showed them the receipt. They should wait until we are there before checking the room. What would happen if they left the door open and someone else went in and took something?*

## **10. Staff attitudes**

Detention centre staff have the power to humanise the profoundly dehumanising experience of detention. However, at one detention centre women experienced a climate of institutionalised hostility to the detainees.

*The officers (in that detention centre) were really, really bad. You know the way they were treating detainees, they treat us like prisoners. They talk to you like, they don't care. They don't care...People used to tell them, it's no good, you people, you cannot say that because we are detained you should be treating us like a goat.*

At another, the women found the staff well intentioned, even if they had no idea how to deal with pregnancy problems.

*I took just water and milk for a month. Later when the officer came, he said 'Did you take dinner today?' I said 'No.' 'Did you take breakfast?' 'No.' They didn't worry. They just said, 'Why?'*

Serious concerns have also been raised about the general training of staff employed at detention centres - for example, staff do not receive training in child protection.<sup>17</sup>

<sup>17</sup>Medical Foundation for the Care of Victims of Torture, *Response to Home Office note to Detention User Group on Medical Staff - Training in the Care of Children*, May 2002

## Background information about detention

Asylum seekers can be detained at any stage of their asylum claim under provisions of the Immigration Acts. The number of places available in immigration detention, and hence the numbers of asylum seekers who are subjected to detention at some stage during their application, has been steadily increasing over the past decade.<sup>21</sup> There are approximately 2000 places in detention centres around the country,<sup>22</sup> with plans to increase this to 4000 places by Spring 2003. The weekly costs per detention place range from £364 at Haslar to £1620 at Oakington.<sup>23</sup> Current legislation<sup>24</sup> proposes to rename detention centres "removal centres," although their function will remain the same and there are no plans to change the criteria for detention.

The power to detain that lies with Immigration Officers is overseen by a Chief Immigration Officer (CIO). The detention criteria in the Operation Enforcement Manual, which contains the Home Office instructions to the Immigration Service, are prefaced with a reminder to officers that there is a presumption in favour of release rather than detention. However, concerns have been raised that the criteria are frequently ignored or misinterpreted by Immigration Officers when making decisions to detain.<sup>25</sup>

Once an individual has been detained there are few safeguards against prolonged periods of detention because, unlike almost all other European countries, there is no statutory time limit on detention and no automatic access to an independent body to review detention.

There are three methods by which a detainee may be released: by administrative decision (temporary admission), on bail by decision of the Chief Immigration Officer, or on through a bail application to an adjudicator of the Immigration Appellate Authority. In the experience of organisations working with detainees, many detainees struggle to find a legal representative willing or able to take on their case. The representative may refuse to apply for bail if the detainee has no one willing to stand surety for them. Bail applications after seven and 35 days were provided for in the 1999 Immigration Act, but never implemented, and will be repealed under the Nationality, Immigration and Asylum Bill (2002). Bail applications do not address all the problems facing detainees, but would provide some level of safeguard against prolonged detention.

Detainees are informed of the reasons for the initial detention decision only by a basic "checklist" form and are not given full reasoned notification. The Detention Centre Rules require the Immigration Service to provide monthly reasons for detention, but in practice this rarely happens. Weekly detention reviews should take place but are rarely disclosed. The practical result of failure to provide reasoned notification either of the initial decision or of subsequent internal reviews is that detainees often have little idea why they are detained.

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<sup>21</sup> There were 250 people detained in early 1993; by May 2002 detention capacity was over 2000.

<sup>22</sup> Campsfield House (Oxfordshire), Harmondsworth (Heathrow airport), Tinsley House (Gatwick airport), Haslar (Hampshire), Lindholme (Yorkshire) Dungavel (Glasgow), and Dover (Kent). Oakington (Cambridgeshire) is used for cases under the fast track asylum process. There are currently family units at Harmondsworth, Dungavel and Oakington.

<sup>23</sup> House of Commons, Hansard, 25 October 2001, col 333 W

<sup>24</sup> The Nationality, Immigration and Asylum Bill 2002

<sup>25</sup> Weber, L and Gelsthorpe, L *Deciding to Detain: How decisions to detain asylum seekers are made at points of entry*, Cambridge Institute of Criminology, 2000

## DISCUSSION

While it is clearly impossible to generalise with certainty from so small a sample of interviewees, strikingly similar themes emerged from the experiences of each the women who participated in this qualitative study. It is, moreover, impossible to know what proportion of pregnant detainees and new mothers our interviewees represent. Organisations working with detainees report a steady stream of pregnant women and mothers of young babies in detention, but by no means all detainees are in contact with external organisations. The Home Office, which is responsible for the detention of these women and babies, has no figures because it does not collect data either on the numbers of vulnerable people detained, or on the length of their detention. These mothers and children are truly out of sight and out of mind.

