

Gender and Infanticide in Early Modern Bohemia: The Case of Elisabeth Symandlin, 1707–1710

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The interrogation reports documenting a case of Elisabeth Symandlin, a young maidservant from south Bohemia who was investigated for suspicion of infanticide between the years 1707–1710, offer a unique opportunity for a research on the history of everyday life in the town of Jindřichův Hradec in early modern period. Following the recent foreign research in legal history (David Myers, 2011), the author of this paper argues that Elisabeth's process indicates general problems related to criminal investigations which have been discussed repeatedly by contemporary lawyers and doctors. The present study is a contribution to the research in the history of everyday life following modern historiographical trends (historical anthropology, microhistory, gender history). Based on the sources from the estate of Jindřichův Hradec, it emphasizes the manifestation of woman's involvement in crime investigation and examines the opportunities that unmarried women could get in the early modern society.

[Infanticide; Child; Crime; Everyday Life; Torture]

“After¹ the Holy mass, I was waiting for my father in the anteroom of ‘Cantor’s house’ and I wanted to confess to him [about my pregnancy] and beg him to pay a fine for me to the richter [a city officer]. Yet, we missed each other, because he went to one side and I did to another, even so, I still visited my sister’s [house] near the Saint Wenceslas [church]. I wanted to ask her to tell everything about me to our father, [...] but when I was going there, my godmother, Papírníková, met me and she changed my mind. She was teasing

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me, saying: 'My dear goddaughter, do you really want to visit your father, or do you want to go dancing and have some fun instead? You had better come with me.' So, I followed her and when we were nearby St Wenceslas, she suddenly asked me if I am with a child or not, and I admitted that I am, but I hadn't felt quickening yet."²

This is a part of a supplication for pardon presumably written or rather dictated by Elisabeth Symandlin, maidservant, who was imprisoned because she was suspect of murdering her newborn child in January 1707. Even in such a short part of her letter it is obvious that kinship relations and gender played an important role in this case. Elisabeth wanted to confess to her father, the head of the household, but when she missed him she was looking for her sister, and finally confessed to her godmother. This case from eighteenth century Bohemia can be used to examine early modern family relations in broader context including Elizabeth's father, stepmother, brothers, sisters, godmother, and servants, as well as other people equally important during investigation, e. g., her employer Lukš and his wife.³

The case of Elisabeth Symandlin was one of many infanticide investigations in early modern Bohemia; still, it represents complex historical evidence which can be used for a more detailed micro-historical case-study of relationships between an individual and a society in the region near city Jindřichův Hradec (nowadays, the southern part of the Czech Republic). In this regard, it is a perfect material for textual analysis, a method which is often described by historians as a metaphor "against the grain reading".⁴ This methodology is based on analysis of a single piece of historical evidence (interrogation protocol) that can show the circumstances of a crime and defendants' individual motives. As we focus on the Elisabeth's case in this broader context of early modern kinship and sexuality, the following research questions arise:

² State District Archive of Třeboň: branch office Jindřichův Hradec, in the Collection of Estate of J. Hradec (fond Velkostatek J. Hradec), Crimes (Zločiny), sign. VBC, Cardboard 416, the Case of Alžběta/Elisabeth Symandlin, 1707–1710, ff. 267–430. Further referred to as "Elisabeth". All quotations have been translated by the author.

³ She spun the wool in their house the night when she gave birth to the child and supposedly killed it. She lived by them as a servant, so she was part of their family as well.

⁴ C. GINZBURG, *Threads and Traces, True False Fictive*, Berkeley 2012.

How was motherhood and mothering understood in early modern society? Did she kill the child or was it just an accident? If she did, what persuaded her that the murder was the best solution? Was she so weak and helpless, or can infanticide be also understood as a manifestation of woman's agency in male-dominated society? What opportunities did an unmarried woman have in a situation like this? And most importantly, was she alone in her unwanted pregnancy or can we find any traces of her family and friends' support in her case?

The aim of this paper is to analyse a particular early modern Bohemia infanticide case in a more general historical perspective. The theoretical part gives an overview of the recent historical scholarship on early modern infanticide, and discusses gender, sexuality and kinship as the problems of historical research. This frame is used to discuss the extent to which gender, class, religion or ethnicity could influence the interpretation of the particular case of Elisabeth Symandlin, a young maidservant accused of killing her newborn child.

Historiography – Gender, Kinship and Microhistory

The research on early modern infanticide has been quite fruitful, especially over the last two decades,⁵ and the West-European historiographical writing on this issue is dominated by the three main research territories, American, British and German. These three, however, show certain distinctions regarding the scope of the topic. British and American historians focus more on the broader analysis of a history of women's criminality and many of them provide thorough historical charts and graphs to compare early modern criminality in England, Scotland or Wales in macro historical perspective.⁶ On the other hand, most of the German research takes the form of case studies or close regional studies, especially focused on the age of Enlightenment and development of criminality in small regions.⁷

⁵ One of the most recent monographs (published in 2016) describes the trends in current historiography very clearly. Cf. M. LEWIS, Introduction, in: *Infanticide and Abortion in Early Modern Germany*, New York 2016, pp. 12–26.

⁶ On infanticide in early modern England see P. HOFFER – N. HULL, *Murdering Mothers: Infanticide in England and New England 1558–1803*, New York 1981; M. JACKSON (ed.), *Newborn Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England*, New York 1996; A. KILDAY, *A History of Infanticide in Britain, c. 1600 to the Present*, Basingstoke 2013; S. STAUB, *Nature's Cruel Step-dames: Murderous Women in the Street Literature of Seventeenth Century England*, Pittsburgh 2005.

It is important to note that complicated stories involving infanticide investigations are relatively popular with historians who examine microhistory. Microcosm of early modern towns or villages can be described through interrogation protocols, where many colourful details of everyday life are captured. As David Myers pointed out, such record can also be used in a form of a case study about early modern justice, performance of interrogation and torture, and also about women's independent choices in early modern judicial (and social) system.⁸

Nevertheless, beyond the British and German historiography, there were other West and Central European scholars who produced numerous articles and case studies on the topic of infanticide,⁹ and Czech historians were not the exception. The first more consistent research on infanticide was formed in former Czechoslovakia during the socialist era because historians were focusing more on the working-class and the role of women in it.¹⁰ After 1989, further research has been made by historical demography and by historians focusing on power and

⁷ Germany: R. van DÜLMEN, *Frauen vor Gericht: Kindsmord in der Frühen Neuzeit*, Frankfurt 1991; A. FELBER, *Unzucht und Kindsmord in der Rechtsprechung der freien Reichsstadt Nördlingen vom 15. bis 19. Jahrhundert*, Dissertation Thesis, Bonn, 1961; K. MICHALIK, *Kindsmord, Sozial- und Rechtsgeschichte der Kindstötung im 18. und beginnenden 19. Jahrhundert am Beispiel Preußen*, Pfaffenweiler 1997; K. SCHRADER – G. MAYER – H. FREDEBOLD – I. FRÜNDELT, *Vorehelich, Ausserehelich, Unehelich – wegen der großen Schande: Kindstötung im 17. und 18. Jahrhundert in den Hildesheimer Ämtern Marienberg, Ruthe, Steinbrück und Steuerwald*, Hildesheim 2006; O. ULBRICHT, *Kindsmord und Aufklärung in Deutschland*, Munich 1990.

⁸ D. MYERS, *Death and a Maiden. Infanticide and the Tragical History of Grethe Schmidt*, DeKalb 2011. More about microhistory as a historical method in: G. MAGNUSSON – I. SZIJARTO, *What is microhistory? Theory and Practice*, Routledge 2013.

⁹ J. FERRARO, *Nefarious Crimes, Contested Justice: Illicit Sex and Infanticide in the Republic of Venice, 1557–1789*, Baltimore 2008; W. RUBERG, Travelling Knowledge and Forensic Medicine: Infanticide, Body and Mind in the Netherlands, 1811–1911, in: *Medical History*, 57, 3, 2013, pp. 359–376; W. RUBERG, The Tactics of Menstruation in Dutch Cases of Sexual Assault and Infanticide, 1750–1920, in: *Journal of Women's History*, 25, 3, 2013, pp. 14–37; R. LEBOUTTE, Offense Against Family Order: Infanticide in Belgium from the Fifteenth through the Early Twentieth Centuries, in: *Journal of the History of Sexuality*, 2, 2, 1991, pp. 159–185.

¹⁰ J. PÁNEK, Městské hrdelní soudnictví v pozdně feudálních Čechách, in: *Český časopis historický*, 82, 1984, pp. 693–728; J. PÁNEK, Zločin „zahubení plodu“ v Maršovicích roku 1682, in: *Český lid*, 66, 1979, pp. 45–46; E. PROCHÁZKOVÁ, Žena a smrt dítěte v soudní praxi raného novověku. Edice a rozbor Čechtického útrpného vyznání z roku 1729, in: *Sborník vlastivědných prací Podblanicka*, 34, 1994, pp. 115–128.

body relations in Foucauldian sense.¹¹ Finally, a younger generation of historians (trained in 1990s) applied the ideas of historical anthropology and cultural history into this field; likewise, many other Czech papers using gender as an analytical category has been published in recent years.¹²

The voices of women as historical subjects who came from marginal groups of society (as its specific subculture) have been continuously studied by historical anthropology, cultural history and by modern global gender history.¹³ Gender as a concept has been applied more consistently in this research especially since 1990, acknowledged by German, British and American historians.¹⁴ Gender constituted social relationships on different levels of social organisation (symbolic, normative, political or social) in the early modern period.¹⁵ The

¹¹ A. ŠUBRTOVÁ, Kontracepce, aborty a infanticidia v pramenech k předstatistickému období, in: *Historická demografie*, 15, 1991, pp. 9–45; D. TINKOVÁ, *Hřích, zločin, šlenství v čase odkouzlování světa*, Praha 2004; D. TINKOVÁ, *Tělo, věda, stát. Zrození porodnice v osvícenské Evropě*, Praha 2010.

¹² J. DIBELKA, *Obranné strategie mužů a žen obviněných ze smilstva a cizoložství: Panství Třeboň na přelomu 17. a 18. století*, České Budějovice 2012; P. MATLAS, Rychlá cesta na popraviště: trestní řízení a popravní rituál v Čechách na sklonku 17. století, in: *Dějiny a současnost: Kulturně historická revue*, 29, 2007, č. 9, pp. 40–43; J. ČECHURA, *Kriminalita a každodennost v raném novověku: jižní Čechy 1650–1770*, Praha 2008; P. STŮJ, Neřádné matky a krutí otcové. Infanticida jako nástroj propagandy v raněnovověké letákové literatuře, in: *Historica Olomouciensia*, 52, 2017, pp. 87–112.

¹³ M. WIESNER-HANKS, Crossing borders in transnational Gender history, in: *Journal of Global History*, 6, 2001, pp. 357–379; M. WIESNER-HANKS, Early Modern Women and the Transnational Turn, in: *Early Modern Women*, 7, 2012, pp. 191–202.

