

82. Gardiner (1979), D26.
83. Kitchen (1986).
84. Lichtheim (1976) pp. 135–63; Kitchen (1979), pp. 281, 282.
85. Manniche (1978), p. 33; Eyre (1984), pp. 95–6; Černý (1973), pp. 175–81; Goedicke (1967), pp. 97–102.
86. Caminos (1954), p. 182.
87. See Lichtheim (1976), pp. 135–6 for text and further discussion.
88. Lichtheim (1976), p. 136.
89. Lichtheim (1976), p. 143.
90. Lichtheim (1976), p. 140.
91. Lichtheim (1975), pp. 66 and 71; Lichtheim (1976), pp. 12–15.
92. Bryan (1985), pp. 17–32; Ward (1989), p. 37; Ghalioungui (1983), p. 92; Ogdon (1986), pp. 62f.; Troy (1986), pp. 76–9; Robins (1990), pp. 18–21. Posener (1951), pp. 184–5; Lichtheim (1980), p. 180.
93. Pestman (1961), p. 4.
94. All citations of Ani from Lichtheim (1976), p. 141.
95. Lichtheim (1976), p. 137.
96. Cannuyer (1989), pp. 53f.
97. Lichtheim (1980), p. 171.
98. Lichtheim (1980), pp. 207–8; Cannuyer (1989), pp. 48f.
99. Janssen (1988), p. 135.
100. Möller (1918), pp. 6–7 and 11.
101. On adultery, see Eyre (1984), pp. 95 and 100–5.
102. Lichtheim (1976), p. 143.
103. Lichtheim (1976), p. 185.
104. Lichtheim (1976), p. 151.
105. Marzai (1965), p. 101.
106. Eyre (1984), pp. 102f.; Pestman (1961), p. 88.
107. Lichtheim (1976), p. 161.
108. Lichtheim (1976), pp. 21–4, (1975) 169–84.
109. Kitchen (1979), p. 282.
110. Lichtheim (1976), pp. 169.
111. Lichtheim (1976), p. 176.
112. Kitchen (1979), p. 281.
113. Gardiner (1957), pp. 43–5.
114. James (1962), letter II.
115. Pestman (1961), p. 75; Gardiner (1940), pp. 23f.
116. Pestman (1961), p. 77.
117. Stewart (1979), UCII, plates 18 l. 13 [l = line].
118. Allam (1989a), p. 128 and n. 22; Janssen and Pestman (1968), p. 140.
119. Lichtheim (1976), p. 137; P. Harris quoted by Eyre (1984), p. 101.
120. Lesko (1989c), p. 101.
121. Ward (1989), p. 35; Fischer (1989), p. 21.

### 3 Notions of Community and the Exclusion of the Female in Jewish History and Historiography

Léonie J. Archer

For some years now, my particular area of research interest has been the period of formative Judaism, a period which lasted from about 600 BC to AD 200 and saw the emergence in essence of what may be termed modern, rabbinic Judaism – a religious system quite distinct from that of the early books of the Bible and one which continues to shape and inform Jews and Judaism today. These centuries of formative Judaism saw the development of new laws, new definitions, theologies, philosophies and social structures. They were times of intense fluidity and change, when monotheism first really emerged as a rigorous and normative system and when the Law – that huge body of commandments designed to embrace virtually every aspect of Jewish daily existence – gradually took shape and preeminence in Jewish life.<sup>1</sup> My concern has been to examine the changing position, image and status of women within Palestine during these developments.<sup>2</sup>

Many things could be said, in the context of the present collection of essays, about women's lives and representations in this all-important period. I have chosen to look at notions of community in Jewish history and historiography, and I stress the historiography (in particular modern historiography) part of the title. I have chosen this topic both as a unifying theme for the various aspects of women's lives that I would like to present here, and, more importantly, because 'community' was, and still is, central to Jewish religious and social thought and practice. As will be seen in the course of this chapter, the word and its attached meanings deserve attention in a book whose explicit agenda is women's history and gender.

An idea of community was very important to the Jews of antiquity, and that idea has been taken up wholesale by modern writers. In the Old Testament (henceforth called Bible), the word for community appears 169 times, and the various allied, and often interchangeable, terms like 'assembly', 'covenant' (see below) or 'people' some three or four thousand times.<sup>3</sup> In the secondary literature on Jews and Judaism it is difficult to find one

