

A child from Bystřice nad Pernštejnem: A contribution to the knowledge of juveniles from the Moravian gallows sites

Dítě z Bystřice nad Pernštejnem: příspěvek k poznání nedospělých jedinců z moravských šibenic

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KEYWORDS

Middle and Early Modern Ages – Czech Republic – gallows site – archaeology – anthropology – execution – juvenile delinquency

ABSTRACT

The bones of infants and juveniles found at gallows sites make up a small part of the skeletal finds. Interpreting the finds is very difficult without the support of written sources and it is necessary to look for analogies at other sites. During the research of Moravian gallows, a unique find was found at gallows in Bystřice nad Pernštejnem (Czech Republic), the burial of a child, probably boy, aged 12 to 13 years. The archaeological context and anthropological analysis indicate that he may have come from a poor social environment. Whether the boy was executed or whether it is a suicide burial is a matter of debate. In this paper, we address the context of the discovery, anthropological identification, and possible interpretation of the discovery of the boy's skeleton in the context of medieval and early modern gallows.

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‘... the young scoundrel should be condemned and punished with death. And although, in accordance with the law and customs of the land, for such a cruel sin and evil deed, he should be beaten on the wheel, nevertheless, because of his youth and immature years, such a heinous death can be forgiven him in a lighter death, namely, that he be drowned’.

Velké Meziříčí Book of deliberations and findings of Higher Law of the Lords of Jihlava (Svoboda 1921, 36).

1. Introduction

The record of the verdict of the municipal court in Velké Meziříčí from 1505 may surprise someone at the beginning of the 21st century, because a 12-year-old boy was sentenced to death for double murder (Svoboda 1921, 34–36). However, from the perspective of the justice system at the time, this was not an exceptional event, because adults and children were commonly subject to capital punishment at the beginning of the modern era. In this way, society protected itself from inappropriate behaviour, criminal acts, and the most serious crimes that violated legal and social norms.

The social status of children and adolescents was subject to specific legal norms in different periods. The age of the perpetrator, which determined criminal liability, and the seriousness of the crime were the main determinants (Slavíčková 2019, 116). Generally, children under the age of 7 years were considered physically and mentally immature and could not be punished for inappropriate and criminal behaviour (e.g. Allen 2022, 37). However, this did not apply to children older than 7 years (with the advent of modern law, the limit was moved to 14 years), who were already considered ‘small adults’ and were subject to the same criminal liability for crimes as ‘adults’ (Patenaude 2006, 7; Slavíčková 2019, 116–117).

The criminal responsibility of children and adolescents in the Czech lands in the Middle Ages and Early Modern period is based mainly on written legal codes (e.g. *Práva městská Království českého* [Town Law of the Kingdom of Bohemia] from 1579, *Codex Criminalis Carolina* from 1532 or *Constitutio Criminalis Josephina* from 1707), which are supplemented by specific cases of municipal courts preserved in fragmentary court files. An important source in the study of the punishment of children and adolescents are also the results of bioarchaeological research of legal monuments, especially of former execution sites (e.g. Manser et al. 1992; Auler Hrsg. 2008; 2010; 2012; Bešina et al. 2024; Wojtucki 2024). In many cases, they supplement and clarify the legal practice and execution of sentences of that time with new knowledge and raise topics that are not apparent at

first glance in the preserved sources, including the execution of capital justice on children and juveniles.

In the Czech milieu, legal archaeology has been successfully developing since the turn of the millennium (Sokol 2003; 2016; Mašková, Michálek 2006) and in the last decade, new findings have in particular been brought by research in Moravia, where several gallows have been archaeologically examined (Unger 2014; 2017; 2020; Unger et al. 2019; Pěnička 2021).