¹⁴ For gender as a concept in history of infanticide see L. GOWING, Secret Births and Infanticide in Seventeenth-Century England, in: *Past and Present*, 156, 1997, pp. 87 to 115; L. GOWING, *Domestic Dangers: Women, Words, and Sex in Early Modern London*, Oxford 1996; U. RUBLACK, *The Crimes of Women in Early Modern Germany*, Oxford 1999. For general introduction into gender history: S. KENT, *Gender and history*, Basingstoke 2012. The usage of gender as a concept in 17th century is further analysed in *Gender and Power in Britain, 1640–1990*, London 1999, pp. 1–23. Finally, for the relationship between criminality and gender in historical context see M. ARNOT – C. USBORNE, Why gender and crime? Aspects of an international debate, in: *Gender and Crime in Modern Europe*, London 1999, pp. 1–43.

¹⁵ Firstly, Joan Scott defined gender as a concept: “a constitutive element of social relationships based on perceived differences between the sexes (with symbolic representations, normative concepts and with politics, social institutions and organization, that structure these normative concepts) and [...] gender as a primary way of signifying relationship of power (the way how was gender related to politics and politics to gender)”, see J. SCOTT,

criminal records issued by the male-dominated institutions represent an intersection between the public (patriarchal) and the private (intimate) spheres that defined the relationships established during woman's lifetime: there were, on the one hand, male–female ties between Elisabeth and her father and her husband, journeymen or judges), and on the other the relations of power to the female side of relatives, witnesses or female investigators (her stepmother, sister, midwives, friends). Early modern criminality was gendered and experienced by both women and men, and their interrelationships were a crucial part of investigation.¹⁶

Elisabeth's life was entrenched in patriarchal society,¹⁷ where a male head of a household held the property and a woman was supposed to be hardworking and obedient companion of her husband who performed mothering duties and sacrificed herself for her family. The early modern system based on transmission of possession (inheritance) from one generation of male members of family to another emphasised the role of marriage, women's reproductive abilities and interfamily relationships.¹⁸ Using the contemporary symbolism, Elisabeth was perceived as a *maiden* (Virgin Mary), but later when her reputation was damaged as a *fallen woman* (Eve, Mary Magdalene), and finally as a bad *murdering mother* (Medea, Witch, Beast) – with all associations attributed to these roles in Christian society.

Gender: A Useful Category of Historical Analysis, in: *The American Historical Review*, 91, 5, 1986, pp. 1067 and 1069. This concept is criticised by J. BOYDSTON, Gender as a Question of Historical Analysis, in: *Gender & History*, 20, 3, 2008, pp. 561–564.

¹⁶ "Gender differences could have been found at many levels, including the existence of strongly gendered crimes (infanticide), prosecution, trial procedures, conviction, punishment." ARNOT – USBORNE, p. 6.

¹⁷ Patriarchal rules prevailed in early modern society, not just between women and men, but also between master and servant, king and vassal. Elisabeth was subordinated to her prince Černín, her employers, her father, but also to her stepmother or her spouse.

¹⁸ As Lucia Ferrante showed on the case of early modern Bologna: L. FERRANTE, Marriage and Women's subjectivity in a Patrilineal system: The case of Early Modern Bologna, in: M. MAYES et al. (eds.), *Gender, Kinship and Power: A Comparative and Interdisciplinary History*, New York – London 1996, pp. 115–129. About marriage in protestant world see works by Stephen Ozment: S. OZMENT, *When Father Ruled, Family Life in Reformation Europe*, Harvard 1983; S. OZMENT, *The Burghermeister's Daughter. Scandal in a Sixteenth Century German town*, New York 1996 (in Czech translation: *Purkmistrova dcera*, Praha 2016).

Jana Ratajová a Lucie Storchová observed significant roles attributed to the women which were considered to be honourable: woman as a virgin, a wife or a widow.¹⁹ In this context, young servant Elisabeth was subordinated to her father and her employer (in terms of domesticity and patriarchy), but in a similar way also to her stepmother and older sisters (as a stepdaughter and younger sister). In spite of certain equality between people of the same class (journeymen, her friends/co-workers), her ability to act on her own will was in this sense limited. In general, pre-modern European model of kinship was supported by church and based on paternal, legitimate bloodline.²⁰

Moreover, women in early modern period were seen as superstitious, weak, and capricious creatures, indeed as a weaker sex, seeking for lust and pleasure, who were able to easily abjure the faith and who were in this sense much closer to the sin and the devil than men.²¹ Contemporary authors of pamphlets or ballads described murderous women as selfish mothers, worse than any beast, often seduced by the devil.²² Unmarried women who murdered their children were clearly on this list of evil women. They were described as poor and disobedient girls, who secretly committed sexual crimes and wanted to hide their shame. The crime of infanticide was understood in the same way by the early modern law. According to law codes, infanticide perpetrators were seen to be wicked women (*leichtfertige weib*) who try to selfishly hide their immoral a malicious (*bosshafftig*) crimes.²³ Thus,

¹⁹ L. STORCHOVÁ, *Gender a „přirozený řád“*, in: J. RATAJOVÁ – L. STORCHOVÁ (eds.): *Nádoby mlčé, hlavy nemající?*, Praha 2008, pp. 510–530.

²⁰ Kinship as another important concept besides gender was described by J. COLLIER – S. YANAGISAKO, *Gender and Kinship: Essays Toward a Unified Analysis*, Stanford 1987, and later criticised by H. SCHEFFER, *Sexism and Naturalism in the Study of Kinship*, in: M. di LEONARDO (ed.), *Gender at the Crossroads of Knowledge. Feminist Anthropology in the Postmodern Era*, Berkley 1991, pp. 295–308.

²¹ As Richard Kieckhefer argues in many treatises about witchcraft, infanticide and witchcraft were in many cases intertwined: R. KIECKHEFER, *Avenging the blood of Children: Anxiety over Child Victims and the Origins of the European Witch Trials*, in: A. FRERREIRO (ed.), *The Devil, Heresy and Witchcraft in the Middle Ages*, Leiden, Boston, Köln 1998, pp. 91–109.

²² *The pittillesse mother*, an English pamphlet from early 17th century, can represent one of these printed sources which associated women with the devil: *A pittillesse mother: That most vnnaturally at one time, murdered two of her owne children at Acton within sixe miles from London vppon holy thursday last 1616*, London 1616. Analysis in STŮJ, pp. 100–105.

²³ *Constitutiones Criminales Caroli V*, Magdeburg 1716, Saxon State Library, State and

infanticide, threatened the stability of patriarchal society, but it put in jeopardy at the same time the Christian morality and disturbed the economic stability of state.²⁴

However, especially in 1990s the scholars showed that it was not just the gender and the kinship what shaped the early modern identity, but other ideologies like ethnicity, religion, class, biology, proto-capitalism or race²⁵ were included, too.

Ethnicity and religion (Roman Catholicism) were closely linked in early modern period. Elisabeth Symandlin²⁶ classified herself as a subject of Czech noble estate of *Černín* household. She lived in the city near the borders between Austria and Bohemia, thus spoke both German and Czech, but she identified herself rather as Czech. When she gave one of her several explanations why she supposedly killed her child, she clearly distinguished between “us” and “them”, between her people and strangers living abroad (in Germany). Her ethnicity was related here more to the religion: “I was afraid of my people, they

University Library Dresden, Sign. 36.8.5559, f. 48 and ff. 171–176. For further reading about Czech legal and criminal history: K. MALÝ (ed.), *Collectanea opusculorum ad iuris historiam spectantium Venceslao Vaněček septuagenario ob amicis discipulisque oblata*, Praha 1975; K. MALÝ – J. ŠOUŠA (eds.), *Městské právo ve střední Evropě: sborník příspěvků z mezinárodní právníkové konference „Práva městská Království českého“ z 19.–21. září 2011*, Praha 2013; K. MALÝ, *Tři studie o trestním právu v českých zemích v 17. a v první polovině 18. století*, Praha 2016.

²⁴ Early modern judges thought that the mass murdering of bastard children was happening in whole society and the strict law should have helped them to fight against this epidemic.

²⁵ Obviously, the opinions about criminality of other ethnic groups in eighteenth century Bohemia took different forms in early modern Bohemia. Besides a belief that Jews practised ritual murder of Christian boys, another prejudice existed about Roma minorities (Gypsy people), and scientific racialism was also inculcated in the discourse of infanticide. For example, Native-American women *Patience Boston* and *Maria* were accused of murdering their children in nearly the same period of time (1705–1710), however, they were not executed because they did not kill a white child, but native. In early modern viewpoint, infanticide was understood as an act of barbarism, committed by savages (witches, or in American context by slaves), and was seen as an act of evil. S. HARRIS, *Feminist Theories and Early American Studies*, in: *Early American Literature*, 34, 1, 1999, p. 89. About ethnics in early modern Bohemia: P. HÍML, *Zrození vagabunda. Neusedlí lidé v Čechách 17. a 18. století*, Praha 2007.

²⁶ In the sources in German her name is written down as *Elisabeth Symandlin*, whereas in the Czech sources we can notice other forms, from more formal *Alžběta Zimandlová* to *Běta* as a shorten form and, finally, *Bětuška* as a diminutive used by her relatives (her sister).

would be doing harm to me, as I told you before, because that journeyman was a Lutheran and we would have had a Lutheran child."²⁷ She shared the same culture as her judges, lived in the same territory and felt certain solidarity to "her people", but wanted to protect her family from "them" (protestants).²⁸

In the pre-modern world, a class had been associated with infanticide as well. This crime was attributed to poor women, from lower strata of society. This is evident also in our case. Elisabeth participated in public life as a spinster, working for wage, and with very low income, where to have a child was economically unacceptable. Practically all European kingdoms during the 16th or 17th century passed the laws against murder of bastard children, which focused especially on working women.²⁹ Early modern states (in particular the state ideology – in our case Roman Catholicism) controlled women's bodies through social discipline and criminalisation of this delict. Illegitimacy was seen as a very serious threat to social order, and according to legislation the single women, often servants, who had more sexual relationships out of wedlock could be sentenced to death when the corpse of the child was found.³⁰ In this respect, we know hardly anything about women from upper classes (noblewomen, burgheresses). Presumably, these women practiced infanticide, too, but they had more money, opportunities and support to conceal it.

Considering proto-capitalism, it is obvious that women, especially second (or other) daughters like Elisabeth, were seen as an economic burden in many households. They could not expect appropriate marriage, and therefore they either had to contribute to the running of a

²⁷ Elisabeth, ff. 326v–327r.

²⁸ Elisabeth highlighted her "baroque" devotion and piety several times. Roman Catholicism had been an official state religion of Bohemia since 1627, soon after protestant nobles were defeated at the battle near Bílá Hora [White Mountain] in 1621. More about ethnicity and religion in A. SMITH, *Chosen Peoples: Sacred Sources of National Identity*, Oxford 2003.

²⁹ In 1532, the law code of Emperor Charles V was issued in the Holy Roman Empire, followed by the royal edict in France in 1556 and by Kings James' law in England in 1623. According to these law codes every unmarried woman had to report their pregnancy immediately, see M. OBLADEN, *From Crime to Disease: Laws on Infanticide in Early Modern Era*, in: *Neonatology*, 109, 2016, pp. 170–176.

