Before discussing the problem of the ethical treatment of ancient human remains in general and the archaeological investigation of medieval Jewish cemeteries in particular, I want to step back briefly and make some general observations on the professional ethics and intellectual problems of medieval Jewish archaeology in Europe as it is practiced today. The other contributions to this volume have, of course, focused on archaeological discoveries and archaeological potential, but the themes of contemporary tourism, community initiatives, and public education have been mentioned often as well. Indeed those themes have often been described as the ultimate or even initiating research for much of today’s Jewish archaeological research. Indeed the larger contemporary reasons for the archaeological study (as well as the traditional official archaeological disregard) for medieval Jewish remains were important rationales for the conference on which this volume is based (Salmona 2010, Sigal-Klagsblad and Salmona 2010).

In order to understand the ethical dimensions of this discussion, it is important to consider some very basic questions. What exactly is “Jewish” archaeology? And what is its relation to the religious observances of modern Jewish communities? Of course human bones, involving both issues of genetic/biological connection and matters of religious sensibility and ritual purity are the most sensitive class of archaeological material, but they are only a part of a wider archaeological endeavor that has greatly increased in recent years. This is the excavation and study of medieval Jewish communities as a significant element of medieval European material culture—treated with serious scientific rigor and sophisticated historical analysis, not merely as an exotic constellation of Jewish ritual objects, Hebrew manuscripts and inscriptions, and distinctively Jewish religious structures of various kinds.

With the enormous growth in the scale of urban and preventative archaeology throughout Europe, antiquities services and university scholars have been increasingly called upon to excavate sites faced with the threat of destruction, not those that they might choose on research grounds alone. For the first time Jewish communities have begun to be seen as significant archaeological evidence of the general evolution of European medieval urban life and economy. Indeed, as mentioned above, the archaeological interest in medieval Jews is not merely antiquarian, but has been increasingly seen by community leaders and heritage administrations as a possible focus for local heritage and for local economic development in the establishment of visitable tourist sites.

But one may ask who doing this kind of archaeology? Is it necessary for “Jewish” archaeology to be done by scholars with formal training specifically in Jewish history or culture, or is it better to view it as part of general European archaeology? No less important, who is it being done for? For modern Jewish communities, to better appreciate their heritage? Or for the
general population to have increasingly encountered Jewish remains? Lastly, we must ask what is this kind of specifically self-labeled archaeology being done for? To memorialize medieval ethnic minorities? To learn more about Jewish history? Or to create income-generating tourist sites?

I would like to suggest that these questions have not often been seriously addressed by either the scholarly establishment or organized Jewish communities. And because of this situation there is a grave danger that what passes these days as “Jewish” archaeology can merely continue to illustrate and disseminate some very vicious anti-Jewish stereotypes. It is stunning to recognize how the conventional interpretation of Jewish archaeological remains (i.e. almost exclusively urban, largely distinct from outside cultural influences, characterized by an unchanging constellation of religious rituals, and concentrated on non-manual occupations such as money-lending and trade) mirror the vividly toxic generalizations of 1930s “scholarly antisemitism” (Steinweis 2006).

Archaeology as a Search for New Understandings

Decades ago, the great Jewish historian Salo Baron condemned the “lachrymose conception of Jewish history,” particularly regarding the Middle Ages in Europe, which stressed persecutions, violence, expulsion, and suffering—over elements of continuity, co-existence, and achievement (Engel 2006). That historiographical approach has been adopted and expanded by later Jewish historians such as Robert Chazan (e.g. 2007) and Ivan Marcus (e.g. 2002), enormously expanding the complexity of our understanding of Jewish medieval life. Yet the current focus of “Jewish” archaeology in Europe has unwittingly perpetuated the old stereotypical and lachrymose-religious conceptions by highlighting only particularly recognizable elements (such as synagogues, ritual baths, and cemeteries), interpreted through the lens of contemporary Rabbinic opinion.