Research on extinct execution sites provides a comprehensive complex of material finds that speak about the symbolic and practical character of the place, the relationship of the society of that time to delinquents and the punishment of inappropriate behaviour and criminality. Finds from gallows include human bones, as well as building materials, small metal objects, fragments of pottery, coins, animal bones, etc. (Wojtucki 2008; Duma 2015, 66–89; Mašková 2017, 14–15; Unger 2019b, 127). From a biocultural perspective, human skeletal remains from gallows are a very important source of information about man and society. They allow us to observe not only the physical character of delinquents, their kinship relationships, geographical and social origin, but also the social significance of law, punishment, and the relationship of the population of that time to persons violating social norms (Wojtucki 2024, 144).

Parts of the skeletal finds from gallows also include skeletal remains of children and adolescents open a discussion about their social and legal status in solving medieval and early modern juvenile delinquency (child crime). The following text attempts to present in a clear form the current knowledge about the findings of skeletal remains of children and adolescents from Moravian gallows, especially the unique find of an almost complete skeleton of a child from Bystřice nad Pernštejnem, and to place them in the context of the social, legal, and criminal status of children in medieval and early modern society. This is a component study that is based primarily on anthropological research of Moravian gallows and will need to be supplemented with relevant historical written sources in the future.¹

2. Bones of juvenile individuals from Moravian gallows

Research on Moravian gallows has been ongoing since 2013 under the leadership of J. Unger, who has conducted several interdisciplinary archaeological investigations of former execution sites focused on their structural form, ground plan and spatial characteristics, the acquisition of dating material and the form of disposal of the bodies of delinquents after the execution (Křápková, Unger 2019; Unger et al. 2019, 83–100; Unger 2020; Pěnička 2023a). During archaeological excavations on Moravian gallows, a large number of anthropological material was obtained in the form of human skeletal remains, including the bones of juvenile individuals. The following overview shows that this is not a large collection, but only a small part of the total number of human bones found. The discovery of an intact skeleton of a child from Bystřice nad Pernštejnem is so far completely unique in the context of Bohemian and Moravian research on gallows.

Former gallows site discovered in 2014 on the Klucanina Hill near Tišnov yielded 786 human bones, four of which belonged to juveniles (Unger 2014; Unger et al. 2019, 83–87). Bones were in very poor condition, without anatomical connections and were scattered loosely in individual layers in the interior of the gallows. Among the bones of immature individuals, two individuals were identified: a juvenile individual aged between 16 and 19 years old and, based on the length of the left femur, a child aged 3 to 5 months (Pěnička 2014; 2019a, 103–105).

On the boundaries of the Křenovice and Slavkov u Brna (Austerlitz) cadastral areas, 1,780 human bones were discovered in

the interior of a square-shaped gallows, which was examined in 2015–2016 in three excavated pits, of which 97 bones belonged to juveniles (Čuta, Mořkovský 2017; Unger 2017; Unger et al. 2019, 87–91). At least two juveniles aged 16 to 17 years were identified, and they were probably male (Fig. 1) (Čuta, Mořkovský 2017, 17).

Gallows with two pillars and oval-shaped wall connecting both pillars was discovered in Ivančice during the research of the execution site in 2017–2018. A total number of 2,762 human bones and their fragments came from the interior of the gallows (Unger 2019a; Unger et al. 2019, 97). Unfortunately, the condition of the bones was like that of the Tišnov find, i.e. they were damaged and incomplete bone fragments. Only one bone (the left humerus) was assigned to a juvenile person aged between 16 to 19 years (Pěnička 2019a, 107–110; 2019b, 169–171).

Archaeological research of the gallows in Bystřice nad Pernštejnem in the spring of 2020 yielded 9,114 human bones, of which 146 were from juveniles (Pěnička 2021, 24; 2023a; 2023b). This is the richest find of bones of at least seven juvenile



Fig. 1. Skeleton of a juvenile individual (16–17 years) from the gallows near Křenovice (Slavkov u Brna, Austerlitz). After Čuta, Mořkovský 2017, 16, obr. 1; modified by R. Pěnička.

Obr. 1. Skelet nedospělého jedince (16–17 let) z šibenice u Křenovic (Slavkov u Brna, Austerlitz). Podle Čuta, Mořkovský 2017, 16, obr. 1; úprava R. Pěnička.