³⁰ "Infanticide prosecutions were a most useful disciplinary tool- Women were punished not only for murder, but also for their original immorality and warned others of the consequences of rebelliousness." MYERS, p. 43.

house by their work, or move and live on their own as workers in newly established manufactures or on the local level.³¹ This situation postponed their motherhood for a long time, often indefinitely.

Biology was another important aspect in infanticide cases. Prevailing scientific explanations described women as the weaker vessel, the lesser men with only a passive role in reproduction.³² This knowledge influenced opinions of the court about female body as well as their ideas about intimate details of women's life like sexual intercourse, menstruation or child-delivery. Contemporary scientific theories would define Elisabeth as a weak and unstable woman, however, her experience was quite different: she went through more than one sexual intercourse, she experienced child delivery twice in quite young age and she certainly knew a lot about biological maternity, and since she was surrounded by other mothers, younger and older siblings and many other women, she also understood a social role of mother in society. Yet, when she was imprisoned, it was not her experience, but the knowledge of two midwives and one city doctor that were taken into consideration. Thus, when she insisted that "*she miscarried, she did not know about pregnancy*,"³³ her testimony was understood as another form of usual defensive strategies.³⁴

³¹ Elisabeth was a younger daughter and she had other siblings: "*I cannot undergo this sentence so innocently and helplessly and then dishonest my old father and my brothers and my sisters as well.*" Elisabeth, f. 351. For her father who was an average clothier it was probably difficult to pay dowry even for his first daughter. Elisabeth was an economic burden and she had to contribute with her wages to the household budget.

³² A womb was described as an incubator for male seed and mothering was primal concern of women: KENT, *Gender and Power*, p. 6. About the concept of the early modern "one sex" model see the classical work: T. LAQUEUR, *Making Sex: The Body and Gender from the Greeks to Freud*, Cambridge 1990.

³³ Elisabeth, f. 269r.

³⁴ "*Claiming not to have known of their pregnancy because of continuing menses, asserting having miscalculated their due dates, and avowing they were simply severely menstruating while actually giving birth, all served to exonerate them. In speaking about menses, these women employed tactics appropriate to their situation.*" RUBERG, *The tactics of menstruation*, p. 38.

Sources and Methodology – Using Interrogation Protocols as Historical Evidence

My analysis is based on a primary source from the collection of criminal records stored in the State district archive in Jindřichův Hradec.³⁵ These sources are a part of an official collection which was set up by the bureaucratic apparatus of Černín's estate in the eighteenth century and later sorted by the first professional (male) archivists at the end of the nineteenth century. There, in several cardboards, besides the sexual crimes, other criminal delicts were disposed (property crimes, crimes against human life, crimes against early modern state) and sorted in files. Then, a new wave of sorting was on the order of the day during the 1960s when sources were revised and registered in a catalogue.³⁶

The accusations of fornication and adultery together with infanticide are deposited in five cardboards (no. 413–417). They contain over one hundred and twenty cases³⁷ of sexual delicts from the years 1672 to 1846, where the largest number of cases (97) refers to the period 1697–1710.³⁸ However, only five of these cases are at the same time associated with the investigation of infanticide, and one such a case is the story of Elisabeth. Elisabeth's case is contained at approximately 163 folios storing the correspondence between courts (in Jindřichův Hradec and Prague), administrative mapping of the process and, most importantly, the documents discussing several stages of interrogation.

However, these sources have their obvious weaknesses, because in most cases (with some exceptions) they cannot be compared with other evidence or clarified by other texts. As for other sources, there is only one more reference to Elisabeth documented in the testimony of another female defendant who mentioned her harsh torturing.³⁹

³⁵ See footnote 2 on page 146.

³⁶ L. TISCHER – L. ZEMAN, *Velkostatek Jindřichův Hradec 1380–1947, Inventory*, Jindřichův Hradec 1968, pp. 10–32.

³⁷ The number is only approximate because some cases are evidently incomplete and many of those recorded after 1710 now exist only in fragments. The sources for the preceding or following period of time have not been preserved, probably because of fire or moving of the archives.

³⁸ As was described previously by J. DIBELKA, Obranné strategie „zmrhaných“ žen na jindřichohradeckém panství v 17. a na počátku 18. století, in: *Historická demografie*, 31, 2007, pp. 5–20.

³⁹ Eva Mikšín was in prison at the same time as Elisabeth, so it is possible they heard

To sum up, these interrogation proceedings must be examined mainly as a specific literary genre created by the judicial scribe rather than objective (unbiased) texts. The scribe was present during the investigation; however, he was not interested in Elisabeth's life story, more probably he just wanted to fulfil his duties. He had his own style of writing, used several languages (early modern Czech, late Latin or early New High German), but we know hardly anything about his personal background. He certainly modified the text (these proceedings are at least the second version of the Elisabeth's testimony). Thus, it is possible to observe primarily defensive strategies of accused persons, examine their arguments and their persuasive methods during the investigation. These protocols cannot fully represent defendants' own opinion, feelings or true beliefs, but they are as close to them as possible in this context.⁴⁰

First, I focus on the description and limits of these sources. Elisabeth Symandlin was imprisoned on Tuesday February 21, 1707, just one day after she gave a birth to her child. Then, four days later, she was interrogated in prison in Jindřichův Hradec and the first protocol was compiled soon after that. Some other witnesses were questioned that day, too (including two midwives, her former employer and her stepmother). As the next step, she was confronted with the corpse of her baby a day later (February 26). Interrogations continued with confrontations with witnesses again on March, April and October.

Next year, in 1708, Elisabeth was questioned at the beginning of May, for the last time without torturing, and on May 11 she was tortured and questioned again. Finally, the court had enough evidence and in July 1708 Elisabeth received the sentence of death.

Yet, she did not accept this destiny and continued with her struggle. She wrote the supplication for pardon at beginning of the year 1709 and tried to postpone the sentence. Finally, the period after summer 1709 is kept only in medical records: Elisabeth became very sick (as the result of torturing) and died probably during 1710 in prison.⁴¹

each other or even talked to each other. "I would rather confess than be tortured and hurt so badly as another one was (I mean Elisabeth Symandlin)." Estate of J. Hradec, card. 417, case of *Eva Mikšín*, October 17, 1709, f. 187.

⁴⁰ J. DIBELKA, K novým možnostem studia trestněprávní problematiky. Obranné strategie mužů a žen obviněných ze smilstva na třeboňském panství (1650–1750), in: *Český časopis historický*, 106, 1, 2008, pp. 19–53.

Thus, the materials available for the analysis comprise several chronologically ordered interrogation proceedings of sufficient length and the detailed correspondence; the absence of context, however, is the most obvious deficiency in these sources. The method used by historians for interpretation of the historical evidence of this type is often described metaphorically as “*against the grain reading*”.⁴²

Scholars define this method as an interpretation of few official documents and a search for subtexts, gaps and silences in them. Voices of women were described by male-dominated official institution – a court of three judges. These investigators were usually burghers who had previous experience with criminality as members of the city council or as city officials (city fathers, richters) and who also fathered their own children. Although they had a certain idea about women’s criminality, every crime must have been very specific (e. g., women could have miscarriage easily, something could have happened during the delivery, a child could be simply hurt), and Elisabeth’s case was even more complex than others.

The judges were biased, they saw Elisabeth as a guilty, fallen woman and they were interested in getting her full confession, looking for the proof of her evil intentions. A historian, in contrast, must be looking for the traces of her social activities based on gender differences and listening to Elisabeth’s voice in the broader context, because the different truth can exist besides the official one.

The Story

From these interrogation records and correspondence between years 1707 and 1710 we know that Elisabeth Symandlin was twenty-one-year-old daughter of the city’s weaver or clothier Hans. We do not know much about Elisabeth’s family because her surname Symandl or Zimandl is not mentioned in any relevant parish register or in any list of subjects of estate from the early eighteenth century.⁴³ Then, the only

⁴¹ There is no record available in archive following this year, the sources were presumably destroyed.

⁴² GINZBURG, pp. 3–6. About different methods used in gender history see also R. R. PIERSON, Introduction, in: R. PIERSON – N. CHAUDHURI (eds.), *Nation, Empire, Colony: Historicizing Gender and Race*, Bloomington, Indiana 1998, pp. 1–19.

⁴³ Besides parish registers, we can find some additional information in the lists of subjects of estate: <http://digi.ceskearchivy.cz/cs/50024> [2017–11–01] or in Slavata’s and

further sources are the interrogation records where her sister Lidmila, her Stepmother Mandelína and unnamed siblings are mentioned. Yet, we are able to identify other historical actors from her story mostly from parish registers and from the list of citizens. Many of them participated in the crucial everyday life situations of the city: besides the city governor (“hejtman”/“hauptmann”) Kölsch these were the city fathers (members of the city council), richter, various witnesses or the scribe Elias Okenfus.⁴⁴

Elisabeth also gave us some important information about her personal background in her first testimony. She had experienced illegitimate relationship and pregnancy before because she had already given birth to a child once. As unmarried mothers were seen as the most usual perpetrators of infanticide, it is not big surprise that city magistrates got interested about circumstances of the child’s death. Elisabeth gave birth to a child during 1702, but as she added: *“The child died, it was only 9 weeks alive. Afterwards I had to pay a fine of 3 Rz. to the richter Mr. Pergamen (who recently deceased), then I spent one day in a prison cell.”*⁴⁵

This is a good illustration of a relatively loose connection between early modern norms, which could often impose harsh punishments for crimes like fornication, and the praxis which was often milder, because the richter was satisfied with monetary compensation only. It was not uncommon that many minor offences like this, if committed under suspicious circumstances (e. g., a sudden infant’s death), were dealt with at the local level, just between the richter and the suspect.⁴⁶

Černín’s princely instructions, in: State District Archive of Třeboň: branch office Jindřichův Hradec, Estate of J. Hradec, card. 307 (regulations and instructions) and card. 381 (administration of subjects). Unfortunately, the name Symandl or Zimandl is not mentioned in these sources.

⁴⁴ The Names of the city fathers who were present during the process (1708–1709) are Thomas Schmuttermeyer, Mathes Andryss and Jiří (Georg) Runde, and as city richter served burgher Pavel Svoboda. Because of certain reputation of these public figures, they are called “godfathers” in the city parish register repeatedly (1705–1724): <http://digi.ceskearchivy.cz/cs/4338> [2017–11–01]; see also the inventory of urban land (Neuhausser Einteilungs from September 1705). Later there were two new investigators appointed in 1709, richter Jiří Červenka and burgher Kašpar Kohle. More about these people can be found in: State District Archive of Třeboň: branch office Jindřichův Hradec, Estate of J. Hradec, card. 302 (list of subjects), Hütter und Inlete Beschreibung 1705.

⁴⁵ *Elisabeth*, f. 247v.

Later, when she tried to defend herself, Elizabeth used this story as an argument which undoubtedly supported her innocence: “For the first time, I had an affair with a shoemaker’s journeyman. It is well known that the child was born alive and it was baptized immediately. Yet, the child did not live very long and I buried it properly. Inasmuch I did, I argue, if I had ever wanted to murder a child, I would have definitely killed this first one, because my virginity and honour were contested. Yet, I thought I’d rather lose my honour than kill an innocent child.”⁴⁷

Thus, the Elisabeth’s testimony shows more than one important aspects. First of all, she had doubtless experienced pregnancy before and she had given birth to a healthy and fully developed child. She argued that everything had been fine, child had been baptized, and although the child had posed a problem to her, she had never wanted to kill it. Secondly, the suspicions of Elizabeth’s relatives claiming that her honour was questionable can be seen as quite justified.

