1. **Introduction**

The very term "systematic Jewish theology" as applied to rabbinic thought to some would, no doubt, seem to be a chimera, or in the language of the rabbis themselves "something which never was and never will be."\(^1\) For if the main components of classical Jewish thought, especially as expressed in rabbinic literature, are Halakhah and Aggadah, then it would seem that Aggadah, even when it is theological expression and not just folklore, is, compared to Halakhah, decidedly unsystematic speculation—imaginative and subjective—and that the systematic manifestation of Judaism is Halakhah. Although systematic theologies of Judaism have indeed been presented, both by rationalist philosophers and kabbalists, they derived their structure if not at least some of their substance as well from nonrabbinic sources. The rationalist and kabbalistic theologians of the Middle Ages were not reasoning the same way the rabbis did. Thus the great modern historian of Jewish thought, Gershom Scholem, although he considered Kabbalah closer to rabbinic thought than medieval philosophical theology, nevertheless wrote about both of them, "Undoubtedly both the mystics and philosophers completely transform the structure of ancient Judaism."\(^2\) Even the great categorizing works of such modern students of rabbinic theology as Solomon Schechter, George Foote Moore, Isaak Heinemann, Max Kadushin, Louis Finkelstein, and Ephraim Urbach, have not themselves produced systematic theology out of the rabbinic sources, but have rather located—with great insight to be sure—certain recurrent rabbinic themes and rabbinic methods of expression.\(^3\) Only my late revered teacher, Professor Abraham Joshua Heschel, attempted to do more than this. Unfortunately, his untimely death prevented him from carrying his project in rabbinic theology further than outlining and documenting some of the main themes. His magnum opus in rabbinic theology is also his unfinished symphony.\(^4\)

However, if Halakhah is where Jewish thought was and is still most systematic, then could not one look for at least more systematic content in those expressions of Aggadah which are more closely related to Halakhah? Indeed it would appear that those *aggadot* having a halakhic connection have shown themselves to be more systematic than those whose relation to Halakhah is more remote. This can be seen in two different genre of
There are aggadot which are a posteriori reflections on specific mitzvot, namely, the genre of Jewish theology known as "reasons for the commandments" (ta'may ha-mitzvot). In these reflections the theologian attempts to discover what purposes various mitzvot fulfill.5

Certain aggadot, however, took the form of a priori reflections on what are the conditions which made the giving of the Torah by God and the receiving of the Torah by Israel possible. Although the word "covenant" (berit) in rabbinic nomenclature is usually limited to its specific denotation as "the covenant of circumcision" (berit millah), it is clear that this type of reflection is covenantal theology in that covenant designates the relationship between God and Israel of which Torah (and within it the mitzvot) is the authoritative expression. In this chapter I shall attempt to show some of the systematic theologizing the rabbis did engage in concerning the covenant. I shall attempt to show that this type of theologizing was more systematic than other types of aggadic thinking, not only because it deals with the religious foundations of Jewish law, but also because it incorporates certain halakhic concepts which pertain to interhuman relationships and applies them, by analogy, to the relationship between God and Israel. Just as there is no hiatus in the halakhic continuum from the rabbinic period to our own day, I hope to show that the same can be said for a theological tradition which is both systematic and the source for further systematizing even unto our own day.

2. The Prescriptive Covenantal Model

Although the covenant is always assymetrical in that God and His human creatures are never truly equal, there are great differences in degree in the various theories about the constitution of this assymetrical relationship.

The most radical statement of this assymetry is the following aggadah.