work which does not contain the word 'community' (or allied term) either in its title or a chapter heading, and the word is always sprinkled liberally throughout the text. To mention just three works which I shall be drawing on in this chapter and which may be taken as representative of the modern historiographic genre: there is the completely revised and up-dated four-volume edition of the nineteenth-century work by the German scholar Emil Schürer, *The History of the Jewish People in the Age of Jesus Christ*, the final volume of which appeared in 1987 edited by Fergus Millar, Geza Vermes and Martin Goodman; the second is a two-volume work entitled *The Jewish People in the First Century*, edited by Shemuel Safrai and others, published in 1974 and 1976, which contains contributions by a great many of today's leading Jewish scholars on various aspects of life in ancient Palestine; and the third is the older but still widely-read *A Social and Religious History of the Jews* by Salo Baron, again multi-volumed and originally written in the 1930s but revised and considerably extended between 1952 and 1983. I shall also draw on the same author's *The Jewish Community*, published in 1942. All of these books, especially the revised Schürer, are central reference works for the student of Jewish antiquity. All, in their surveys of Jewish history, life and law make great use of the term 'community'. Similarly, the *Oxford English Dictionary* has as its largest sub-entry under the heading 'community' the term's biblical usage, both the original Hebrew and then its translations through Greek, Latin and the various English forms. Another sub-entry, this time concerned with the definition of community as a body distinct from its neighbours, has as its chief example the so-called 'Jewish Community'. 'Community', therefore, is a very important term of Jewish self-definition and organisation, and a much-used tool of analysis by modern historians of Jewish antiquity and later periods.

I say 'tool of analysis' but this is in fact something of a misnomer. Rather it is an assumption-filled, value-laden, semi-descriptive label from which the analysis flows and by which the analysis is dictated. The process may conveniently be imagined in terms of a bicycle wheel, the analysis fanning out like spokes from the hub and the hub being viewed as some kind of static, immutable and all-embracing entity, never in itself to be questioned or examined. The problem is that, unrecognised by most of the riders of that bicycle, some of the spokes on the wheel are missing and the centre itself is not as coherent and comprehensive as they would like to imagine.

'Community' is not a neutral or static term. It is multi-faceted and multi-tiered and, given the male-stream tradition of historical experience (in terms of power, authority and public decision-making) and, consequently, the male-stream tradition of historiography, it is also heavily gendered. It falls

into the same category as other so-called descriptive or analytical terms of reference such as 'democracy' or 'people', where rule has not in fact been by the totality of the given society or where women have not been counted in the reckoning. These words at least have received some attention in recent years in the context of women's history and gender studies, as, for example, in the increased sensitivity regarding the use of 'democracy' without qualification for fifth-century BC Athens, or 'people' in study of the aspirations of the seventeenth-century Levellers in this country. 'Community', as far as I know, has not – that is, apart from one excellent related paper by Lyndal Roper (1987) which discusses the use of *gemeiner Mann* in sixteenth-century Reformation Germany.

As I mentioned earlier, modern scholars – at least in so far as Judaism is concerned – have adopted wholesale the ancients' use of the word 'community'. They have perpetuated the bias of the male-stream experience of history and historiography, and continue to be both gender-blind and gender-bound in their writings. Indeed, as we shall see in the course of this paper, modern writers are if anything more gender-blind than their ancient counterparts.

What I would like to do here, therefore, is reapproach the word 'community' and examine the actual applicability of the term in its various contexts in Jewish antiquity. All too often the term, as used by both ancient and modern writers, is not as all-embracing and inclusive as our texts would have us believe. On the one hand and as we shall see, the community which is presented in the ancient sources as mainstream, normative and inclusive of all members of the Jewish population (if on occasion only through representation by a smaller body) is often exclusive of women – a fact seemingly not recognised by modern authors in their representations of Jewish life in antiquity. (Indeed, this is an instance when modern texts often carry a heavier load of gender-blindness than the primary sources, for the latter often did draw distinctions between male and female activity which twentieth-century writers then appear to ignore.) On the other hand, types of community not taken as part of the mainstream definition are accorded little or no recognition in either the ancient or the modern sources and barely graced with any collective title. These unrecognised communities, in reality part of the fabric of 'the community' and not satellites around it, often involved women. The questions to be asked, therefore, are what comprised 'the community'? Who defined it? Where did status lie? And how have ancient definitions and perceptions been perpetuated in modern representations of social ordering and community (fed as they are not only by information from the past but also by modern writers' own cultural context)? In consequence of my concern to trace the continuation of bias, or gender-

blindness, I shall structure the chapter loosely around the definitions of community and congregation as given in that recognised authority of semantic history and meaning, the *OED*.

The first area to look at is that which the *OED* labels 'Co-Religionists', that is, a body of people sharing in common the same religious beliefs and practices – and here I would stress the word practices. Judaism was, and still is, grounded in two fundamentals: the Covenant and the Law.

The Covenant, or 'contract' between God and the Jews, was established early on in Hebrew history. As recorded in the Bible, it was a special and exclusive contract, with obligations on both parties, which separated the Jews from other nations and set them up in special relation with God as His Chosen People. The external sign of the covenant was circumcision, a ritual which heralded a male's entry into the covenant and into the potential for full participation in his people's religion and cult. Without it he could not, as an adult, function in civil or religious affairs. It was a physical sign of his membership of the community and so fundamental to Jewish thought that it and the word for covenant are used interchangeably and synonymously in the texts.<sup>4</sup> The biblical law which decreed that circumcision be the mark of entry into the covenant and that it take place early on in a child's life – the ritual had had other significances before this legislation and previously had occurred at puberty or in adulthood<sup>5</sup> – reads as follows:

And God said unto Abraham: 'And as for thee, thou shalt keep my covenant, thou and thy seed after thee throughout their generations. This is My Covenant, which ye shall keep, between Me and you and thy seed after thee: every male among you shall be circumcised in the flesh of your foreskin; and it shall be a token of a covenant betwixt Me and you. And he that is eight days old shall be circumcised among you, every male throughout your generations . . . My Covenant shall be in your flesh for an everlasting covenant. And the uncircumcised male who is not circumcised in the flesh of his foreskin, that soul shall be cut off from his people; he hath broken My Covenant.' (Genesis 17:9–14)<sup>6</sup>

For a girl there was no similar, substitute *rite de passage*. She was a member of her people by birth and no further ritual of entry into the covenant was accorded her – despite the fact that within the framework and terms of reference of Jewish ritual practice, various substitutes, such as ritual slaughter of an animal or the cutting-off of the girl's first hair, were readily available.<sup>7</sup> Her accountability as a Jew was determined patrilineally, and her membership of the Covenant was both passive, unritualised and by association with males – similar, in fact, to that of a male who, for whatever reason, had not been circumcised. The much-vaunted principle of

matrilineality with respect to Jewishness, that is, the transmission of Jewishness by the female line, only came about in later centuries and, in fact, it may be debated whether strictly speaking it ever came about at all. Louis Jacobs recently argued that our use of the term matrilineal in this context is a convenient but misleading shorthand and that the transmission of Jewishness was and is dependent upon the same patrilineal principles at work everywhere else in society and upon rabbinic understanding of what constitutes lawful marriage and therefore lawful offspring.<sup>8</sup> The subject is, however, complex and deserving of a whole other study. For this chapter and for our purposes, it is sufficient to recognise that at least for the majority of the period we are looking at – that of formative Judaism – clearcut patrilineality was unquestionably the rule.

Regarding the historic shift, decreed in the Genesis passage, of the ritual of circumcision from a *rite de passage* at adulthood to a covenantal entry on the eighth day of life, Baron remarks:

they [the legislators] advanced the time of the performance from the age of thirteen to the early days of infancy, severing its intrinsic connection with *male* pubescence and made of it instead an eternal symbol of God's covenant with the Jewish *people*. (my italics)<sup>9</sup>

As just mentioned, only boys had a ritualised entry to the Covenant; presumably they were the representatives of the people. One suspects, however, that authors such as Baron were not even seeing them as representatives. It is more likely that in keeping with a long line of traditional thinking, the words 'covenant', 'community', and 'people' simply bring to his and other authors' minds the male members of society.

The all-embracing Covenant had therefore a decidedly male bias, and, in fact, was on occasion referred to in the Bible as the 'brotherly covenant'.<sup>10</sup> The people of the Covenant, both men and women, were called *bene Israel* (literally 'sons of Israel', Israel being the name of one of the patriarchs of biblical history) and from early on in the period, i.e. the time of the revised Covenant, their God was Yahweh, a male deity.<sup>11</sup>

Still with the definition of community as 'Co-Religionists', we come to the second fundamental of Judaism: the Law. This was the huge body of biblical and post-biblical commandments, with all their rabbinic refinements and commentary, which governed virtually every aspect of Jewish daily existence and, as the practical manifestations of the Covenant, served to differentiate the Jews as a nation apart. Although, according to the narrative of Exodus, women were present at the original delivery of the Law by God to Moses at Mount Sinai and at the subsequent national assembly recorded in Deuteronomy of oath-renewal to keep the Covenant, they were

over the succeeding centuries of the post-exilic period declared exempt by the (male) religious leaders from the obligation to fulfil those commandments which were both positive and dependent on a certain time of the day or year<sup>12</sup>. They were, however, bound by all of the negative commands and failure to observe those resulted in the full weight of the penal code descending. This exclusion from the positive precepts accounted for nearly half the total number of commandments, despite the fact that according to the tenth chapter of Nehemiah both men and women of the restored community in Palestine, following the exile to Babylon in the sixth century, had entered into a curse to 'observe and to do all the commandments of the Lord our Lord and His ordinances and His statutes'.<sup>13</sup>

With this exemption, which was effectively an exclusion eventually formalised as such in rabbinic statute, women had no responsibility, for example, to circumcise their sons (a particularly significant exemption) or to take them to the Temple in Jerusalem for the ritual redemption of the first-born; they were exempt from making the thrice-yearly pilgrimage to Jerusalem at the feasts of Passover, Pentecost and Tabernacles; from living in the ceremonial booths which were erected at the feast of Tabernacles; from shaking the ritual palm branch (the *lulab*) at the same feast, or sounding the ram's horn (the *shofar*) at new year; from wearing phylacteries (ritual prayer-boxes, *tefillin*) or going to synagogue, and even from reciting the daily affirmation of faith, the *shema*: 'Hear O Israel, the Lord our God the Lord is One'.<sup>14</sup> If they did observe any of the commandments from which they were exempt, the rabbis placed them in the category of 'one who is not commanded and fulfils', a talmudic expression meaning the action was without value.<sup>15</sup> Women were also denied any significant education in the Law, despite the fact that the Graeco-Roman period witnessed the growth throughout Jewish Palestine of a formal system of schooling at both primary and advanced levels, an education programme described by one present-day writer as

a comprehensive system of schooling designed to bring knowledge of the Torah [Law] to all members of the Jewish community, rich and poor, aristocrat and ordinary citizen alike.