Elisabeth worked as a handmaid since she was only eleven and probably changed several households during that time. She worked for a wage as a spinster for local city weavers and hosiers like many other city dwellers. In the spring of 1706, when she met a journeyman Hans, Elisabeth was whitening canvas in Georg Hedlein’s house and at the end of September, when maids usually got a wage, she was employed as a servant by Thomas Fiedler, a hosier.⁴⁸

She became pregnant again after having an intercourse with this journeyman during the harvest celebrations in August 1706. Their relationship can be described as one-night love affair characterized by sexual intercourse and its physiological consequences of pregnancy. There is no evidence of this man’s involvement in the child murder,

⁴⁶ As many authors point out, there were constant conflicts between the interests of the prince (and his office) and a contemporary normative framework. J. ČECHURA, *Sex v době temna*, Praha 2015, pp. 348–405; J. SCHLUMBOHM, *Gesetze, Die Nicht Durchgesetzten Werden: Ein Strukturmerkmal Des Frühneuzeitlichen Staates?*, in: *Geschichte Und Gesellschaft*, 23, 1997, pp. 647–663; M. DINGELS, *Normsetzung als Praxis? Oder: Warum werden die Normen zur Sachkultur und zum Verhalten so häufig wiederholt und was bedeutet dies für den Prozeß der „Sozialdisziplinierung“?*, in: G. JARITZ (ed.), *Norm und Praxis im Alltag des Mittelalters und der frühen Neuzeit*, Wien 1997, pp. 39–53.

⁴⁷ *Elisabeth*, f. 360v.

⁴⁸ Mentioned as a moderately wealthy local craftsman in: *Hütter und Inlete Beschreibung* (1705).

but it is not unlikely that he mistreated Elisabeth (maybe raped her). Elisabeth left the dancing feast in his company and then they “sinned” in an empty wooden cottage. It is very likely that he promised to marry her, therefore she agreed to have sex with him, and he left afterwards.⁴⁹

Later during the process, she blamed Hans on attacking her against her will: “He chased me through the garden and when he caught me there, he grabbed my skirt and I fell back and he committed the ghastly deed.”⁵⁰ This situation can be, on the one hand, interpreted as a common defensive strategy of defendants;⁵¹ on the other hand, many men actually raped women and when the situation escalated, they left the city in order to get rid of suspicion.

Hans disappeared and so planned Elisabeth as well. In January 1707, just a few weeks before the delivery, she took quite an interesting journey to Moravia. She demonstrated her independence and the lack of trust in her family members. Her journey was unsuccessful, but why it was so remains unclear in the sources available.

Finally, the key part of the whole case is situated in the village Buk where she worked at hosier Lukš’s house as a spinster at the beginning of 1707 (she planned to visit her relatives in Třeboň, but did not make it, so she asked Lukš for help). Elisabeth delivered a child without assistance in the middle of the night on February 20, 1707: “The baby dropped out of me without any pain, outside of the house near the pigsty. I took my apron off and wrapped my baby up and put it above the pigsty. Then, I went back to the room. I did not tell them anything, I stood in the kitchen, then I went to my room where I spun yarn on my spinning wheel like if nothing had happened.”⁵²

Elisabeth described here a common strategy of infanticidal women who said that they delivered painlessly, like if a delivery was nothing. But unlike other cases, her murderous intentions were not so obvious: she did not throw baby into a river, bury it in the ground, or throw it

⁴⁹ These secret marriages are described among others in Ferrante’s article: “They had simply said to each other that they wanted to be husband and wife and they had sealed the pact with a kiss.” FERRANTE, p. 125.

⁵⁰ Elisabeth, f. 247r.

⁵¹ Many women described the intercourse from a perspective of passive and weak victims. Elisabeth could have been more active in this situation and played the victim’s role in order to get a milder treatment in prison.

⁵² Elisabeth, f. 269r.

to pigs as many other defendants did.⁵³ She only covered the corpse (delivered, as she insisted, presumably stillborn) and pretended that nothing had happened.

Symandlin claims she wanted to tell everyone about it, ans she just did not have a chance because Lukš and people from village Buk suspected her and arrested her very soon. She insisted that the particular night even the village richter Hans Printz visited Lukš's house and she was afraid to confess in front of him.⁵⁴ Coincidentally, nobody noticed she was with the child: *"Thereafter, the richter from Buk came, it was around two o'clock at night. He sat for a while in the room and at that moment I suddenly felt the labour pains. I was not allowed to tell him about it, I came out and when I came to the pigsty, the water squirted out of me and the child after the water. There, I looked down and I grabbed the baby at once and hold it in my arms, I took baby closer in front of my mouth just to find out if it still breathes, but it did not, in the end."*⁵⁵

She was lucky that night, but everything was discovered in the morning. Consequently, the circumstances of her second birth and the corpse of the death newborn child hidden in the barn were a more serious problem which brought her to the prison again.

During 1707, she was interrogated several times; witnesses and medical experts expressed their opinion about her crime and at the beginning of 1708, she was questioned "sharply". In May, when she suffered painful torturing, she made up a new story about her spouse Hans and his Lutheranism (see below).⁵⁶ She spent the rest of the life in a prison cell in Hradec where she fell ill after torturing, and the last written evidence we have describes her heath condition which did not get any better. There are no further sources dated after 1710.

In the following paragraphs, I focus in detail on several important aspects of the case outlined above: family relations, Elisabeth's travels, a role of medical experts in her case, the inquisitional process itself and her confession forced by the torture.

⁵³ In the typical infanticide cases a corpse of child that had been evidently hurt intentionally was discovered, and soon after that the women confessed without torturing. LEWIS, *Infanticide and abortion*, p. 77.

⁵⁴ The name of the richter is not mentioned in her confession, however, we are able to identify him in another evidentiary source: Estate of J. Hradec, card. 381 (administration of subjects), *Consignation der Richter und geschwornen*, 29. 2. 1704.

⁵⁵ *Elisabeth*, f. 362r.

⁵⁶ *Ibidem*, f. 326v.

Autumn 1706 – Getting away of Trouble

Many women accused of infanticide obviously did not want to kill their children and they were actively seeking for other solutions. One of the options that pregnant single women had, especially in bigger cities, was a possibility of child abandonment. Many women, as Laura Gowing describes, simply left their newborn in front of the door of city fathers or rich burghers.⁵⁷ This could also be the reason why Elisabeth never left Jindřichův Hradec for good. She probably stayed in touch with her family and other neighbours just in case they could have helped her, or to have an opportunity to leave a child somewhere in front of the door of some rich and honourable family.

Presumably, Elisabeth found herself pregnant during September or October 1707, but she did not tell anyone about it because she might have been afraid of parent's reactions and other social consequences in general. As David Myers argues: "*For a single woman of poor means, the signs of pregnancy announced the social and legal troubles she would face as a sinner and an outcast.*"⁵⁸

It is difficult to say how important the family was for her in that moment, but from the phrases like "*I was afraid of my people*",⁵⁹ "*I thought I would go home to show them my baby*",⁶⁰ "*I was afraid my parents would treat me badly*",⁶¹ it is apparent that she feared her parents' authority and was aware of her social situation, as well as the economic consequences of her illegitimate motherhood.⁶²

As the records indicate, her very strict sister accused Elizabeth of being "*a god dammed whore*".⁶³ Her stepmother beat and humiliated her, maybe more than once, because she did not behave properly: "*My stepmother took a twig and wiped my back heavily, she tore down my head-*

⁵⁷ L. GOWING: Giving Birth at Magistrate's Gate: Single Mother in Early Modern City, in: *Women, Identities and Communities in Early Modern England*, Michigan 2009, pp. 137–150.

⁵⁸ MYERS, p. 86.

⁵⁹ *Elisabeth*, f. 326r.

⁶⁰ *Ibidem*, f. 362v.

⁶¹ *Ibidem*, f. 328r.

⁶² One version of her explanation: "*I was afraid of a high fine and of my parents, who would have blamed me and that I would have to prove who the father of that child was. As I said before, I just hoped that if the child was stillborn, it would be better for me because I would not have had to care about it.*" *Ibidem*, f. 327r.

⁶³ "*You goddammed whore, you did a very 'nice' thing to us once [dishonour Family], you will end up in the cage and then you will stand in the pillory!*" *Ibidem*, f. 361r.

scarf, she slapped me several times and then she griped my neck and throw me backwards.”⁶⁴ Elisabeth had more than few conflicts with her female relatives, which could reflect the fact that she was also a stepchild.⁶⁵ In one of her answers she blamed her stepmother Mandelína for neglecting the household maintenance and questioned the fulfilment of her mothering duties as well: “I quarrelled with her a lot, because she came home late and left her child with strangers.”⁶⁶ Mandelína, on the other hand, blamed Elisabeth for not showing any respect to her: “She did not care about me, she acted as if she were not obliged to obey her stepmother. So, I was often evicting her from the house to follow her own way.”⁶⁷

Family relations were probably the reason why later Elisabeth tried to change the inevitable course of events on her own. In January 1707, she travelled with some carman (“forman”) from village Políkno to south Moravian city Znojmo. As Jaroslav Čechura pointed out before, this trend was not unusual, because dozens of South Bohemia subjects migrate and sought work in more distant regions like Znojmo;⁶⁸ Elisabeth’s motivations, however, were quite different.

She claimed she wanted to find her journeyman and that was the reason why she wandered more than one hundred kilometres from Jindřichův Hradec and then back again. This was not unusual even in the context of the South Bohemia infanticide cases. There was another woman with similar experience who was imprisoned a year later (1708), Eva Mikšová. Both women left their village with some excuse,⁶⁹ but they returned later. This attracted the attention of the city court, obviously. Judges suspected both women that they were trying

⁶⁴ *Elisabeth*, ff. 360v–361r.

⁶⁵ Maltreatment of stepparents against their children was described by evolutionary biology as a Cinderella effect, however, this thesis is criticised as quite controversial. On defend of this effect see M. DALY – M. WILSON, Is the “Cinderella Effect” controversial?, in: C. CRAWFORD – D. KREBS (eds.), *Foundations of Evolutionary Psychology*, New York 2007, pp. 383–400.

⁶⁶ *Elisabeth*, f. 268r.

⁶⁷ *Ibidem*, f. 297v.

⁶⁸ J. ČECHURA, “Do Moravy utekl, však on tam ale nezůstane”: k živelné migraci z jižních Čech na Moravu (1700–1750), in: *Časopis Matice moravské*, 132, 1, 2013, pp. 43–81.