But was/is Jewish culture unchanging and monolithic? Is Jewish archaeology doomed to be merely the material illustration of contemporary Jewish religious normativity? The fact is, that archaeologists with no formal training in Jewish culture regularly turn to modern Jewish religious authorities to interpret new discoveries—or, especially in the case of medieval Jewish cemeteries, self-appointed modern religious authorities insist that their interpretation of, and exclusive right to deal with ancient Jewish cemeteries is definitive and incontrovertible (Polonovski, in press). Yet does this interpretive trend reinforce a kind of historiographical ghettoization in which individual medieval Jews and Jewish communities continue to be seen as intrinsically Other, outside the mainstream of European medieval history? Whether through unpleasant stereotypes or uncompromising orthodoxy, much of current “Jewish” archaeology, I would suggest, does not really tell us anything novel or surprising, but rather merely illustrates what we think we already know.

Contemporary archaeological theory and practice has demonstrated its potential of going far beyond the antiquarian goal of illustration (e.g. Trigger 1989, among many). Gone are the days when Heinrich Schliemann could claim that he had “gazed upon the face of Agamemnon;” when Arthur Evans could claim that Knossos was the “Palace of Minos;” or that biblical archaeologists could unselfconsciously claim that they had proved the Bible to be literally true. Literary texts and narrative traditions, passed down from generation to generation,
cannot be used as the sole, definitive basis for historical investigation. Customs change over time, observances and practices vary over space, despite or in spite of the written record of religious or governmental authorities. Thus the limited types of material culture that are often the primary criteria for identifying medieval archaeological sites as “Jewish,” namely synagogues, ritual baths, and cemeteries with tombstones inscribed in Hebrew may not only represent only a small slice of the Jewish experience. They may, in fact, make contemporary visions of orthodoxy seem timeless and make present hierarchies of religious authority seem inevitable—and ever prevent us from ever learning anything new.

What if we could set aside the familiar cultural constellation of modern Jewish laws and customs (along with the assertion that they are eternal and unchanging) and let the material culture speak for itself? Archaeological study of ancient Jewish communities, if carried out with respect and consultation with local and associated communities, has the potential to revolutionize our knowledge of Jewish history and of European medieval society as a whole. As we have seen in the last generation of archaeological investigation in Israel, the material culture records the material behavior or ancient communities that is often in sharp contrast to the authorized biblical historical narrative (e.g. Finkelstein and Silberman 2001). More important, it shows the “authorized” narrative to be a reaction to material conditions, rather than a factual account.

The truth is that we are still in an antiquarian age of Jewish archaeology in Europe. We depend on received textual sources and contemporary religious law to interpret the archaeological finds. The received narratives of Jewish migration to northwestern Europe, such as the Ahima’az Scroll (Salzman 1924) and the tale of in Jacob ben Yekutiel’s invitation to settle in Flanders (Chazan 1979: 293-294) bear the telescoped chronology of folklore, yet they are used as basic evidence for the establishment there of Jewish communities. Yet what were those communities’ lifeways; would we recognize their customs? What could they teach us about the continual evolution of Jewish culture and self-identification, not only about how some imagined, essentialized “Jewish presence” affected the growth of European life, but how European urban life affected the Jews?

**The Special Problem of Cemeteries**

Cemeteries hold great potential evidence for tracing the material manifestations of communal beliefs, cultural norms, as well as the physical state, life expectancy, and health of European Jews throughout the Middle Ages. Yet they are also archaeological sites that demand a high degree of ethical sensitivity and high standards of professional conduct. For they have also become a flashpoint of scholarly-religious religious conflict in recent years. Preventative archaeological work in recent years at sites in France, Spain, Malta, Switzerland, and the Czech Republic has uncovered groups of individual and mass burials related to medieval Jewish communities, but the excavations have repeatedly faced opposition and, often, suspension due to the religious objections of Jewish religious authorities (Polonovski 2010). Although rabbinical rulings over the centuries on the permissibility of exhuming bodies and moving graves in response to subsequent construction and disturbance have varied widely, the current archaeological disputes in both Israel and Europe have been based on the most stringent interpretations of halakhah or Jewish religious law (Einhorn 1997).
What’s more, the assertions of rabbinical authorities in some prominent cases have ignored clear archaeological indications that the ancient tombs in question were certainly not Jewish (i.e. Reich 1996)—or in other cases they have asserted their exclusive claims of jurisdiction only after it was clear that un-orthodox burial practices (in modern terms) were employed by an historic Jewish community (i.e. “Jewbury” in York, see Rahtz 1995). In both situations, the self-appointed rabbinical custodians have assumed to themselves the right to treat ancient populations as fully subject to their modern jurisdiction, based on the criteria of “Jewishness” by which they judge their own communities today.