Site	Number of bones	Minimum number of individuals (MNI)	Age	References
Tišnov	4	2	3–5 months; 16–19 years	Pěnička 2014
Křenovice / Slavkov u Brna	97	2	16–17 years	Čuta, Mořkovský 2017
Ivančice	1	1	16–19 years	Pěnička 2019b
Bystřice nad Pernštejnem	146	6	15–17 years	Pěnička 2023b

Tab. 1. Overview of the juvenile individuals found from Moravian gallows.

Tab. 1. Základní přehled nedospělých jedinců z moravských šibeníc.

individuals, six in the age between 15 and 17 years and, above all, a rare find of an almost intact skeleton of a child aged 12 to 13 years (Pěnička 2023b, 80–81).

Skeletal remains of juveniles from archaeological research on Moravian gallows are not numerous (Tab. 1) and constitute about 2% of the total number of human bones found. Although this is not a large find, the bones of children and adolescents are a very important source for understanding juvenile delinquency (child crime) in the Middle Ages and Early Modern period. Data on at least 11 juvenile individuals are available from research on Moravian gallows to date. From a demographic point of view, this group consists mainly of juveniles aged 15 to 17. According to the legal point of view at the time, these were already adults with criminal responsibility. The second group consists of finds of children under 15, which are very rare in the Moravian milieu. In the Tišnov find, the interpretation of the bone of a 3- to 5-month-old infant is very problematic, while the find of a skeleton of a child from Bystřice nad Pernštejnem is completely unique in the context of research on Moravian gallows, not only because it is a 12- to 13-year-old child, but also because it is an almost intact skeleton (Pěnička 2023a, 67; 2023b, 77–79).

3. The child from Bystřice nad Pernštejnem

The Bystřice gallows are located on ‘Šibeniční hora’ hill southeast of the city, where the wall made of broken stone has been preserved to a height of 65 cm (Fig. 2). During archaeological research in 2020, the interior of the gallows was cleaned, the filling of which consisted of several layers of a mixture of soil,



Fig. 2. Preserved remains of the gallows in Bystřice nad Pernštejnem. Photo by R. Pěnička.

Obr. 2. Dochované zbytky šibenice v Bystřici nad Pernštejnem. Foto R. Pěnička.



Fig. 3. The location of the juvenile skeleton at the bottom of the Bystřice gallows. Photo by R. Pěnička.

Obr. 3. Nálezová situace skeletu nedospělého jedince na dně bystřické šibenice. Foto R. Pěnička.

ceramics, mother-of-pearl waste and human bones. At the bottom of the gallows, i.e. on the original rocky bedrock, a shallow pit was uncovered in the southwestern part with an almost intact child skeleton in an anatomical position respecting the wall of the gallows. On the north side, the pit respected a cluster of stones sealing a circular hole for a wooden pillar from the oldest construction phase, on the south and west sides the pit adjoined the stone wall of the gallows (Fig. 3). The shallow pit in which the child's skeleton was placed was slightly outlined (length 145 cm, width 56 cm, depth from ground level in the pelvic area 150 cm), the orientation of the pit was W–E (azimuth 270°). At the bottom of this pit lay an almost intact skeleton of an immature individual in a stretched position on his back with his upper limbs along the body and his lower limbs extended. The leg area in the eastern part of the pit was disturbed during the excavation and preparation of the pit with a cluster of bones in the southeastern corner of the gallows. A fastening made of a wire eye and hook was found above the left shoulder of the child's skeleton, and three metal buttons were found on the right femur (Fig. 4). In the eastern edge of the shallow pit behind the leg bones, a double-sided Poznaň denarius of Sigismund III Vasa (1587–1632) from 1608 was found (Pěnička 2023a, 67), according to which the found child skeleton can be dated with great caution at the beginning of the 17th century.