⁶⁹ In Eva Mikšová’s case, the maiden said to her mistress she was going to see her brother and help him during the harvest. Eva left Hradec highly pregnant, accompanied by a maidservant, to city Jemnice in Moravia, but after fourteen days she returned. *Eva Mikšín*, ff. 167–168.

to “get rid of the child and return home as virgins again”.⁷⁰ Based on the comparison to other sources, such escape from a city can be defined as one of the common strategies used by many women who left their homes, supposedly, to give birth in secret.⁷¹

Elisabeth’s journey was unsuccessful, and probably she was not welcomed in Moravia at all for various reasons.⁷² She failed to find her Hans from whom she expected a fulfilment of his promises or at least a financial compensation. Nevertheless, this story later served her as an excuse for a premature birth of her child: “*The cart quacked terribly and I trembled so much on the road that this shaking and trembling together with the way how my sister scared me could, in my opinion, be also the possible cause of the infant’s death.*”⁷³

Elisabeth certainly tried to find some help, but her options were limited. This contradiction caused psychological pressure, doubts and hesitation: “*I was afraid and ashamed, I thought I would rather go to the city, but at the same time I was frightened, because they could be mean to me as they had been before.*”⁷⁴ She was torn between the desire to entrust herself to her family and the effort to stay away from the community which could discover her pregnancy any time: “*Yes, I was afraid that all of them would treat me badly, then I decided I would rather be alone, and I went to the hosier Lukš in village Buk.*”⁷⁵

This second journey to Buk was another attempt to disappear. She explained that she left the city Hradec not long before the delivery to seek her uncle’s help in Třeboň (approximately fifty kilometres from Hradec).⁷⁶ Again, she did not succeed because she was warned by some wayfarer that gypsies blocked the road to Třeboň, so she stopped off near the village Buk to stay there. This was again quite suspicious, because Buk is only five kilometres from Hradec, so she did not make

⁷⁰ Ibidem, f. 154r. Obviously, in Elisabeth’s case maidenhood was not in question anymore, however her honour and good reputation were equally important.

⁷¹ Servant Grethe Schmitd in Myer’s study supposedly left the city Brunswick and her mother reserved a room for her in a city nearby: MYERS, pp. 52–54.

⁷² We can only guess what happened there. She was probably instructed by her friends or parents to visit someone’s home in order to give birth in secret, however, it did not end up well and she was supposedly forced to return.

⁷³ Elisabeth, 361v.

⁷⁴ Ibidem, f. 298.

⁷⁵ Ibidem, f. 297v.

⁷⁶ “*I thought I could go to Třeboň to see my friends and my uncle.*” Ibidem, f. 268v.

much progress in her journey. It is probable that she did not plan to visit Buk at all, but at the same time, this can be understood as a result of her constant hesitation (to stay or to leave?).

The question of honour and the relationships in family affected Elisabeth's further decisions when she decided to hide her pregnancy and solve her "little problem" on her own. The reason why she left was not just the family issues, but an effort to defend her personal honour and honour of her family as well. The concept of honour, as it has been pointed out above, could influence women's lives, and the shame at the same time could be transferred from an unmarried woman to her relatives, neighbours or employers.⁷⁷ She was stigmatized and, therefore, she decided to leave. It can be assumed from these indications that Elizabeth was very secretive, stubborn and independent person who acted with intentions to defend her honour, but at the same time was prepared to take the risk and defend her family members (especially her own father).⁷⁸

Winter 1707 – Mistress, Midwives, Medical Examiner and Corpus Delicti

Conception and gestation were quite puzzling processes in both scientific and popular discourses in early modern period. Neither the women themselves, nor male doctors and midwives knew for sure when and how exactly the pregnancy begin, what happens in the womb later or how to confirm the condition without any doubt. Some diagnoses when doctors and midwives agreed about obvious symptoms of pregnancy proved to be incorrect at the end and, on the other hand, some women did not seem to be pregnant at all and yet they had a baby.⁷⁹

After all, Elisabeth could take an advantage of this situation. She was aware of being an outlaw since she was carrying a child and could

⁷⁷ About Honour see LEWIS, pp. 28–33.

⁷⁸ Her father had clearly an important role in her life. She never mentioned him during interrogations where she blamed her sister or step-mother, but never her father. Later, it was also her father who tried to get her out of prison. On the other hand, her stepmother in this context only threatened her or blamed her for dishonouring the family.

⁷⁹ MYERS, p. 91.

possibly face criminal charges as soon as anything was discovered. Presumably this was the reason why she never told anyone.

From the very beginning she claimed that the child was stillborn because she had hurt herself and her foetus twice. For the first time due to shaking and trembling of a cart when she had been travelling back from Moravia, and then when she had slipped and fallen (probably on ice) at the beginning of February 1707.⁸⁰

The city magistrates obviously examined the circumstances of these potential injuries very carefully. Many other servant girls from Hradec knew Elisabeth well and they were present to the second accident mentioned by her. Subsequently, they were interrogated as the witnesses. Instead of supporting her testimony, the maidservants from neighbourhood (*Dorotha*, *Dorotha junior*, *Catherina* and *Lída* questioned her statements). They said that Elisabeth had been only slightly injured after the fall and had complained only about her sore foot.⁸¹ On the other hand, none of them provided information about her pregnancy, rather they denied noticing anything suspicious about her.

Although such an accident during pregnancy was taken very seriously, the city magistrates did not need any other medical testimony to conclude that her story about the accidental fall was not real, because the midwife Justina Stepanin (*Štěpánová*) also confirmed maidservants' statements, claiming that the "*child was born right on time and had hair and nails as any other*".⁸²

Yet, there are indications that people from the city were suspicious about Elisabeth's condition from the very beginning. "*People said she was pregnant,*" admitted her last employer Anders Lukš. Her reputation had already been questioned when she had had the first child, and as Ulinka Rublack points out, rumours and gossips were quite powerful in early modern period.⁸³

⁸⁰ "It was on the Feast of the Purification of the Blessed Virgin Mary also called Candlemas (February 2, 1707) when I suddenly fell down just before the so called 'Mädl-house' and I could not get back on my feet. Thereupon, I also blame this second fall of mine for hurting my foetus." Elisabeth, f. 361r.

⁸¹ Ibidem, ff. 270–272.

⁸² "Das Kind ist Rechtzeitig dann es hat die Nägel und Haar, ist ein Mägdlein." Ibidem, f. 273v. Justina Stepanin added: "After a serious fall, the fetus would come out within nine days." Ibidem.

⁸³ RUBLACK, pp. 16–43.

One way to find the truth about Elisabeth's condition was the possibility to examine her body by someone who could feel any movement of the child. Usually, the women suspected of infanticide who intended to hide their physical changes never let their relatives nor neighbours touch their belly. This could be attributed to their shyness or modesty, but also to their evil intentions.⁸⁴

It is not surprising, then, that her last employers heard the rumours and mistress Lukšová asked her directly. Notably, Elisabeth had no objections and she was willing to let mistress touch her. As Anders Lukš said, Elisabeth only laughed and let her mistress touch her belly. Lukšová did not notice anything. According to Lukš it happened because his wife was very young and she had not had any experience with children.⁸⁵ Elisabeth might have known that it was not dangerous, because the young Lukš's wife still was quite immature in this regard.

This, again, served later as an argument against her murderous intentions. As she wrote in her letter of pardon: *"Because until the end no one had never asked me [about my pregnancy], it was actually me who first revealed the truth to Hosier's wife that I was feeling very sick and I was thinking it is too soon [to give birth]. She told me she was sometimes feeling sick, too. After this, we went to bed in our rooms and I hoped they had understood what I'd just told them [that I was pregnant] and I called a maid to bring me some diapers or headkerchief."*⁸⁶

Elisabeth never denied anything, nobody had simply never asked her directly. And when they actually asked, like Lukšová did, she told them everything; unfortunately, they just did not understand. Lukšová probably had some other problems in mind like nausea or vomiting during the menstrual cycle, but Elisabeth was supposedly talking about her pregnancy. Nevertheless, she obviously twisted all events in her favour, everything what happened so far were just accidents,

⁸⁴ David Myers illustrates this point very clearly: maidservant Grethe Schmidt never let anyone touch her. In her case it was the crucial point because the body of her child had never been found and the city magistrates had only indirect evidence (gossips) and her confession, but forced by torture. MYERS, pp. 96–98.

⁸⁵ *"Ich hab ihr nichts gesagt, aber mein Weib hat zu ihr gesagt, dass die Leute sagen, sie seye Schwanger, sie aber hat gelaugent und hat mein Weib den Leib besuch wissen teilen, aber mein Weib noch kein Kind gehabt hat sies auch nicht verstanden."* Elisabeth, f. 274v.

⁸⁶ *Ibidem*, f. 362v.

misunderstandings and the chain of unlucky events, but her intentions were always only the best.

So far all of these indirect clues could prove her illegitimate pregnancy only, but not the infanticide itself; the real problem, at least for Elisabeth, was the child's body. When Elisabeth was arrested, the richter had not found anything yet. Unfortunately for her, she did not have enough time to pick the dead child up in the morning and hide it: *"Yet, just when I was putting my clothes on, the bailiff ('biřic') came and told me to go with him to Hradec. Of course, I wanted to take the child with me, but he did not let me, not even take one step back and I had to go with him to the prison."*⁸⁷

Immediately, when her father heard rumours about her imprisonment, he sent someone to find out what exactly happened in Buk. It was her stepmother Mandelína again who first visited Elisabeth in a prison cell. As she explained, they wanted to know if the child was still alive or not and if they should take care of it. Yet, Elisabeth was very prompt again and asked Mandelína to help her: *"She told me to go there and take it. I said I could not do it just like that and I had to confess to judge, so I did and I do not know anything else."*⁸⁸

Elisabeth, of course, later gave a totally different story, when she again presented herself as an innocent girl co-operating with the law: *"Immediately, when my stepmother visited me in the prison, I told her where the child was laying and I begged her to tell everything about my actions to the merciful and honourable law and tell them that she could show them where the baby was."*⁸⁹

On Tuesday morning, nobody found anything suspicious in the Lukš's house, no blood stains or dirty clothes, just one dirty rag⁹⁰ and some herbs in Elisabeth's skirt. Especially these herbs attracted attention of investigators, so they asked midwives about their opinion on

⁸⁷ Ibidem.

⁸⁸ Ibidem, f. 276v.

⁸⁹ Ibidem, f. 362v.

⁹⁰ A mistress had a suspicion that Elisabeth gave birth to a child earlier, not on Monday (February 20) as she said, because no one found any signs of blood anywhere and Elisabeth's hands were clean as well. Maria Elisabeth Lukšová had a feeling that Běta wanted deceive or dishonour them somehow: *"Es ist unmöglich, dass sie das Kind bei uns müssen haben, dann ist es geflohen gewesen, wan Höht ja ein Zeichen schon kaum. Sie hat die Hand sauber gehabt und ist unmöglich, dass sie in ein so kurzer Zeit hatte können, alles aufputzen oder aufwischen."* Ibidem, f. 276r.

them. Midwives as experts knew that many types of herbs can be used as purgatives. Both women, Dudová and Štěpánová, recognized only one – *Helianthemum* (“devaterník”). Elisabeth could have used it as purgative; however, she denied it again saying that it was just something that she had had in her skirt since summer.⁹¹ But finally, the newborn child was found soon after that, secretly hidden in the barn, covered by some waste and straw.