I must confess that that present-day writer was myself, writing in the Cameron-Kuhrt collection of 1983. With some saving grace, however, I did follow my piece of gender-blind prose with the statement that women had no part in the schooling system.

I mention trips to Jerusalem which was, of course, where the great Temple lay – the central institution in Jewish religion until its destruction by Rome in AD 70. Regarding the duty to make pilgrimage there on high

holidays, the author Salo Baron in *A Social and Religious History of the Jews* writes (on the basis of rabbinic law) that 'only old, sick, or abnormal men, as well as women, small boys and slaves were exempted' from the duty to travel.<sup>16</sup> All others, that is, all healthy adult males, were under a religious obligation to go there three times a year.

The main activity of the Temple was animal sacrifice, which was conducted by a male priesthood. Women, although not obliged, were permitted to attend the Temple, but in the main they were only allowed into an outer, less-hallowed area of the precinct which was called the Court of Women – a title which was, in fact, something of a misnomer as men had free access to this court. Women were, however, only allowed there if they were neither menstruating nor had recently given birth. If either of these was the case, then they were barred access altogether. As the first-century AD historian Josephus wrote:

All who ever saw our Temple are aware of the general design of the building and the inviolable barriers which preserve its sanctity. It had four surrounding courts, each with its special statutory restrictions. The outer court was open to all, foreigners included; during their time of impurity women alone were refused admission. To the second court all Jews were permitted and, when uncontaminated by any defilement, their wives; to the third, male Jews [alone], if clean and purified; to the fourth, the priests . . . .<sup>17</sup>

The business of sacrifice was conducted in the Court of Priests, and to this court male Israelites were permitted to bring their private offerings, which were then sacrificed by the priests at the altar of unhewn stone. Only rarely were women granted admission to this inner court for, as the Mishnah records,

The rites of laying on of hands, [on the beast's head before its slaughter], of waving, bringing near [the meal-offering], taking the handful and burning it, wringing the necks of the bird-offerings, sprinkling the blood [of the offering on the altar] and receiving the blood . . . all these are performed by men but not by women.<sup>18</sup>

Occasionally, however, and despite the mishnaic ruling, women were permitted to perform the ritual of laying-on of hands – presumably on those occasions when the offering was of a particularly personal nature (such as a 'sin-offering' to remove taboo from an individual or the sacrifice demanded for the purification after childbirth), but the somewhat intriguing comment of the Gemara (the post-AD 200 commentary on the Mishnah) regarding this practice was 'Not that it was customary for women, but that

it was to appease the women'.<sup>19</sup> We shall return to this quotation later.

Upkeep of the vast Temple complex and cult was by means of a half-shekel tax which, according to Baron, Safrai, Stern and others on the basis of Exodus 30:14–15, 'was levied on every Jew over the age of twenty'. In fact, the biblical text clearly states that it was only levied on men, a fact that the modern-day authors undoubtedly know but often fail to present clearly in their discussion of the subject. For them, all too often it appears that (and certainly reads as if) male Jews = all Jews = the Jewish community. This is a clear instance of the increased bias or blindness, mentioned at the start of this chapter, of modern-day writers compared with their ancient sources.

The annual tax was brought in person or by agents to Jerusalem and together with the regular pilgrimages meant that the city had a constant influx of visitors. On this state of affairs, Safrai *et al.* in the book *The Jewish People in the First Century* have the following comment. As with the previous quotations from modern writers, I shall simply leave their words for your perusal with no further analysis, for the perpetuation of a gendered understanding of 'Jew', 'people' and 'community' and the definition of all three as that which falls in the male public arena is all too evident from what they say:

These visits did much to bind the individual Jew . . . to the city and the land . . . they influenced the whole character of Judaism . . . Jews went on pilgrimage to Jerusalem and stayed there, got to know personally the teachers of Torah, and became personally and directly linked with what was happening in the city . . . *Every member of the people of Israel who had something to say and wanted a public platform made his way to Jerusalem . . . [on returning home] . . . they had a vital link with the actuality and development of Judaism which went beyond the pronouncements of its authorities and sages and matters affecting public life as a whole. (my italics)*<sup>20</sup>

Still under the heading of Co-Religionists, I would like now to turn very briefly to another sub-definition of community, that is, community as a congregation or assembly, and look at the synagogue, a Greek word which literally translates as 'gathering' or 'coming together'. The synagogue was an institution which seems to have developed from the Jews' experience of the exile to Babylon in the sixth century BC.<sup>21</sup> In Palestine it continued in existence alongside the Jerusalem Temple until the latter's destruction in AD 70, and thereafter became the primary Jewish institution, the focal point in every Jewish community; that is, town. The synagogue's purpose was twofold: (1) instructional, that is, educational in the Holy Law through

public readings and through schooling classes attached to the synagogue, and (2) liturgical, that is, structured services of worship with prayer, readings and sermons. Obviously the two overlapped in function and purpose.<sup>22</sup>