'And they stood at the foot (be-tahtit) of the mountain' (Exodus 19:17). R. Abdimi bar Hama bar Hasa said that this teaches us that the Holy-One-blessed-be-He turned the mountain over them like a trough and said to them that if you accept the Torah it is well and good; if not, this will be your grave.7

This statement presents a model of the covenant including the following points: (1) God as omnipotent, unaffected, Lawgiver; (2) the Torah as pure heteronomy; (3) Israel as
passive recipients of the Divine Law; (4) terror of imminently disastrous consequences as
the motivation for obedience. The passage just quoted is not at all atypical, but most
succinctly expresses a whole theology having much precedent and many parallels.
Regarding (1) note: "The Holy-One-blessed-be-He said that I have made a law and have
decreed a decree (gezerah gazarti) and you are not permitted to violate My decree."5
Regarding (2) note: "I want to do many things, but what can I do? My Father in heaven
has decreed (gazar) for me such and such."6 Regarding (3) note: "I have never stated
anything which I did not receive as a tradition (sham'ati) from my master (going all the
way back to Sinai)."7 Regarding (4) note: "The attributes of the Holy-One-blessed-be-
He are not (in essence) beneficial (rahamim) but are decrees (gezerot) alone."8

Nevertheless, the other rabbis who are recorded as discussing this theological notion
of covenant were not at all satisfied with it. And if one looks at cognate rabbinic texts,
it can be shown that all four points outlined above are disputed.

The first criticism of this theology, placed by the editors of the Babylonian Talmud
immediately after this statement, pertains to the fourth point, that is, terror as the
motivation for obedience. "R. Aha bar Jacob said that this is a great protest (moda'a
raba) against the Torah." Here the law of human agreements is applied, by analogy, to
the agreement between God and Israel. The term moda'a is a technical legal term used
to signify the abrogation of a contract because one of the parties was coerced into
accepting it.9 If one is not held responsible for acts done contrary to the Torah done
under compulsion, then by inference, one should not be obligated to obey the Torah and
its commandments accepted the same way.10 Later on the Talmud presents a criticism
of capricious acceptance of the Torah, which like terror, is an unreasoned response
devoid of true insight.11

This leads to the criticism which pertains to the third point, that is, the passivity of
Israel as the recipients of the Torah. "Rava said that despite this the generation during
the days of Ahashuerus accepted it willingly (qibbluha) as it is written, 'the Jews upheld
(qiyyamu) and accepted it' (Esther 9:27)."12 The import of this statement and its maker
should not be overlooked. The maker of the statement was the fourth century C.E.
Babylonian sage, Rava, who can be seen as one of the strongest proponents of rational
jurisprudence in rabbinic thought.13 What he is emphasizing here is that the Law as a
whole cannot be based upon irrational ascent by Israel. The verse he chose in its
immediate context denotes the acceptance by the Jews of the new holy day of Purim as decreed by Mordecai and Esther. Purim, it should be recalled, has no explicit foundation in the Written Torah. It is the example par excellence of the power that the rabbis themselves have to innovate new institutions, a power whose legitimisation required a novel interpretation of the ban on adding to the commandments of the Torah (bal tosef). In the context of the Talmud's discussion elsewhere of the validity of Purim in general and the book of Esther in particular, the earlier Babylonian sage, Samuel, uses this very verse in this very interpretation as his proof text, one which Rava himself found to be more convincing than any other. Thus there is no doubt that Rava was familiar with this seminal interpretation and applied it to the more basic theological concern, namely, the acceptance of the Torah by the Jewish people. Indeed the verse itself speaks of a time when the Jewish people were in exile, separated from the usual politico-religious coercion of their sovereign pre-exilic theocracy, and when they nevertheless reaccepted the Torah willingly. This willingness, probably more than anything else, made the reconstitution of Judaism in the Land of Israel by Ezra and his associates possible. It was in and through their reconstitution that the Oral Torah, entailing much human interpretation and innovation, came into full flower. Thus Rava's refutation of the designation of Jewish acceptance of the Torah as something essentially passive is based on the whole indispensable connection between the Written and Oral Torahs in rabbinic doctrine.