Then, the main problem Elisabeth faced was that the city doctor and two midwives claimed that the baby was fully developed and its neck broken. In their medical reports of February 25, 1707, an official city physician Johannes Jacob Fried, a country barber–surgeon Carl Joseph Malekh and two midwives Štěpánová and Dudová described the body as a victim of the crime: “*The neck is broken and crooked, navel-cord unbound and the head was pressed. Yes, the child is on time, because it has nails and hair, it is a baby-girl.*”⁹²

The next day (on February 26), Carl Joseph Malekh was summoned to present the child’s corpse again, this time also in front of Elisabeth Symandlin herself. This confrontation of a mother with the corpse was a traditional part of infanticide investigations, which was theoretically supposed to result in disturbance of the murderer’s self-confidence and cause panic. However, Elisabeth remained stubborn, denied intentional murder and did not change her testimony.⁹³

Even though the city council was quite sure about her guilt, they still needed Elisabeth’s confession which, however, proved to be very difficult to achieve because she had been denying everything for a very long time. Finally, it was decided to use a torture, which proved to be a crucial step in Elisabeth’s case.

Inquisitorial Procedure and Torture (1707–1708)

During her entire stay in a castle prison in Jindřichův Hradec Elisabeth never gave up attempts at liberation. She tried to get allies among her family members, persuade judges about her innocence, arouse

⁹¹ “*As long as I am in the world, I had never used any herbs, but I plucked this herb at the St John’s day (midsummer), to protect cattle from an evil spell.*” Ibidem, f. 283v.

⁹² Ibidem, f. 274r. Both doctors’ reports were very similar, i. e., the neck was broken and turned to the right arm, the upper part of the head was pressed, the navel-cord was unbound and both arms were damaged. Ibidem, f. 285v.

⁹³ Ibidem, f. 276r.

compassion as an innocent martyr, or later obtain mercy from the superior court as a victim of torturing.

Some remarkable points about life in a local prison can be found in a record of Mariana Dalšovká, another woman accused (of abortion) six years earlier. She declared that her mother came to see her to the window of her cell, during the night even her partner stopped by (she gave him several written notes), and a maidservant brought her some food occasionally. After these night visits, she “*was often lying on her belly at the windowsill all day long looking outside; she said she was bored*”.⁹⁴

Meanwhile, the events outside the prison took place as follows: After the initial interrogation in February, Elisabeth was confronted with four servant girls and with her stepmother on April 31, 1707. Then, on October 10 of the same year, there were stepmother Mandelína, her sister Lidmila, Anders Lukš and his wife Maria Elisabeth from village Buk again testified against her. Elisabeth presented there her story as mentioned above.

The inquisitorial procedure which started with information brought in by Elisabeth’s stepmother was secret and characterized by a superior power of the city council over the defendant.⁹⁵ Although the court undertook investigation and prosecution completely on its own initiative, it was supervised by the princely office and the consultations with the superior court of appeal in Prague were obligatory.

The city magistrates consulted the case continuously with an office of the estate governor, a “*hauptmann*” (i. e. a representative of the authority of the estate’s owner Černín) who seated in a local castle. After all his work was finished, *hauptmann* Franz Maximilian Kölsch sent

⁹⁴ State District Archive of Třeboň: branch office Jindřichův Hradec, in the collection of the estate of J. Hradec, cardboard 417, *the case of Mariána Dalšovská 1699–1701*, f. 441v.

⁹⁵ The legal system of prosecution for infanticide was for the first time described in *Constitutio Criminalis Carolina* (1532), available, e. g., in a later German/Latin edition: *Constitutiones Criminales Caroli V*, Magdeburg, 1716. However, this law code was only subsidiary for the Czech kingdom, and two other law books were in use (in a Czech edition): H. JIREČEK (ed.), *Obnovené právo a zřízení zemské dědičného království Českého*, Praha 1888; K. MALÝ et al., *Práva městská Království českého: edice s komentářem*, Praha 2013. More about this legal system in broader context MYERS, pp. 33–43; LEWIS, pp. 16–49; in Czech and Moravia L. NOVOTNÝ, *Kauza „Abeles“*. Příklad řízení v trestní věci před apelačním soudem na sklonku 17. století, in: *Problematika historických a vzácných knižních fondů Čech, Moravy a Slezska: sborník ze 17. odborné konference Olomouc, 5.–6. listopadu 2008*, Olomouc 2009, pp. 204–205.

all agenda further to the members of the law office of the Černín estate (Hofkanzlei), namely to Johann Georg Meyer and Georg Adalbert Liechner. These officials had a seat in Prague, and therefore they cooperated also with the superior Court of Appeal in Prague (*Appellationskammer*), represented by the president of Appeal Jan Josef of Vrtby and the secretary Kašpar Jan Kupec of Bílenberk.

Elisabeth had had so far (as the law recommended) many opportunities to confess without torture, however, there was a corpse with the broken neck and testimonies of witnesses that strengthened court's opinion that Elisabeth was lying. As the legal instruction (die rechtleche Belehrung) determined, there was a reasonable doubt about Elisabeth's innocence: she stubbornly lied about the consequences of her fall (only her knee was hurt) and, moreover, said that there was no blood during the delivery, although a bloodstain was found in the snow and a bloody rag soon after that (thus the delivery was completely normal), which she denied. Moreover, the *corpus delicti* was in evidence and according experts the newborn was put to death. Physicians and midwives were in agreement about this. Therefore, the office concluded that painful sharp questioning should follow.⁹⁶

In the legal framework of the Czech lands the torture was an integral part of investigation; still, the city magistrates had to have a serious reason for using it.⁹⁷ Consulting lawyers was a necessary step in the legal procedure, too, since it could protect a suspect from possible legal misconduct and from unauthorized application of torture.

It is true that in many cases across Europe people were often exempt from torture and the practice was not as widespread as we can think;⁹⁸

⁹⁶ Die rechtleche Belehrung sent from Prague on 20th January 1708, said: "Dass mann [...] muss befestiget sein, wurde sie Inquisitin hiereine Falls weiter vernommen ob selbe die leibes Frucht darmit abgetreiben? Oder abzutrieben ins Sinn geführet nich anderen sagenden Gestellen wollen, als das Kind Todter gebahren un zur Welt gebracht zu haben [...], die peinliche Frage inmediate nach sich ziehen." Elisabeth, f. 305r. In this context, the office also quoted a third part from the German lawyer Benedict Carpzov's famous work *Practica nova imperialis Saxonica rerum criminalium*, where he discusses certainty of crime indications (available online at <http://digi.ub.uni-heidelberg.de/diglit/drwcarpzov3/0201> [2017-10-24]) and also the important part from die *Verneuerte Landesordnung / Obnovené zřízení zemské* from 1627 (OZZ, R 8), where it was declared that consultation with the court of Appeal is necessary if the torture is going to be applied: JIREČEK, p. 502.

⁹⁷ More about the process also see NOVOTNÝ, p. 204.

⁹⁸ Less than 10 % of cases is reported to be connected with torturing in many

yet the torture was seen as a common method in the early modern law system and as an integral part of infanticide investigation. The passive resistance expressed by Elisabeth was understood as a strategy used by other defendants who were accused of infanticide. This passivity was interpreted as a part of female nature and judges had in mind the image of woman who was not an active criminal, but more the victim of her unpredictable temper, the weaker sex. Consequently, the judges expected a different progress of investigation. Women who recently gave birth were thought to be physically weakened and mentally more vulnerable, thus it could not have been so difficult to gain a confession. However, Elisabeth resisted and the prosecutors were not satisfied with her answers.⁹⁹

After consultation with Černín's *Hofkanzlei* in Prague, a new set of questions was prepared and sent to the court in Jindřichův Hradec. Then, the city intended to interrogate Elisabeth again with the new list, first normally without torturing. If she denied confessing again (which Elisabeth did), the torturer ("*der Scharfrichter*") would be introduced. This time on May 7, 1708, the hauptmann Maximillian Kölsch was attending the investigation as well.

Elisabeth clearly faced the power of terror alone and the fear of pain played a crucial part in her confession. Indeed, from the beginning she was arguing again that she was innocent, had not killed her child, wanted to confess to her parents and that the child had already been stillborn.¹⁰⁰ Then the torturer Kuželka, who arrived from city Pelhřimov,¹⁰¹ introduced himself and displayed the tools of his trade: "*The torturer showed thumbscrew to her and also the candles, then he looked at her saying, 'My dear maid, this is the stuff I will use on you, this and the much*

Germany regions in early modern period. For more details see MYERS, p. 129 (and footnote 21). Only one out of the five infanticide cases in Jindřichův Hradec between 1700–1710 was resolved by this practice and the conclusions of this method were not convincing. For contemporary discussion about torture see B. CARPZOV, *Peinlicher Sächsischer inquisition- und Achtsproceß*, Leipzig 1693, <http://www.mdz-nbn-resolving.de/urn/resolver.pl?urn=urn:nbn:de:bvb:12-bsb10520531-0> [2017-11-01].

⁹⁹ The contrast between expected passivity and resistance during torture was well described by M. LEWIS, *Infanticide and abortion*, pp. 76–80.

¹⁰⁰ *Elisabeth*, f. 321–324.

¹⁰¹ Hangman's name is not mentioned in this particular case, but from the previous cases we know that members of magistrate of J. Hradec often used the service of Torturer from Pelhřimov.

worse things I have prepared. If you don't tell the truth, I will torture and burn you with these."¹⁰²

Even face to face with her torturer Elisabeth showed certain resistance to court's power again. She denied the effectivity of torture and revealed her own opinion about what she heard about it: "Well, do whatever you want with me then, my lords, because I am innocent and I did not kill the child. I commend myself to you, because I know what people in the cities of Brno and Telč told: that if you don't believe me, I cannot change it."¹⁰³

Despite the fact that her last sentence is quite extraordinary and this testimony depicts her, now even more clearly, as a very courageous woman with quite considerable insight, it was not helpful in this case obviously. For fifteen minutes, she was questioned with thumbscrews on, but she did not confess anything, even when the executioner screwed the tool up strongly. After that, the torturer was ordered to tight her up and lay her down on the ladder where she would be racked. She begged and cried, but only after Kuželka showed her the further (third) step of torture – burning with candles – she finally confessed herself:

"Certain people told me that the journeyman is a Lutheran. Thus, my sister suspected me that I had something with him; if it had been true, it would have been very bad for me and our family, if I had had a Lutheran child. Therefore, I started to lift very heavy objects and push my belly hard because I wanted to hurt myself. I thought that it would be fine if I hurt myself because it could be a Lutheran child, but if I did not hurt myself, it would be fine, too, because I did not know what to do while they were treating me so badly."¹⁰⁴

Under the physical pain she presented a totally new story about a wrong religious identity of her copulator Hans. His (probably) imaginary Lutheranism was the reason why she mechanically hurt herself several times. And on the most important question, that is "why", she continued: "Because I would have to pay the fine and I was afraid of my people, too, that they would treat me badly."¹⁰⁵

This is what can be interpreted as a fictional plot she made very likely up under physical pain. The stories about quarrels between

¹⁰² *Elisabeth*, f. 324v. This process was described in a similar way by MYERS, pp. 124–125.

¹⁰³ *Elisabeth*, f. 324v.