As already mentioned, women were excluded from the process of formal education.<sup>23</sup> They were also exempt from the obligation to go to synagogue. If they did go – and this was one of their primary ways of gaining access to knowledge of the Law through the readings and sermons – they were accorded no active participation. Men conducted the services. They read aloud from the Holy Scrolls and prayed their prayers to God the King and Father in the male language of their revered ancestors.<sup>24</sup> Women, if present, most probably sat apart from the men in consequence of the period's taboos about the free mingling of the sexes and thus were physically distanced in some way from the meetings' activities.<sup>25</sup> They could not be called upon to read from the scrolls because, due to their lack of obligation to fulfil that commandment, they were ineligible to act as agents or representatives of the 'community'. As the Talmud so nicely puts it, 'All are qualified to be among the seven [who read on sabbath mornings], even a minor and a woman, but a woman should not be allowed to come forward to read out of respect for the congregation'.<sup>26</sup> Commenting on this state of affairs, in a book unusually devoted to a study of women in Judaism, the present-day scholar Rafel Loewe writes:

the ineligibility of women . . . (to act) . . . as leaders in prayer for congregations including men (rests) on the principle that whereas obligation may be fulfilled by a plurality of those liable to it acting cooperatively, one of their number taking the lead and the others consciously fulfilling their obligation in unison with him, the situation would be quite otherwise were the quasi-representative figure not under an obligation of precisely analogous quality to that of the remainder of the congregation.<sup>27</sup>

Services could only take place if ten adult males were present, no matter how many women might be there, and members of the synagogue community were called *bene ha-knesset*, 'sons of the assembly', *knesset* being the Aramaic for synagogue.

To turn then to the second main area of definition, that is, the Civil Community, the *OED* describes this as 'a body of people organised into a political, municipal, or social unity . . . *a body of men living in the same locality . . . a body to which all alike belong, the public*' (my italics).

Strictly speaking, there was no division in Jewish society between the civil and the religious, the secular and the sacred: all formed the holy community living according to divine commandment. For the purposes of

ease of presentation here, however, I somewhat artificially separate the two spheres. In the discussion that follows, though, it should be remembered that in reality there was no division.

The internal constitutional definition of a town in Jewish Palestine (and I say 'internal' to make clear the distinction between Jewish towns and the Greek-constituted *poleis* which were to be found all over Palestine) was the presence of ten resident adult males, that is, a number sufficient to form the quorum necessary for a synagogue service (a fact which highlights the absence of the modern-day secular-sacred divide and the centrality of religion to Jewish social ordering). It has been reckoned that in the seventh century BC there were about 400 towns and cities in Palestine. By the turn of the eras these units must have increased considerably both in size and number, for the estimated population-count for first-century Palestine is around two-and-a-half million.<sup>28</sup>

Community organisation for the early biblical period was by clan, district rulers, heads of prominent families, religious leaders, and, in particular, city elders, an institution which continued in the post-exilic period – all of whom were male. Regarding the city elders, Baron in *The Jewish Community* comments that in their appointment and function an 'egalitarian principle' was at work: one did not have to be noble to be something; elders were not elected but were representative because they came from a recognised clan or family, and their deliberations at the city gate (where according to the Bible they usually met) 'undoubtedly gave every citizen opportunity to express his views'. Jewish social organisation was, in his opinion, 'a political and religious democracy' (pp. 43–8). Baron does not consider the fact that women were not allowed (or at least expected) to frequent the public places of the city, let alone hold office, and so had no part in these deliberations. Equally there is no consideration of the way in which he uses the all-embracing terms 'democracy' and 'citizenship' with application only to men.

The municipal organisation for the later Graeco-Roman period (and here I am speaking only of those cities with a purely or predominantly Jewish population) was by a council of seven judges, plus three synagogue functionaries and an 'assembly of men in the city'. There were additionally the religious leaders – the sages – and various officials for specific tasks such as the inspector of markets, and various trade, social and charitable associations. According to Safrai *et al.*, 'the appointment of the leadership was debated in public and the leadership was only accepted with the full approval of the public'. That public again only comprised men, a point not noted (or perhaps not recognised) by the authors. Safrai *et al.* continue:

An important aspect of . . . the civic leadership was the broad basis on which it was founded . . . authority belonged to the community and the assembly. Fundamentally the ruling authority was the gatherings of local citizens to deal with civic matters, and of all Jews to deal with national matters.<sup>29</sup>

Similar comments to those given above for the quotations from Baron obviously apply here too.