The women who took part in this small study all suffered enormous emotional and psychological distress as well as serious physical discomfort as a result of being detained while pregnant or with a baby. The daily reality of their lives in detention was one of isolation, fear and depression; having to cope alone with pain and sickness; unreliable and seemingly unaccountable medical care with only ad hoc liaison with external maternity services and failure to provide essential interpreting; inadequate food; gratuitously petty rules on access to basic necessities such as baby milk and nappies. The vulnerability felt by many pregnant women and the powerlessness generally felt by asylum seekers were strongly intensified by the dehumanising experience of detention.

The women were not asked about the circumstances which had led to them claiming asylum, but it must be remembered that for a significant number of asylum seekers, pregnancy is the result of rape, and that many female asylum seekers who reach the UK have experienced the death of or potentially permanent separation from their husband/partner and older children.<sup>19</sup> Many have suffered violence or witnessed violent acts against others. These experiences can greatly intensify the woman's psychological distress and her need for emotional support of a kind manifestly not available in detention.

Imprisonment in the context of the criminal justice system is already known to have a strongly negative impact on pregnant women. Yet women offenders who are imprisoned at least have the benefit of knowing the length of their sentence, or if imprisoned before trial, of having bail regularly reviewed by a court. Asylum seekers, on the other hand, can be put into detention by administrative decision, for an indeterminate period, without having committed any crime, and sometimes without a clear understanding of the reasons for their detention. Women who disappear into the detention estate often find themselves unable to challenge their detention effectively, and unable to attract the notice of the outside world to assist them.

It appears unlikely that the decision makers were following their own rules in detaining these vulnerable women and children for such lengthy periods. The detention of pregnant women is only authorised in "exceptional circumstances" or where there is a clear prospect of early removal. It was unclear what alleged exceptional circumstances had led to the prolonged detention of some of these women - indeed one woman was released after four and a half months without any change in circumstances, which must cast doubt on the legitimacy of the original decision to detain.

Although the government's intention is to increase the use of detention, there is "no strong evidence that detention is necessary to assure compliance with asylum procedures."<sup>20</sup> The new regime of regular reporting to police stations and smart cards should reduce the risk of non-compliance still further. Non-compliance is, in any event, probably less likely among pregnant women and new mothers who need to be in contact with medical and support services. As one of the interviewees wondered: "***How can I run away when I have a baby and no money? Where can I go?***"

We conclude that the use of prolonged detention for pregnant women and mothers with young children inflicts harm wholly disproportionate to the policy aim of effective immigration control, and should be stopped immediately.

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<sup>19</sup> Mcleish J, *Mothers in exile: maternity experiences of asylum seekers in England*, Maternity Alliance 2002

<sup>20</sup> Bruegel I, Eva Natamba, *Maintaining contact: What happens after detained asylum seekers get bail?*, South Bank University 2002

## RECOMMENDATIONS

- 1 The **use of prolonged detention** for pregnant women and mothers with young children inflicts physical and psychological harm disproportionate to the policy aim of immigration control, and should be stopped immediately. Alternatives to detention, such as regular reporting, should be used where there are evidence-based concerns about an individual absconding.
- 2 Pregnant women and young children should not be placed in **accommodation centres**, if the institutional regime and segregation from normal sources of social support found in detention centres are replicated.
- 3 Where brief detention (a few days) of pregnant women and mothers with young children is genuinely unavoidable, no woman or baby should be detained in a place where the **physical conditions (including food) or medical care are inadequate**. Detailed Operational Standards covering the needs of pregnant women, new mothers and babies should be established.
- 4 The Home Office should give proper guidance on what precisely the “**exceptional circumstances**” are which justify detention of pregnant women. Decision makers should be made fully aware of the physical and emotional vulnerability of pregnant women, new mothers and their babies and the immediate and potentially lasting harm caused to them by deprivation of liberty.
- 5 A mechanism for **automatic independent review** of the decision to detain and the basis for maintaining that decision should be implemented immediately.
- 6 Further and larger scale **research should investigate**:
  - a. the impact of detention on the physical and mental well being of vulnerable detainees, including pregnant women, mothers and children; and
  - b. operational issues concerning the effectiveness of existing safeguards for vulnerable detainees, such as the mechanism of communication between health care centres and the Immigration Service.
- 7 The government should collate and make available **statistics** in relation to detention, in particular the number of vulnerable people detained (by category) and the periods of detention.

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