¹⁰⁴ *Ibidem*, f. 326v.

¹⁰⁵ *Ibidem*.

members of different religious camps had been published regularly since the second half of the 16th century. Possibly, Elisabeth heard some ballads or crime stories at the city market, where the sellers and actors performed or read aloud these bloody narratives.¹⁰⁶

There certainly were quite strong Lutheran and Utraquist communities before the Battle of White Mountain (1620) in Jindřichův Hradec. And even after recatholisation of Bohemia these protestants still lived in South Bohemia at the turn of the 18th century. They were meeting in secrecy and were always in connection with foreign German regions on the south-west; Elisabeth as a good catholic tried to convince her catholic neighbours that she was seduced by strangers and her intentions were therefore justified.

Maybe this was something she believed they wanted to hear. Journeyman Hans from Saxony was not only a stranger, but now also a protestant; and she was warned by her sister that it brings shame to have a protestant child in a catholic family. Elisabeth tried to persuade prosecutors that they all could unite against a common enemy, a stranger of different religion. This story could have made the judges believe that she belonged to the same community as them, because they knew her well from everyday life in city, while Hans was an intruder who misused her.

After all, her argumentation was inconsistent, and she did not confirm her statement later again (without the torture).¹⁰⁷ Immediately after she was removed from the ladder she repeated and admitted everything, but when she was questioned again on April 1709, she said she had been confused and had not knew what she had said. She only thought that it could have been beneficial not having a child and, moreover, the child had been indeed stillborn.¹⁰⁸ However, the magistrates now had a confession and with this, Elisabeth was sent back to cell.

¹⁰⁶ For further reading about pamphlets and broadsheet see STŮJ.

¹⁰⁷ This part was crucial, because Elisabeth should repeat her confession again without torturing. This was reminded to magistrates several times by court of Appeal during the year. This was also reason why a new list of questions was sent in spring 1709.

Elisabeth nevertheless confessed, that she did not intend to care about the child. For inquisitional process see NOVOTNÝ.

¹⁰⁸ *Elisabeth*, f. 372v.

More Dead than Alive, in Prison (1708–1710)

When Elisabeth's confession was recorded, magistrates sent the documentation to Prague where the sentence was to be given. After the case was consulted in Prague, the court of Appel finally decided on July 20, 1708 that "*she should be, for her serious offence and as a warning to others, beheaded, then put in the grave, impaled through the hearth and her body placed in the earth*".¹⁰⁹

This sentence, which was read to Elisabeth at the beginning of August, obviously induced her immediate reaction. She did not surrender even after she withstood the torture: "*For almost two years, I have been staying in chains, chained day and night. I went through lot of suffering. I was tortured by thumb-screws. I was racked three times and then put down again. Thereupon I have been more dead than alive.*"¹¹⁰

Even now in very bad health condition, she tried to postpone the verdict and with some help prepared several supplications for pardon to the superior court in Prague.¹¹¹ The whole trial and all interrogation stages were secret, and only magistrates, princely officers and the court of Appeal were supposed to know about that; however, there were many locals working for the city council and it seems very likely that someone brought the information about the sentence to Elisabeth's father who started helping her.

In her first German supplication, written on August 26, as well as in other two written in Czech on October 16 and again on November 29, she "*asked for mercy and humbly prayed to The Five Wounds of Christ for the court gave her a pardon and stopped the execution,*"¹¹² because "*she could not accept her death so easily because of her young age of twenty-three and the disgrace and sorrow of her father, brothers and sisters*".¹¹³

Lawyers in the princely office in Prague did not agree with her; instead, they understood her letters of supplication as an malicious attempt to postpone the execution and misinterpret the trial which had

¹⁰⁹ National archive in Prague (NA Praha), *Collection of the Court of Appeal, The Czech Sentences (Ortelní manuály české)*, No. 147, *Sentences 1706–1708*, ff. 199–200. The copy sent to city magistrates, see *Elisabeth*, f. 336r.

¹¹⁰ *Ibidem*, f. 362v.

¹¹¹ Chronologically, there were five letters sent (signed by Elisabeth) on August 26, October 16, November 29 and December 11, 1708, and the following year on June 19.

¹¹² *Elisabeth*, f. 340.

¹¹³ *Ibidem*, f. 351.

been conducted properly and in the name of God.¹¹⁴ This opinion was further supported by the official statement of the prosecutor and chancellor of the Old town of Prague, Carl Franz Granitzer, that Symandlin wanted to delay the verdict (*welche auf kenne weiss zur retardiert*) and it is not possible, under these circumstances, to set her free.¹¹⁵

But meanwhile, Elisabeth was waiting for the final verdict (now, at the end of the year 1708, almost for two years), her life in prison was probably, except for the moments of interrogations and torture, quite uneventful.

As the case of Mariána Dalšovská indicates, the communication between a prisoner and locals was possible, not only in writing, but also orally through a small barred window, or with the help of a bailiff or his wife who cared about prisoners. Moreover, there was doctor Fried and a priest who visited her occasionally.

Later, on December 9, another attempt for liberation was made by Hans Symandl who probably paid to the scribe, another city hosier called Elias Okenfuns,¹¹⁶ to write at least the final pardon letter for Elisabeth. It must have been the father who was also responsible for composing several supplications mentioned above which were sent to Prague, and apparently, he was more involved in her case than it is obvious at the first sight.

The supplication for pardon, actually, is very similar to those described by Natalie Zemon Davis.¹¹⁷ Yet it is, in my opinion, quite unusual in the context of early modern Bohemia if its length and clearly structured arguments are taken into consideration.¹¹⁸

¹¹⁴ "Sie maleficientem diestes Rechtes Beneficii sich nicht gebrache möchte, noch Verfliessung der oben gereckten 17. tåginen priests an die publicate Sententice, den dritten Tag darauf jedoch mit vor hergehende reinigung Ihres gewiessens und einer Wahrhaften bereiung der Sünde (die Execution über sie cum omnibus requisitis te observatis observandis, alles bekketh sami in Gottes nahmen vollzuziehen und desen erfolg andere zu bewickten." Ibidem, f. 348.

¹¹⁵ Ibidem, f. 345r.

¹¹⁶ Elias is mentioned by František Teplý in his history of the city as a member of the city council in 1720 and as the city richter in 1722. Twenty years before he could have been a young rebel, ready to help the prisoner against the law. F. TEPLÝ, *Dějiny Jindřichova Hradce*, Part 1, Vol. 4, Jindřichův Hradec 1936, p. 57.

¹¹⁷ Natalie Davis argues that women did not have many occasions to make supplications for pardon; moreover, the cases of infanticide and witchcraft were not pardonable. N. ZEMON-DAVIS, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France*, Stanford 1987, pp. 84–87.

¹¹⁸ Elisabeth presented six arguments to support her innocence:

Moreover, the supplication was quite an expensive product and Elisabeth's father spent an unknown sum of money with uncertain outcome, all just because the honour of the family was at stake. Nevertheless, not all women could rely on such a help. The class (and father's influence, although he was just an ordinary cloth maker) was an important factor in this case.

Yet, this act was not helpful; soon after that, on December 20, 1708, another answer from Prague was delivered in which the members of the court of Appeal inquired who wrote this letter and why, and why Elisabeth had accused her interrogators of maltreatment. Logically, this resulted in the next round of questioning and Elisabeth had to provide an explanation. This testimony dated on April 5, 1709 reveals that Hans Symandl came with the scribe Okenfus to the prison where Elias asked Elisabeth about her case. He drafted the supplication in the cell and rewrote it later. Finally, Father Hans brought the text to the castle and paid for sending it to Prague. Pardon letters were quite a common practice often recommended even by the lawyers, because a defendant had a right to beg for mercy during the trial.¹¹⁹ However, the fact that Elizabeth twisted the facts and questioned the procedure, was the main problem.

But when the council started to re-examine the case, Elisabeth denied most of the charges and the members of city council were forced to go through all points of accusation again. Her explanations were slightly different to those recorded a year earlier. Elisabeth claimed that everything she had said had been enforced by torture, she had been confused and she could not remember exactly what had happened. Some answers were confirmed, others denied; some facts had not been, in Elisabeth's words, recorded properly or she could not

1. This was her second child and she did not kill her first one, although she could;
2. Her stepmother was beating her;
3. She fell down on the street and was hurt in the cart;
4. She was afraid of the reaction of people;
5. She had never kept her pregnancy in secret;
6. The child was stillborn.

Elisabeth, ff. 360–374.

¹¹⁹ Defendants had a right for a lawyer, too; however, it was often impossible to get one and defendants had to face the accusation of their own. Some contemporary lawyers' opinions on this topic in CARPZOV, *Peinlicher Sächsischer*, Title 8, Art. 3; see also MYERS, pp. 144–146.

remember them. This obstinacy brought another reaction from the court of Appel, and because Bilenberk and Vrtby wanted to be clear about this case, they sent another legal instruction on July 17, 1709 where a brand-new list of questions was prepared to finally confirm her innocence of guilt.

However, as a result of torturing her health condition suddenly got much worse in summer 1709. Further news about her case is available only via the medical reports of the city physician Johannes Jacob Fried (or Frid), who visited prisoner several times at the end of 1709 and in the first half of 1710. This documentation was regularly sent to Hofkanzlei in Prague, attached to hauptmann Kölch reports.

The physician, who was a prominent public figure of the town,¹²⁰ carefully examined her body, and very likely they discussed together the pain and weakness Elisabeth was still feeling after torture. She gave him her subjective verbal account of her state where she complained about pain in the chest and in the arms, which was the result of stretching by the torturer. She also described her general weakness, the body fatigue and tiredness when she “*helplessly laid in sickness for weeks in bed*”, and this did not improve during the autumn.¹²¹

On January 5, 1710 Fried diagnosed a recovery from chronic pain in arms and legs. However, after examination of urine, which was quite a common method of early modern physicians,¹²² he found urinary

¹²⁰ He is listed in parish registers as a father and godfather of many children between 1700–1710 (see further), with a close relationships to city postman’s family and to the family of count František Bernard de la Saga Paradis, noble man who had a seat in the town Nová Včelnice and who was a godfather of his first son, in: <http://digi.ceskearchivy.cz/cs/4338/33> [2017–11–01].

¹²¹ Medical reports, July 27 and September 12, 1709: “*Dass sie an der linken Seiten weg vorher ausgestandener Tortur ganz schwach, auch bieshero gar nicht auf besagter Seiten liegen kann, und Ihr öfters große Schwachheit und Mattigkeit und Mattigkeiten ankommen, wie dann auch dem Biedel wissenden und ob gedachte Person mir selbstem referrat, dass sie die vorige Wochen ganz Kraftlos und Krank dar nieder gelegen.*” Elisabeth, ff. 395r and 404r. More about results of torturing: “*The techniques of torture used chiefly in early modern Europe history principally assaulted the musculoskeletal system, heat sensory receptors, and highly innervated tissue. The strappado- suspension by ropes and the rack greatly distended and often dislocated muscles and joints. In the case of strappado, by traumatically extending muscles of the arms and the brachial plexus and by depriving the muscles of an adequate blood supply (muscle ischaemia) through constriction of arteries, and by dislocating joints at hand and shoulder, intense pain was generated.*” R. EVANS, *Rituals of Retribution, Capital Punishment in Germany 1600–1987*, Oxford 1996, p. 111.