If the Jewish people are not simply the passive recipients of the Law but active participants in its promulgation, interpretation and supplementation, then the second point is challenged, namely, that the Torah is pure heteronomy for the subjects of the Divine will. Finally, the first point is also challenged, for if the Jewish people are participants in the Torah's formulation, then the Torah is not simply a Divine fiat, further indicating God's remote control of the world, but it is rather a realm in which God and Israel participate and interpenetrate each other's lives. On the basis of the prescriptive model of covenant, which we have just been examining, there is no real interpersonal relationship between God and man in the Torah and there is, therefore, no love to be practiced or experienced on either side of such a master-slave situation characterized by terror.
3. **Covenant As Mutual Participation**

The most evident place to begin examining rabbinic treatments of the *mitzvot*, as mutual God-man participation in a realm constituted between them, is from the human side of the relationship, for the *mitzvot* are ostensibly addressed to man. In the following *midrash* the *mitzvot* are depicted as answering Israel's need to be identified as God's child.

A king's son said to him, 'Make me visibly identifiable (*siymuniti*) in the midst of the country that I am your son.' His father said to him, 'If your request is that all should know that your are my son, then wear my royal purple garment (*purpura*) and place my crown upon your head; then all will know that you are my son.' So did the Holy-One-blessed-be-He say to Israel, 'If you desire that you should be identified as my children, engage in the Torah and its commandments and all will see that you are My sons.'

Even though the initial motivation for this request seems to be a desire that others know about Israel's special relationship with God, the underlying psychological motivation can be seen in the fact that only when something is evident to others are we ourselves convinced that it is true.

The primacy of this intimate self-awareness is brought out by this *aggadah*.

Beloved is Israel whom the Holy-One-blessed-be-He surrounded with *mitzvot*: *tefillin* on their heads and arms, *tzitzit* on their clothing, *mezuzot* on their doors... At the time when King David entered the bathhouse and saw himself naked he said, 'Oh me, standing naked without *mitzvot*!' But when he remembered the circumcision in his flesh, he regained his composure.

Thus, although God's word is the substantial starting-point of revelation, it must be occasioned by Israel's expression of their need for it. In this sense revelation is responsive. This comes out in the following *aggadic* examination of an halakhic practice.

R. Simon ben Pazzi said, 'How do we know that the translator of the Torah reading (*Meturgaman*) is not permitted to make his voice louder than that of the Torah reader himself (*ha-qore*)? Scripture states, "Moses spoke and God answered with a voice (*be-qol*)" (Exodus 19:19). But it does not state with whose voice; nevertheless, "with a voice" means with the voice of Moses.

First of all, the prima facie meaning of Exodus 19:19 is that Moses addresses God and God responds to what seem to be his requests. The question which the commentators here discuss is: Who in this *aggadah* corresponds to the reader of the Torah in the
halakhah, and who corresponds to the translator? The question can be answered, it seems to me, if we look at a later version of this passage in Midrash Rabbah.

R. Luliani said in the name of R. Isaac that it is stated in Scripture, "Moses spoke and God answered with a voice." It does not state 'God spoke and Moses answered with a voice'... with Moses' own voice He spoke with him (immo). In other words, God spoke through the voice of Moses both in terms of the Torah's text and its interpretation. The Torah, then, becomes, as it were, an indistinguishable intermingling of human request and Divine response—of God's word and man's interpretation. The subsequent halakhah reflects this in the ruling that the voice of the translator and the voice of the reader are to be equally audible.

4. God's Covenantal Involvement

Man's greatest need is seen in his need for God to become intimately involved in his life on earth, for God to respond to him as he responded to God in the covenant. As such, the logic of strict omnipotence must be bracketed and a logic of interdependence must be substituted for it. Not only was the Torah ''not given to angels,'' but in so doing God has involved Himself in the mortality and impurity of flesh and blood on earth.

R. Simon said that God's love for Israel is great in that He revealed Himself (she-nigleh) in a place of idolatry, in a place of filth, in a place of impurity in order to redeem them... The Holy-One-blessed-be-He said, How can I redeem them? It is impossible to leave them alone. Better I should go down and save them, as it says in Scripture, "And I will go down to save them from the hand of Egypt" (Exodus 3:8). When He brought them out He called Aaron to purify Himself as it states in Scripture, "and he will purge the holy Sanctuary" (Leviticus 16:33); "and he will purge (ve-khipper) the Holy-One (ha-Qadosh)" (Leviticus 16:16). As the Talmud notes, interpreting this last verse, "He who is with them in the midst of their impurities" (Leviticus 16:16) refers to "the Shekhinah, which even during the time they are impure is still manifest (she-sharuy) among them."