The almost complete skeleton of the juvenile was very well preserved, only the leg bones were disturbed during the excavation and digging of the bone pit in the southeast corner of the gallows' interior. The child's skeleton was subjected to standard anatomical analysis using morphoscopic and morphometric methods to estimate age, sex, height, and health status



Fig. 4. Finds from the juvenile skeleton at the Bystřice gallows. Photo by R. Pěnička.
Obr. 4. Předměty nalezené u skeletu nedospělého jedince z bystřické šibenice. Foto R. Pěnička.

(Stloukal 1999; Cunningham et al. 2016; Lewis 2018). The bones were solid with unfused epiphyses and well-developed muscle relief, the colour of the bone surface was brownish-beige and on the proximal part of the right tibia there were traces of green coloration from the metal button present. The skull was post-mortem damaged by the pressure of the overlying material and several of its parts broke off due to taphonomic influences (part of the nasal bones, nasal surface of the maxilla, both zygomatic arches, part of the temporal bone, part of the parietal bone and inferior nasal concha). The maxilla and mandible were preserved undamaged; the chin area is prominent. There were several anatomical varieties on the skull. The premaxilla (*os incisivum*) was separate, several small bones (*ossiculum suturae lambdoideae*) were inserted in the lambdoid suture, and there were supernumerary openings for blood vessels and nerves in the facial bones.

In both intact jaws, 25 permanent teeth were preserved, several teeth were lost postmortem (both upper lateral incisors, first right upper premolar) (Tab. 2). There are gaps (diastema) between the canines and first premolars in both jaws on both sides. The occlusal surface of the teeth is very weak. The dentition is free of dental caries, several teeth (both upper incisors, left upper canine and both lower first molars) have hypoplastic changes in the form of longitudinal stripes on the tooth enamel (*dental enamel hypoplasia*, DEH) and on the lower jaw on the right in the place between the canine and the first premolar there is a healed alveolus after the intravital loss of a temporary tooth or a supernumerary tooth, in the place of the upper right second premolar there are remnants of the roots of the temporary first molar.

The postcranial skeleton has preserved all parts of the spine with incomplete fusion of several vertebrae (C2, C7, S1–S3), all ribs are slightly damaged, and the *manubrium sterni* with several *sternebrae* forming the *corpus sterni* has been preserved. The bones of the girdle and free limbs have been preserved from the upper limb, including an incomplete skeleton of the hands (the right *os trapezium et trapezoideum*, the right *os pisiforme*, the left *os triquetrum* and the left *os pisiforme*, and several *phalanges digitorum* are missing). The lower limb is preserved with the bones of the girdle and free limbs, including several leg bones (several phalanges, the left first and fourth metatarsal bones and

all tarsal bones, except for both calcaneal bones, are missing). All bones of the postcranial skeleton have unfused epiphyses, only the *os ischii* with the *os pubis* and the vertebral bodies with arches are fused.

The age of the child from Bystřice nad Pernštejnem was estimated at 12 to 13 years based on tooth eruption and skeletal maturation, and the height was calculated based on the length of the femur to be 155 cm (Stloukal 1999; Cunningham et al. 2016; Lewis 2018). In the case of child skeletons, sex estimation based on morphoscopic features is problematic, because they do not have developed adult sexual dimorphism. However, if well-preserved suitable parts of the skeleton (skull, pelvic bones) are available, the sex of the individual can be estimated with a certain degree of probability (Schutkowski 1993; Molleson et al. 1998). In the child from the Bystřice gallows, both the skull and pelvic bones were very well preserved, according to which the sex was estimated as male.

The child’s health was relatively good, only hypoplasia of the tooth enamel was found, indicating a significant period of stress. It is estimated that it occurred between 1.9 and 3.4 years of age (Read, Dean 2006) and is probably related to weaning from breastfeeding and the transition to solid food. The cause of death cannot be determined from the preserved skeleton; there are no traces of infection or other disease on the bones. There are also no traces of violence related to the execution of the capital punishment on the skeleton.