The services which this supposedly democratic and self-serving community were meant to provide were 'A law court competent to scourge, a prison, a charity fund, a synagogue and a public bath, a public latrine, a doctor and an artisan, a scribe, a slaughterer, and a teacher of children'.<sup>30</sup> The inhabitants of the town were called *bene ha-ir* (sons, or children, of the city), and institutions like the bath-house were deemed common property. The local law courts, the size of which ranged from three persons to 23 in more populous centres, worked as secondary satellites to the main court of Great Sanhedrin in Jerusalem to which major cases were referred. Jewish women, unlike Greek women, could appear in court without representation by a guardian, but they could not act as witnesses in a case despite the rabbinic statement that 'scripture equalised woman and man for all legal actions mentioned in the law'.<sup>31</sup> They could not serve as guardians for minors or act as agents for others, both of which men could do.<sup>32</sup> Married women were not liable for any damage caused to another's person or property, because they usually had no independent means with which to pay the plaintiff. In general, women laboured under various legal disabilities which I do not have the space to go into here.<sup>33</sup> Suffice it to say that in the rabbinic discussions of legal responsibility, women are usually bracketed with slaves, imbeciles, minors, deaf-mutes, and persons of double or doubtful sex, all of whom were the passive recipients of the 'community's' law and not its active administrators or litigants. It is in this sense only, that is, that of passive recipient, that the statement of equality may be read.

In their introduction to a chapter on Jewish private law, Safrai *et al.*, in a nice piece of gender-blind prose which precisely highlights what I have been arguing in this chapter, write that

Talmudic law is based on the principle of personality, i.e. rights and duties depend on the traditional law of a man's father rather than upon the norms of the state in which he lives. *The law is part of the divine covenant with the People of Israel and stress is put upon the distinction between the 'sons of the covenant' and gentiles.* Therefore, personal law is particularly important in the Jewish legal system. *Rights and duties are*

*generally limited to men. However, by way of personification, certain rules are applied also to non-human beings.* (my italics)<sup>34</sup>

That last sentence deserves a scree of exclamation marks! The same authors close their discussion of the Jewish legal system with a paragraph on women's legal disabilities, which they dismiss, in line with the ancients, in terms of Psalm 45:13, where it says 'All glorious is the King's daughter within', a descriptive passage which was taken as prescriptive of the modest retirement of women from all matters to do with the public life of the community. And with that, discussion of the Jewish community in both the primary and secondary literature ends.

It is patently clear, however, that the story cannot end there. What we are dealing with is both a gendered and hierarchical or exclusionary notion of community. It comes as no surprise when looking at a rigidly patriarchal society that all I have described so far by way of office and responsibility pertains to the male. In line with the sources, both ancient and modern, I have been reviewing aspects of only one notion of community, that is the public and by definition, male one. But is that where the story ends? Were women just spots on the canvas of the male community, without connection to each other or to men? From cursory reading of the primary and particularly the secondary literature, one would think so. Their definition of community as public male activity denies the possibility of other terms of reference or activity: it excludes other histories, perpetuates a bias, and prevents us getting a fuller, more rounded picture of life in ancient Palestine. Women were a part of the picture. They undoubtedly saw themselves as belonging to a people. They self-identified as Jews.

What can be done? First, present-day researchers can take care with their language. We are dealing with a patriarchal society and with sources written by, about and largely for men, but that does not mean that we should adopt wholesale their terms of reference and present them as definitive, inclusive and all-embracing. Secondly, we can comb the primary sources for evidence of possible female communities. This would be done in addition to looking at the actual degree of female involvement in the supposedly total male domain, and at the question of mixed communal activity as, for example, in the economic arena. Careful scrutiny of the primary sources does reveal women holding and disposing of property, engaging in the business life of 'the community', and wielding some degree of power in matters of private law as, for example, in the case of whether and whom to marry. As stated at the start of this chapter, the ancients in many respects were far less gender-blind than modern tellers of their story. In other words, we have to be careful to avoid not only presenting male activity as the

totality of (male and female) Jewish activity but also community activity as totally male activity.

With regard to the search for possible female communities, we have, for example, the repeated biblical and rabbinic references to the magic and sorcery of women, which ran counter to the dictates of the official religion.<sup>35</sup> We know from one fleeting reference that eighty witches were hanged by a rabbi in the town of Ascalon in the first century AD.<sup>36</sup> We may ask, what was going on here? Given the male-stream orientation of our sources and the fact that they were trying to hush up such non-official religious practices, we may not get an answer. But it is possible that these women, and others like them with shared interests, were working together in some kind of association, were in a sense a 'community' with activities additional to but also a part of (if only by negative definition) the 'main community'. The possibility of such associations should, at the very least, be noted, and noted with a somewhat more scholarly appreciation of the broad reality of life and complexities of human organisation than, for example, Baron who on this subject simply followed his sources and wrote

Women, generally more illiterate and superstitious than men, were irresistibly attracted to the magical arts . . . . Official Judaism protested vainly. Not even R. Simeon ben Shetah's fanatical execution of 80 women in Ascalon . . . could stop a practice rooted in the conditions of the age.<sup>37</sup>

No further attempt is made at appreciating these 'alternative' communities or seeing them as other than simply deviations from the mainstream religion.