Not only has this led in some cases to absurd reburials of deceased individuals far from the site of their home settlement (as in the case of the bodies from Tarrega in central Catalonia reburied in cement ossuary in the modern Jewish cemetery of Barcelona, but it has also led to the loss of valuable information about the violence and physical persecution suffered by the Tarrega Jewish community in the violent attacks of 1348. Thus the first systematically documented evidence of medieval anti-Jewish violence has been lost for further study and analysis (see Marcé and Briansó 2010).

It should be noted, however, that the religious-civil conflicts over the archaeological excavation of medieval Jewish cemeteries in Europe are hardly a unique phenomenon. They are largely identical to problems faced by archaeologists, heritage administrators, urban planners, and religious authorities in many parts of the world (Fforde et. al. 2004). Disputes over the control of ancient human remains—whether by modern religious groups, ethnic minorities, or indigenous peoples—has become a battle over rights to possess and control one’s heritage and is almost always tightly bound up with the politics of the present day.

Whatever the particular cultural context, the discovery of ancient graves claimed by a descendant community immediately places three distinct groups in direct competition: To the archaeologist, ancient skeletal remains offer valuable scientific evidence about human health and culture that should be studied slowly and in detail, without non-scientific pressure. To the heritage administrator and urban planner, human remains must be reported and recorded in accordance with the law, and a decision must be made about the future use of the land of the ancient cemetery as quickly as possible. And for the religious community that claims cultural (and sometimes genetic) continuity with the ancient cemetery’s population, the deceased are viewed as virtual members of the contemporary community, subject to exclusive possession and complete ritual control.

The issue of medieval Jewish cemeteries—and indeed Jewish archaeology as a whole—is caught up in this zero-sum game of competing, exclusive rights. Its effects are not only religious and legal; they are, as suggested above, an obstacle to wider, serious public reflection on the heritage of the descendant community itself. For those who claim heritage as an exclusive possession are unlikely to acknowledge that they are not the sole legitimate heirs. Take the case of the ancient Jewish cemetery at Montjuïc in Barcelona, for example (Colomer 2010). The struggle between the Catalan antiquities service and (unofficial) representatives of the contemporary was framed as a basic conflict between the laws of civil society and the religious identity and heritage of a particular community. But this confrontational stance—admittedly derived from the traditional equation of heritage control with scientific and political sovereignty—drives the opposing sides to the extremes. (see Figure 1) No compromise is possible in when the positions are essentialized into a battle between
“science” and “religion.” No historiographical possibility exists to see the deceased as representing a complex constellation of identities; they are either the heritage of entire nation or the protected heritage of a particular group."