4. Discussion

Criminal law in the Middle Ages and Early Modern period viewed children with regard to their age. However, the age limit between childhood and adulthood was flexible, and before it was firmly anchored in criminal codes, it was always recommended to take into account the lower age of the given person (Slavíčková 2019, 116). Children under the age of seven years were practically not criminally responsible, and therefore capital punishment did not apply to them. From the age of 7 to 14 years, it depended on the seriousness of the committed act and on the court whether to impose the highest punishment. The threshold of 14 years became established as the age of criminal responsibility, when children were treated in the same way as adult delinquents (Patenaude 2006, 8–10; Slavíčková 2019).

The evidence of written sources is currently significantly supplemented by archaeological remains, which place the criminal responsibility of children and adolescents in a new position, as they provide us with direct evidence of the punishment of juvenile delinquency (child crime). The findings of skeletal remains of individuals under the age of 18 in and around gallows are not numerous (e.g., Emmenbrücke, Milano, Naestved, Elwangen, Miłków; Manser et al. 1992, 39–75, 135–156; Auler 2001, 271–277; Wahl, Berszin 2010; Mazzarelli et al. 2019; Vanhove et al. 2019). Although there are written sources of evidence of the punishment of children under 15 years of age, the occurrence of their skeletal remains on execution sites is not common and in many cases is completely absent. This is due, among other things, to the nature of the execution site, where the bodies of the executed were mostly exposed to various climatic, biological, and human interventions. In addition, when researching

	M3	M2	M1	P2	†	C	†	I1	I1	†	C	P1	P2	M1	M2	M3	
DX	M3	M2	M1	P2	P1	C	I2	I1	I1	I2	C	P1	P2	M1	M2	M3	SIN

Tab. 2. Dental formula of the boy from the Bystřice gallows; M3 – unerupted tooth, † – tooth lost postmortem.

Tab. 2. Zubní vzorec dítěte z bystřické šibenice; M3 – neprořezaný zub, † – postmortálně ztracený zub.

gallows, we often encounter findings of incomplete and fragmentary bones without anatomical connections, among which the identification of children's bones is often very difficult.

During the research of Moravian gallows, at least 11 adolescent individuals have been identified so far, mostly in the juvenile age range of 15 to 17 years. It is not surprising that these adolescents ended up on the gallows, because according to the law of the time, they were already adults and subject to capital justice. The condition of the bones of these people from individual sites is relatively poor. Their analysis is limited to demographic parameters and does not allow for an exact determination of the cause of death, including the method of execution. Skeletal remains of children under 15 years of age are documented in only two cases. The discovery of the left femur of a 3- to 5-month-old child from Tišnov is unique in every sense, but its interpretation is very problematic. The bone was found without anatomical context while sifting through the soil from the interior of the gallows, along with other bones of mostly adults (Pěnička 2019a, 104). The circumstances of the appearance of such a small child in the gallows are not explained by the available written sources. In 1635, a girl named Markyta Kaliková was tried before the city council in Tišnov for the murder (infanticide) of her newborn son (Konečný 2007, 23–29), but the anthropologically estimate of the age of the found femur corresponds to an older child. Therefore, the found child's bone cannot be connected to this case and further analysis and criticism of archival sources will be necessary.

The discovery of a child's skeleton from the bottom of the gallows in Bystřice nad Pernštejnem appears to be very significant, as it is the best-preserved intact skeleton from the research of Moravian gallows to date. The exceptional nature of the find does not only lie in the find situation, but is also underlined by the estimated age of the child. Moreover, a complete anthropological analysis was carried out on it, providing information about its biological profile and life history. Although we have detailed information about the biological profile of the child and his placement inside the gallows, the interpretation of this case faces considerable difficulties. The archival records of the Bystřice court are incomplete, and there is no report of such a juvenile delinquent in the surviving records (Štindl 2023). When trying to interpret the discovery of the child from Bystřice nad Pernštejnem, we must therefore look for analogies from similar cases. In the interpretation, we proceed from the two most common assumptions of placing the body in or around the gallows: it is a punished child delinquent (1) or it may be the burial of a person who committed suicide (2).