In a similar vein and within the sphere of 'official' religious practice, we might wonder at the possible discussions and shared interests which doubtless were engaged in within the Temple Court of Women or in those synagogue areas occupied by women. Or alternately, we might muse on what lay behind the highly enigmatic rabbinic statement that women were sometimes allowed to take part in Temple sacrifice 'in order to appease them' (quoted above, pp. 59-60), a highly intriguing quotation which offers a tantalising glimpse of a reality different from what the sources might wish us to believe.

Similarly, we should be looking at the possibility of associations of urban women with shared interests, as, for example, professional midwives, funeral-keepers or simply widows dwelling in the same town. These would be additional to the public male functionaries and institutions noted above in the rabbinic listings of urban organisation. Or again, great play is made in the ancient and modern histories of the political, military and religious

intrigues of men, both as individuals and as groups, but what of the 'intrigues' of women as, for example, in the biblical story of Ruth and Naomi?<sup>38</sup> What, apart from the culturally constructed fear of women, lies behind the constant male-to-male warnings in our sources about their power-mad, conniving and ever-gossiping wives? What about city prostitutes, an area which has hardly been touched on in Jewish scholarship, despite the obvious concern in this regard of the sources, or the possibility of female community through the extended kinship network, as, for example, in the Gospel story of Mary travelling to see her cousin Elizabeth to discuss pregnancy and childbirth?

All of these, and many more (all I have been doing is brainstorming a few suggestions), need to be looked at, and looked at in their own right and not as satellites of the 'main' community or secondary spheres in a hierarchy of activity. They need to be looked at not only to uncover a history (or rather, histories), but also, on being put in the public arena of scholarship, to stop the perpetuation of a gender-blind and gender-bound (non-) understanding of the past. As noted earlier, we may never, given the nature of our sources, acquire any detailed description, or even proof, of their existence, but on the limited evidence available, logic dictates the likelihood of such female associations. Note should be taken and warning bells should be sounded. 'Community' is not some kind of homogeneous, monolithic entity. Like all human social structures and, one would hope, tools of analytical enquiry, it is complex and made up of many parts. A more considered appreciation of this, and of the problems which its usage has suffered (and generated) over the centuries, will be of benefit to the histories of both men and women.

## NOTES

1. For details of the enormous changes that took place in this period – the flourishing of extra-canonical literature, formation of new laws, radical shifts in social organisation, the final demise of polytheism and the establishment of rabbinic leadership – see Archer (1987).
2. For the fruits of this research, see Archer (1990a) which presents a detailed survey of the life, from birth to death, of the 'average' Jewish woman and the attitudes towards her in Graeco-Roman Palestine.
3. Although, technically, the Bible largely falls outside the period with which we are here concerned, it obviously formed the bedrock of Jewish society, a source of inspiration and the basis of subsequent rabbinic writings. Other ancient writings which will be referred to in the course of the chapter are the

works of the first-century AD Jewish historian Josephus, and the Mishnah which is the oldest extant (post-biblical) code of Jewish law, essentially a record of decisions reached by rabbinic scholars and leaders on the basis of biblical law and narrative during the period AD 70–200. The Tosefta, a rabbinic collection which roughly parallels the Mishnah in date and content, will also be referred to, as will later talmudic commentary on both Bible and Mishnah. The Talmud, of which there are two versions (Babylonian and Jerusalem) is the collective title for both the Mishnah and its subsequent commentary, the Gemara. Unless otherwise indicated, talmudic references in this chapter will be to the Babylonian Talmud.

4. For details, see Archer (1990a), pp. 29–34; Archer (1990b), especially pp. 33–5, 40–1; Archer (1990c), especially pp. 46–7.
5. For the change in the significance and timing of the ritual – from an ancient rite of redemption or mark of fertility performed on adult males at the feast of Passover, to the ritualised entry of a boy-child into the Covenant, see Archer (1990a), pp. 30–4. See Archer (1990b and 1990c) for the close connection between the rite's final significance and performance on the child's eighth day of life and the mother's week-long period of post-natal impurity: circumcision was both a rite of purification and separation from the female as well as an initiation into the male covenant or community.
6. This passage from Genesis was in all probability written in or around the time of the Jews' exile to Babylon in the sixth century BC, an event which marked a watershed in the history of Judaism and the social ordering of the people. For the fact that the Bible is not some kind of monolithic whole, but a complex composite work spanning many centuries, see Archer (1987). See *ibid.* for details of the exilic context of this passage and the social and religious upheaval and consequent reordering of that period.
7. See Archer (1990a), p. 32, and Morgenstern (1966), Ch. 12. Note that Strabo is certainly incorrect in his view that the Jews circumcised both male and female children (*Geographica* 16. 2.37, 4.9; 17. 2.5).
8. Jacobs (1985). For other, more traditional, arguments regarding 'who is a Jew', see the several other articles in the same issue and also in Vol. 35 of the same journal.
9. Baron (1950), 1, pp. 6–7.
10. *berith achim*, Amos 1.9. For the way in which circumcision allowed the individual to enter the covenant and join with his fellow 'circumcisees' to form a community or brotherhood of blood (shedding of blood being an essential part of the ritual), see Archer (1990b). This brotherhood was seen as extending laterally across a generation, vertically to fathers and grandfathers, sons and grandsons, and ultimately to God. So, for example, Malachi 2:10; Ezekiel 18:4.
11. Before this 'new' Covenant was decreed in Genesis, with circumcision as its mark, there had been other covenants which were now superseded. On this, see 'covenant' in the *Jewish Encyclopaedia*. See Archer (1983), pp. 274–6, and Archer (1987), p. 6 for the gradual and historic rise to supremacy of the single male God in Israelite history. Until the sixth-century exile to Babylon, polytheistic beliefs and practices, with a pantheon of both gods and goddesses, had flourished in Palestine.
12. Original delivery of the Law, Exodus 35:1ff; subsequent national assembly.