¹²² See examples of medical practice in M. DINGES (ed.), *Medical Practice 1600–1900*.

stones (Sand und Stein), which she had suffered for the last few days. Physician also examined her belly and he observed her skin. There on her head and belly he found some skin rash which he described as chickenpox.¹²³

In May the physician found “no improvement in health condition”¹²⁴ and another problem was diagnosed in July and August when Elisabeth admitted irregular menstrual cycle; Fried classified this according to a humorous model as a very dangerous situation that can influence the balance of the fluids in the body. The physician prescribed Elisabeth some medication which could help to restore the cycle, but there was only very slow progress in her recovery.¹²⁵ In the last report which was preserved, in August 1710, it is recorded again that she “was very weakened and she was slowly losing her strength”.¹²⁶ This is also the last historical evidence we have about weaver’s daughter Elisabeth Symandlin. The last round of interrogation, which was recommended a year earlier, was probably never effectuated in 1710.

It is difficult to say what kind of relationship the doctor and his sick patient had, but since he was paid by city magistrates, he probably did not give his full attention to ill persons in prison. Moreover, Fried is mentioned several times (in 1706, 1708 and 1709)¹²⁷ as a happy father of three children (two sons and one daughter) and his attitude as a city doctor and also as a parent towards a child-murderess was therefore no different in comparison with his contemporaries; he just performed his duties without any special or strong emotional bond with his patient to whom he probably did not feel much sympathy.

Physicians and Their Patients, Leiden – Boston 2016, pp. 151–169. About different methods of examination M. STOLBERG, *Homo patiens: Krankheits- und Körpererfahrung in der Frühen Neuzeit*, Köln 2003.

¹²³ Medical report, February 5, 1710: “Zwar nach schlechter als damals befindet, in deine sie auch Jüngster Tages nicht allein s.v. an Sand und Stein gelitten, wie solches der frohe diener und andere auch selbst wahrgenommen, sondern auch bies dato, die Glieder Schmerzen anhalten, wie dann Ihr leib, Hirn und wieder mit Feüchtblatter ausgeschlagen ist.” Elisabeth, f. 407.

¹²⁴ Medical report, May 11, 1710: “ohne einige Besserung sich befündten thuet”. Ibidem, f. 419r.

¹²⁵ Medical reports, July 9, 1710, ibidem, f. 423, and August 12, 1710, ibidem, f. 430v.

¹²⁶ “[S]o viel mehr geschwächt und entkräfts wird.” Ibidem.

¹²⁷ See <http://digi.ceskearchiv.cz/cs/4338/33>, two younger children on pp. 54 and 74 [2017–11–01].

Her last year in prison described in Johannes Fried's medical reports can show another aspect of the struggle of a female prisoner in everyday life. Living in the dark, wet and boring place, only on the bread and the water, obviously was not very suitable for a body recovering after sharp questioning. Moreover, health issues like kidney stones or stopping of menstruation cycle were clearly the result of malnutrition, bad hygiene or dehydration. Probably even if she had been released at the end, her life would have never been the same after this physical and psychological distress. Regardless of whether she was guilty of murder or an innocent martyr, she became indeed a victim of this interrogation method.

Discussion: Elisabeth Symandlin, the Innocent Martyr?

In conclusion, it might be assumed that there was not only a father and *copulator* who was important in this case, but the whole community network: "*I wanted to go back to my people, they would have understood me,*" said Elisabeth.¹²⁸ She was afraid of her family, but at the same time hoped they would help her. The ethnicity linked to religion and kinship were very important factors in her case, but, most likely, both judges and neighbours saw her as a fallen woman who had to be excluded from the community of honourable people.

The network of kinship relations (her relatives, parents, godparents) should have been an option to avoid troubles. In other cases, there were often mostly mothers involved who tried to hide their daughter's sin,¹²⁹ nevertheless, Elisabeth did not find any support from this side. Except for her father and few relatives, she did not have any supporters in her community, maybe because of her previous bad reputation.

Besides these family members (or Lukšová as a mistress) other people played an important part in this drama, too. As it was pointed out in the Introduction, Elisabeth (supposedly) revealed her pregnancy for the first time to her Godmother. This relationship, often described as *spiritual kinship*,¹³⁰ was important for a pre-modern society so it is pos-

¹²⁸ "*I did not hurt that child and nobody advised me either, I was terrified when it fell down from me and was dead.*" Elisabeth, f. 283r.

¹²⁹ Mother's involvement in Grethe Schmidt's case. See MYERS, pp. 82–85.

¹³⁰ B. JUSSEN, *Spiritual Kinship as Social Practice: Godparenthood and Adoption in Early Middle Ages*, Newark 2000.

sible that Elisabeth had much closer to her Godmother than to her father's second wife. Papírníková offered Elisabeth her help and was ready to give her some diapers, too. She as a godmother was supposed to be her guardian and protector in situations when parents could not. Although we do not know for sure what she advised her in this situation, she obviously did not support her in criminal activity.

Finally, two men with the name Hans played a crucial part in Elisabeth's case. First, the journeyman Hans who was presumed to rape her and then disappeared. It would not be unlikely if the reality was quite different from Elisabeth's description. There could be mutual attraction between these two: even one of the servants, Lída, admitted she had danced with this boy, too, and she liked him. He was apparently a very pleasant companion, but clever enough to keep himself out of trouble.

Secondly, her father Hans Symandl might have been involved in her case more than it is obvious from the sources; it was presumably him who paid the scribe to write the supplications of pardon for Elisabeth's defence after she received sentence to death. Influence of male members of the family who had better opportunities, economical position and higher social status was important as well, however, we must not overestimate male agency in this case, because in many situations Elisabeth acted independently and clearly made her own decisions.

It is worth to mention that when Elisabeth told the wife of her employer, Lukšová, about giving birth to the child few days before the incident,¹³¹ she did not speak as a murderer. She said: *"It is always better to bring a child into the world than despatch it. I also add that it is known that many women slut-shame themselves, and still God is merciful to them, so he will be merciful to me as well."*¹³² Although Lukšová confirmed this statement, such testimony can be seen again as an intentional strategy on Elisabeth's part. She presented herself as a "normal" girl (prepared for being a mother), but she was probably not, at least regarding her economic and social position. We distinguish here between social

¹³¹ As a mistress, Lukšová had a similar status as Elisabeth's stepmother, i. e., she had to care about servants as their mother. Lukšová as a young mistress could have been the first person reporting her servant to court, but since she was young and inexperienced (as her husband said), she did not notice Elisabeth's pregnancy.

¹³² *Elisabeth*, f. 362r.

motherhood, that was not an option for her and she refused it, and biological maternity that she clearly described in a very positive way.

We don't know for sure if Elisabeth really killed her baby or not, even though we have testimonies of the two midwives and the city doctor who examined the corpse. At least the magistrates were quite sure about it (child was new-born, delivered after nine months, but only regarding its appearance, because it had hair and nails). On the other hand, she could have really miscarried or hurt the baby during delivery accidentally; however, some damage on the corpse was evident.

Her agency was very clear in the case. She was seeking for help on her own very actively, she improvised if it was necessary, and almost succeeded to sweep away the evidence.¹³³ The court of appeal, the princely office and the members of magistrate (all men and probably fathers in their middle age) saw her as malicious, fallen woman who not only committed the crime, but moreover tried distorting the investigation. Without any doubts, there were not only single women obediently waiting for proper marriages in early modern Bohemia, but also the active and stubborn ones who could run into trouble easily, and the manners like this were not acceptable with respect to the common good of the town nor the estate.

To sum up, it is possible to find many different images of a young woman and her crime in the social network of an early modern town. Elisabeth was a disobedient child of her stepmother but protected by her father and godmother; she was a spirited woman who acted independently and made several risky decisions. She was also a mature woman who experienced maternity, and yet was not prepared to become mother in the society that did not understand her. Several reasons were behind that: She did not have support of her spouse and for a long time did not tell anybody about her pregnancy; moreover, neither religion, nor state supported illegitimate offspring. Elisabeth was a working woman; therefore, a child was not an option for her as she did not have enough material or financial resources for her

¹³³ When we compare her actions to the maidservant Grethe Smidt it is clear that the corpse was the biggest problem and Elisabeth failed to get rid of it. However, even if the body had never been found as in Grethe's case, gossips and accusations would have been enough to start the investigation anyway. MYERS, pp. 86–97.

upbringing. In consequence, she decided that the murder was the only solution.

Finally, one last image needs to be presented in this case study. Elisabeth did not behave like a wicked and selfish woman as defined in the law code; instead, she continuously presented herself as an innocent martyr of torturing (as many other women did). She often added to her testimonies very devoted exclamations: *"I am an innocent martyr, I did not do that, I did not kill the child, I am suffering innocently and I will die in the same way. [...] My innocent soul, my innocent soul, my innocent soul!"*¹³⁴

The question why she let herself torture if she was so innocent was answered by her with baroque piety again: *"She responded with these words, her eyes focused on the image of Our Lady of Sorrows on the wall opposite her, she turned and said with her tears dropping down: Because I wanted to suffer for my previous sins and for this new one too, that's why I did not want to confess my crime at the first time and that's why I have let myself torture now. To the crucified God and Our Blessed Lady of Sorrows I command my soul now, it is all true, and I want to gladly die, because I killed the baby of my own free will, now do with me whatever you like."*¹³⁵

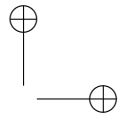
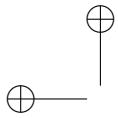
Her devotion might have been a result of conversations with the priest or with the physician during many months of suffering in the cell. Even the idea about writing the pardon letters was miraculous night revelation: *"It was the God himself who came to me and put the thought into my mind when I was sleeping; and Our Lady of Sorrows who had always advised me in good intentions."*¹³⁶

This strategy of the innocent victim was indeed nothing new, but the way she was accentuating the image of the martyr with visions and suffering almost evokes the devotion of baroque saints or self-sacrifice of Jesuit's missionaries. She learned this vocabulary probably at the church and, after all, she still was a member of catholic community. Yet, she was not a weak nor helpless gentle sex, but rather quite a clever woman who simply tried staying alive as long as possible. But from the moment when the child's corpse had been found she could not do anything else than deny everything.

¹³⁴ *Elisabeth*, f. 325v.

¹³⁵ *Ibidem*, ff. 328v–329r.

¹³⁶ *Ibidem*, f. 374r.



The body (*corpus delicti*) was indeed the difference between an unjustly accused woman, a martyr, and a liar. With no *corpus delicti*, only undirect evidence about her pregnancy could have been presented and her case would have taken a similar direction as the case of a few generations younger Grethe Schmidt.¹³⁷ However, Elisabeth was not fast enough and the torture as well as subsequent physical hardship was an inevitable result of her failure.



¹³⁷ For Schmidt's lawyer Justus Oldekop her case served as a critique of torturing and terror of justice, and the missing *corpus delicti* was the most important argument of her defence. Yet, this was just lucky coincidence that such important and skilful lawyer was interested in this case. MYERS, pp. 150–152.