Medieval and early modern jurisdiction considered children over the age of 7 to be adults who, in the event of inappropriate behaviour or commission of a criminal act, could be punished with various forms of punishment, including imprisonment or death sentence (Allen 2022, 37). Children were punished most often for inappropriate behaviour, petty theft, but also for the most serious crimes, such as murder. Cases come from Slovakia where the original death sentence was commuted to another form, most often to beating with a cane or whipping. In the case of stealing money, for which a 9-year-old girl was convicted, the court in Orava resolved the original death sentence by commuting it to whipping due to age and, in the case of a repeat offense, to branding (Floreková 2022, 167). A similar case of theft of money was dealt with by the court in Nitra, where a 14-year-old girl thief was sentenced to several blows with a cane instead of the death penalty (Geschwandtner 2022, 213–214). In Lucerne, Switzerland, eight juveniles were executed, the youngest (accused of theft) being only

13 years old. Girls were punished similarly in Lucerne, where in 1664 an 8-year-old girl was burned as a witch (Harrer 1992, 234–235). We also know of cases of punishment of children from Moravia. For example, a 12-year-old boy from Radslavice near Velké Meziříčí, who was fully aware of his act, killed two other children with an axe. The resulting sentence, according to legal doctrine, was that he should be executed on the breaking wheel, but due to his young age, his sentence was commuted to drowning (Svoboda 1921, 34–36). Since the skeleton of the child from Bystřice nad Pernštejnem was found in an anatomical position with almost no damage, it is very likely that it was placed in a shallow pit at the bottom of the gallows not long after death. The possibility that this is a suicide burial cannot be ruled out, as gallows often served as a place to bury the bodies of those who committed suicide (Van Dülmen 2003, 79; Wojtucki 2008; Duma 2015, 66–89; Mašková 2017; Wojtucki 2020). Cases of child and adolescent suicides are known from many sites. For example, among the 28 suicides from the gallows on the River Emme in Lucerne, Switzerland, there were two adolescents aged between 14 and 16 years, respectively between 15 and 18 years (Etter 1992, 154; Harrer 1992, 242). The causes of death by suicide include hanging, strangulation, drowning or throat cutting (Harrer 1992, 242). In the case of the discovery of the skeleton of the child from Bystřice nad Pernštejnem, it is not possible to interpret a specific event (execution, suicide) without support in written sources. The child placed on the gallows was probably punished as an adult offender for the crime he committed with the highest penalty. Since there are no visible traces of violence related to the execution on the body, one can also lean towards the interpretation that this is the placement of the body of a suicide, but without further analysis of the relevant sources, the interpretation of the child's death is still a matter of debate.

5. Conclusion

Research on gallows brings new insights into the relationship of society to groups of people who violated the legal norms of the time. With the development of legal archaeology, it has been possible to explore several former sites where executions took place. The results of individual research projects complement and often clarify information known only from written and iconographic sources. One of the topics that research on gallows broaches is the legal and social status of children and adolescents in the Middle Ages and Early Modern period in Europe. In the Czech milieu, this is primary research based primarily on the anthropological determination of skeletal sets in combination with available archival and judicial sources, including legal codes. Although we have comprehensive studies on the criminal status of children in medieval and early modern society (e.g. Slavíčková 2019), physical evidence in the form of skeletal finds from execution sites is very rare. Therefore, it is necessary to pay due attention to these finds, because they clarify and supplement information known from written sources.

Although the finds of bones of minor individuals from gallows represent only a fraction of all human skeletal remains, their analysis can be used to draw conclusions about the relationship of the society of the time to crime and the punishment of children and adolescents. The highest punishments did not apply only to persons over 18 years of age. To what extent juvenile delinquency (child crime) was widespread and its punishment is a question of further interdisciplinary research. The unique find of an intact child skeleton from the bottom of the gallows in Bystřice nad Pernštejnem also contributes to the discussion of child crime and period justice.

Note

1 In the following text, the author uses anthropological terminology, where the term ‘immature individual’ refers to a person under the age of 20 whose skeletal development has not yet been completed. However, from a historical and social perspective, these are already adults. As an alternative to this ambiguous terminology, the terms ‘child’ and ‘adolescent’, or a combination of both, are used.