- Deut. 29:9f, 31:12–13.
13. Neh. 10:29f. According to later Jewish thinkers, there were 613 commandments: 365 negative and 248 positive (a somewhat artificial enumeration, but one that nevertheless indicates the large number involved). The all-pervasiveness of the commandments in a Jewish man's life is shown by the rabbinic characterisation of God as the one 'who sanctified us with His commandments and commanded us' (Tosefta, *Berakhoth* 7.9), and the Jerusalem Talmud's declaration that 'a man performs 10 precepts before he even eats a piece of bread' (*Hallah* 58a). See Urbach (1975), pp. 315ff for details of the domination of Jewish life by the commandments.
  14. For full rabbinic references to these and other exemptions, see Archer (1983), pp. 277–9.
  15. *Sotah* 21a.
  16. Vol. 1, p. 213.
  17. *Contra Apionem* 2.102f. Cf. also by Josephus, *Antiquitates Judaicae* 15.418f; *Bellum Judaicae* 5. 193f, especially 227, and, in the Mishnah, *Kelim* 1.6–9.
  18. *Kiddushin* 1.8.
  19. *Hagigah* 16b.
  20. Safrai *et al.* (1976) I, p. 203.
  21. For arguments for this dating, see Archer (1990a), pp. 74–5.
  22. For the history of the synagogue, evidence for it over the centuries, and details of its instructional and liturgical function, see *idem* and *Encyclopaedia Judaica* 15, pp. 579–83; Schürer (1979) 2, pp. 424–47.
  23. For details of that exemption, or effective exclusion, from the period's programme of formal education in and knowledge of Torah, that is, the nation's history, traditions, customs and laws, through home instruction, primary and advanced schooling, and active participation in the annual round of feasts and festivals, see Archer (1990a), Ch. 1.
  24. *Megillah* 4.3, 23a. Cf. 1 Corinthians 14:34–6; 1 Timothy 2:11–14.
  25. Although, given the taboos, such segregation was very probable, it is unfortunately not possible to say what form it took in these centuries. Clear evidence for women's galleries or screened areas only arises in the post-mediaeval period. See Archer (1983), pp. 281–2. For the Graeco-Roman period, it is likely that women just gathered at the back of the synagogue or possibly in a porch area. Frequently domestic duties and the care of young children would have prevented women from enjoying even that limited degree of attendance. See Archer (1990a), p. 93.
  26. *Megillah* 23a.
  27. Loewe (1966), pp. 44–5.
  28. Details of population count and civil organisation can be found in Schürer (1973–87) and Safrai and Stern (1976).
  29. Safrai *et al.* (1976) I, p. 378.
  30. *Sanhedrin* 17b; Jerusalem Talmud *Kiddushin* 4, 68b.
  31. *Kiddushin* 35a; not acting as witnesses, for example, *Shebuoth* 4.1 where, in clear contradistinction to *Kidd.* 35a, it states that "an oath of testimony" applies to men but not to women'.
  32. Tosefta, *Terumoth* 1.11.

33. For details of the general legal disabilities endured by women throughout their lives, and also examples of little appreciated exceptions to the usually assumed total state of female passivity and dependence, see Archer (1990a), *passim*.
34. Safrai *et al.* (1976) I, p. 505.
35. See, for example, Leviticus 19:26f; Deuteronomy 18:9–11; Ezekiel 13:17f; *Sanhedrin* 7.7, 11, 67a; *Aboth* 2:7. The examples could be multiplied almost endlessly.
36. *Sanhedrin* 6.4 in context of Jerusalem Talmud *Hagigah* 2.2, 77d and *Sanhedrin* 6.9, 23c.
37. Baron (1952) 2, p. 21.
38. The tale found in the book of Ruth is fascinating, complex, and open to many interpretations. It tells the story of how Ruth and Naomi – respectively daughter- and mother-in-law, and both widowed – strove to secure a husband for Ruth and a child for both of them. It is a tale of female solidarity, with intriguing – and in the modern sources, usually overlooked – references to institutions such as 'mother's houses' and events involving the women of the town.