Towards a Balance of Rights and Responsibilities

The bitter public controversies over the archaeological work in medieval Jewish cemeteries in Barcelona, Tarrega, and Toledo (Gruber 2009) had created a tense and poisoned atmosphere for the continuance of investigations of medieval Jewish cemeteries in Spain. On the initiative of the Museum of the History of Barcelona, an international panel of experts was assembled in January 2009 to draft a series of professional principles that might chart a path for compromise between the antiquities service and the protesting voices within the local Jewish community. The outcome was the Barcelona Declaration (Roca 2009), a text that set out a possible framework for future archaeological intervention at the sites of medieval Jewish cemeteries. Yet although it stressed the importance of scientific respect for all human remains uncovered and served the political needs of the Catalonian government as a mandate for future archaeological action, it failed to address adequately the issue of true collaboration and consultation with the Jewish community. In its assertion (paragraph 7) that “the future place of deposit [of excavated or recovered human remains] shall be discussed by all relevant parties in accordance with the laws enforced,” it clearly left community consultation dependent on the good will of the scholars and official heritage administrators. What was missing here was a commitment to heritage responsibilities as well as rights. As clearly outlined by the FARO Framework Convention on the Value of Cultural Heritage for Society of the Council of Europe (2005), stressing shared responsibilities, not merely ownership rights. Gone are the days when scholars and scientists had unchallenged power to treat human remains as mere laboratory specimens. Gone too are the days, when national administrations can assume to themselves total control over a nation’s antiquities without acknowledging the special cultural links of modern ethnic and religious communities. Yet likewise religious groups have a similar obligation to recognize that their heritage is also part of a wider national and even global legacy of cultural diversity. Thus the exploration of Jewish heritage—in particular Jewish archaeological heritage—must not be seen as the possession of any single religious or professional group, but rather an exercise in balanced rights and responsibilities (fig. 2).

The case of medieval Jewish cemeteries thus offers a dramatic example of the way that a “minority” heritage should or could be addressed in Europe’s increasingly multicultural society. The study of medieval Jewish life in the context of Christian Europe is not merely a search for exotic museum specimens and national tourist attractions, nor is it an opportunity for political muscle-flexing by newly empowered and assertive communities. It is a field for serious research and reflection about how a specific minority culture interacted with a dom-

* This is a particularly vexing problem in the case of Barcelona, where the anti-Jewish attacks and forced conversions between 1348 and 1391 effectively ended the existence of a Jewish community there. An uncertain, but presumably large number of Barcelona’s Jews submitted to baptism and continued to reside in the city as conversos (Wolff 1971). It is of course impossible to know how many of the surviving lineal descendants (if any) of the deceased in the Montjuïc cemetery today consider themselves Jews.
inant yet evolving majority culture—and how both were profoundly transformed. The very conditions that now encourage the growth of Jewish archaeology throughout Europe are themselves the product of a move away from historical essentialism in an ever more globalized and multicultural world. Jewish archaeological heritage must be simultaneously seen as universal and particular, borne of a process of continuous consultation in which archaeologists and local and associated communities are fully represented and all three are required to acknowledge both their rights and their responsibilities to advance knowledge, to balance the preservation of the past with necessary evolution of the landscape, and to ensure the dignity of both the living and the dead.

The Barcelona Declaration discussions of 2009 were only a beginning. It is essential for the increasingly sophisticated archaeological study of medieval Europe that Jewish presence not be seen as a marginal but a dynamic and influential element. It is likewise important for contemporary Jewish communities to recognize how they have been shaped by their evolving social, economic, and cultural surroundings, not by an unchanging, essentialized ethnicity. In balancing respect for modern religious sensitivities and cultural feelings with the legitimate need to document and study the archaeological processes that underlay them, a common benefit can emerge for contemporary society. Likewise, ethical considerations regarding the treatment and analysis of human remains should not be seen as an imposition or intrusion, but as an affirmation of basic human respect for lives lived and traditions passed on.

Living communities, their ancestors, and modern secular civic society do not live in separate moral universes, but are (or should be) almost ecologically linked. In that sense, the respectful, serious study, preservation, and commemoration of medieval Jewish cemeteries in modern Europe—like the wider interest in Jewish archaeology as a continuing search for connection rather than “ownership”—is both a symptom and a symbol of one of the most powerfully positive trends in the field of archaeological heritage today.

REFERENCES


Figure 1: The Extreme Positions with Regard to the Archaeological Treatment of Human Remains.
Human remains as data

PROTECTING RIGHTS

Community/Religious Claims and Connection

Human remains as human beings

ENFORCING RESPONSIBILITIES

Recognition of Place in Civil Society and Universal Heritage

Communicating Research Design and Necessity of Study/ Final Disposition of Dead

Figure 2: A Model for Mutually Recognized Heritage Rights and Responsibilities