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Resumé

Společenské postavení dětí a dospívajících podléhalo v různých obdobích specifickým právním normám. Rozhodující byl především věk pachatele, který určoval trestní odpovědnost a závažnost zločinu (Slavičková 2019, 116). Trestní odpovědnost dětí a mladistvých v českých zemích ve středověku a raném novověku vychází převážně z písemných právních kodexů (např. *Práva městská Království českého* z roku 1579, *Codex Criminalis Carolina* z roku 1532 nebo *Constitutio Criminalis Josephina* z roku 1707), které doplňují konkrétní případy městských soudů dochované ve zlomkovitých soudních spisech. Důležitým pramenem při studiu trestání dětí a mladistvých jsou také výsledky bioarcheologických výzkumů právních památek, zejména zaniklých popravíšť/šibenic (např. Manser et al. 1992; Auler 2008; 2010; 2012; Bešina et al. 2024; Wojtucki 2024). Ty v mnoha případech doplňují a upřesňují tehdejší právní praxi a výkon trestů o nové poznatky a otevírají témata, která nejsou v dochovaných pramenech na první pohled patrná, včetně výkonu hrdelní spravedlnosti na dětech a mladistvých.

Nálezy ze šibenic zahrnují především lidské kosti, které představují velmi významný zdroj informací o tehdejší společnosti. Umožňují sledovat nejen fyzický charakter delikventů, jejich příbuzenské vztahy, geografický a sociální původ, ale také společenský význam práva, trestu a vztahu tehdejšího obyvatelstva k osobám porušujícím společenské normy (Duma 2015, 66–89; Mašková 2017, 14–15; Unger 2019a, 127; Wojtucki 2024, 144).

Bioarcheologický výzkum moravských šibenic probíhá od roku 2013 pod vedením J. Ungera, jehož tým provedl několik interdisciplinárně orientovaných archeologických výzkumů v Tišnově, Křenovicích / Slavkově u Brna, Ivančicích, Šatově a Bystřici nad Pernštejnem (Křápková, Unger 2019; Unger et al. 2019, 83–100; Unger 2020; Pěníčka 2023a). Během těchto archeologických výzkumů bylo získáno velké množství lidských kosterních pozůstatků, včetně kostí nedospělých jedinců (Fig. 1, Tab. 1). Kosti dětí a juvenilních jedinců tvoří nepatrnou část z celkového množství nalezených lidských kostí (asi 2 % z celkového počtu kostí), přesto jejich analýza otevírá nové výzkumné otázky o výkonu hrdelního práva, právního postavení dětí a mladistvých a o vývoji přístupu k dětské kriminalitě. Z výzkumu moravských šibenic jsou doposud k dispozici údaje minimálně o 12 nedospělých osobách převážně ve věku mezi 15 až 17 lety. Ojedinelé jsou poté nálezy jedinců mladších 15 let, které máme doložené pouze v Tišnově (nález stehenní kosti 3 až 5 měsíčního kojence) a v Bystřici nad Pernštejnem (téměř kompletní skelet dítěte mezi 12 a 13 lety; obr. 3) (Pěníčka 2023a, 67; 2023b, 77–79).

Trestní právo ve středověku a raném novověku nahlíželo na děti s ohledem na jejich dosažený věk. Věková hranice mezi dětstvím a dospělostí však byla pohyblivá, a než se pevně ukotvila v trestních zákonicích, doporučovalo se vždy přihlídnout k nižšímu věku dané osoby (Patenaude 2006, 8–10; Slavičková 2019, 116). Písemné historické prameny jsou v současné

době významně doplňovány archeologickými památkami, které trestní odpovědnost dětí a mladistvých staví do nové pozice, protože nám poskytují přímé důkazy trestání dětské kriminality (např. Emmenbrücke, Milano, Naestved, Elwangen, Milków; Manser et al. 1992, 39–75, 135–156; Auler 2001, 271–277; Wahl, Berszín 2010; Mazzarelli et al. 2019; Vanhove et al. 2019). I když jsou v písemných pramenech doklady trestání dětí mladších 15 let, není výskyt jejich kosterních pozůstatků na popravištích běžný a v mnoha případech zcela chybí. Z výzkumu moravských šibenic máme doposud k dispozici pouze dva případy. Nález levé stehenní kosti 3 až 5měsíčního dítěte z Tišnova je velmi ojedinělý, avšak jeho interpretace naráží na nemalé potíže. Kost byla nalezena bez anatomických souvislostí při probírce zeminy z interiéru šibenice spolu s dalšími kostmi převážně dospělých jedinců (Pěnička 2019a, 104). Ani dochované písemné prameny přítomnost takto malého dítěte na šibenici neosvětlují. Ačkoliv řešila tišnovská městská rada v roce 1635 případ infanticidy (zavraždění novorozence děvečkou Markyitou Kalikovou) (Konečný 2007, 23–29), antropologický rozbor nalezené stehenní kosti odpovídá staršímu dítěti. Nelze tudíž nalezenou dětskou kost spojit s tímto konkrétním případem a bude nutná další analýza a kritika archivních pramenů. Velmi významným se jeví nález téměř kompletního skeletu dítěte ze dna šibenice v Bystřici nad Pernštejnem. Podle osteobiografického profilu se jedná o dítě ve věku 12 až 13 let, pravděpodobně chlapce, který v průběhu svého života prodělal několik stresových období (onemocnění nebo nedostatečná výživa). Ačkoliv známe podrobné informace o biologickém profilu dítěte a o jeho uložení v interiéru šibenice, je interpretace událostí, které vedly k jeho smrti, i v tomto případě provázena řadou nejasností. Archivní záznamy bystřického soudu jsou nekompletní a v dochovaných záznamech není zpráva o případu takto mladistvého delikventa (Štindl 2023).

Středověká a raně novověká jurisdikce považovala děti starší 7 let za dospělé osoby, které v případě nevhodného chování nebo spáchání kriminálního činu mohly být trestány různými formami trestů, včetně uvěznění nebo odsouzení k smrti. Děti byly trestány nejčastěji za nevhodné chování, drobné krádeže, ale i za nejtěžší zločiny, jako byla vražda (např. Allen 2022, 37). V případě nálezů skeletu dítěte z Bystřice nad Pernštejnem nelze bez opory v písemných pramenech interpretovat konkrétní událost. Dítě bylo pravděpodobně potrestáno jako dospělý delikvent za spáchaný trestný čin k nejvyššímu trestu. Jelikož na těle nejsou žádné viditelné stopy násilí související s exekucí, lze se přiklonit také k interpretaci, že se mohlo jednat o uložení těla sebevraha, avšak bez další analýzy a kritiky relevantních pramenů je interpretace úmrtí dítěte z Bystřice nad Pernštejnem stále otázkou diskuze.

Výzkumy šibenic přinášejí nové poznatky o vztahu společnosti ke skupinám obyvatel, které porušovaly tehdejší právní normy. Výsledky jednotlivých výzkumů doplňují a mnohdy upřesňují informace známé pouze z písemných a ikonografických pramenů. Jedním z témat, které výzkum šibenic otevírá, je právní a společenské postavení dětí a dospívajících ve středověku a raném novověku v Evropě. Ačkoliv nálezy kostí nedospělých jedinců ze šibenic představují pouze zlomek všech nalezených kosterních pozůstatků, lze na základě jejich analýzy usuzovat na vztah tehdejší společnosti ke kriminalitě a trestání dětí a mladistvých. Nejvyšší tresty se netýkaly pouze dospělých osob starších 18 let, ale přísnými tresty byli trestáni i děti a mladiství. Do jaké míry byla rozšířená dětská kriminalita a její potírání, je otázkou dalších interdisciplinárních výzkumů. Unikátní nález neporušeného skeletu dítěte ze dna šibenice v Bystřici nad Pernštejnem k diskuzi o dětské kriminalitě a soudobé spravedlnosti významně přispívá.

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