If God is willing to descend from His omnipotence in order to relate to Israel, then some of His mitzvot can be seen as ways of making this dependence apparent. A late midrash constructs a parable where a king's friend, with whom the king is to dine, is ashamed of his meagre possessions compared to that with which the king is accustomed. In order to make his host more comfortable—that is, in order that there be some
mutuality and the host not be overwhelmed by his royal guest—the king sets aside his own possessions and only uses the meagre ones of his friend$^{34}$ An earlier version of this midrash sees this as the reason why God commands Israel to kindle light in the sanctuary even though He certainly does not need it. It is they who need to act as if He does.$^{35}$

5. **God's Practice of the Commandments**

Along the lines of the prescriptive model of covenant, which we examined earlier, at the time of revelation God is active and man is passive. After the time of revelation, however, the roles are reversed, that is, man is active—either obeying or disobeying the commandments—and God is passive or absent from this human activity, which now must be man's own doing if he is to be held responsible for it.$^{36}$ In the phenomenological sense of this covenantal model the doing of the mitzvot themselves here and now does not afford an experience of God and man mutually being-together.

Even when the mitzvot are conceived of as being opportunities for man to respond to God's presence with us, the aggadic texts we examined heretofore make that presence seem to be a matter of almost Divine condescension. It is perhaps like an adult playing a child's game in order to share time with the child, but the child being nevertheless aware that this adult has not penetrated the world of children. Such an adult appears even more out of place to the child with whom he is playing than to other adults who might be convinced that such a magnanimous gesture works. Following this analogy further we might say that the only mutuality possible is when the adult allows the child, for as much time as the child can take, to enter into the adult world with him. The adult does this by making himself accessible enough to the child to be an object of imitation. The following midrash expresses the notion that the mitzvot are the means of *imitatio Dei* because they enable man to do what God has revealed that He himself had already done.

R. Eleazar said that ordinarily (be-noheg she-ba'alam) a king of flesh and blood makes a decree (*gozer gezerah*) and if he wants to uphold it he does; if not, it is upheld by others. But, with the Holy-One-blessed-be-He it is not so; rather He makes a decree and He Himself upholds it first. Thus it is written in Scripture, "before the aged you shall rise and you shall honor the presence of the elderly, and you shall fear the Lord" (Leviticus 19:32)—I am the One who first upheld the commandment to stand before the aged.$^{37}$
The version of this teaching in the Palestinian Talmud states, "what is the basis for this? 'And they shall keep My charge (mishmarti); I am the Lord' (Leviticus 22:9), namely, I am He who has kept the commandments of the Torah first." The force of this teaching is that God binds Himself to Israel in ways which are meant to be exemplary.

R. Abin bar Ada said in the name of R. Isaac that we know that God put on tefillin as it says in Scripture, "the Lord swore... by the strength (uzzo) of His outstretched arm" (Isaiah 62:8) ... these are tefillin as it says in Scripture, "the Lord gives strength (oz) to His people" (Psalms 29:11). And we know that tefillin are Israel's strength as it is written in Scripture, "and all the peoples of the earth will see that the Name of the Lord is called upon you and they will fear you" (Deuteronomy 28:10) ... R. Nahman bar Isaac said to R. Hyya bar Abin, 'what are written in the tefillin of the Master-of-the-universe?' He said to him, "who is like Israel, a singular nation on earth" (I Chronicles 17:21).

What emerges from this is that God has bound Himself to Israel even before they bound themselves to Him. Response and imitation are in essence the same.

A baraita taught, "this is my God and I will glorify Him (ve'anvehu)" (Exodus 15:2) means beautify yourself (hitna'eh) before Him with mitzvot: a beautiful sukkah, a beautiful lulab ... Abba Saul says that "I will glory Him" means to be like Him (hevay domeh lo): just as He is gracious and merciful, so you be gracious and merciful.

The view of the first anonymous rabbi is that man's response to God is a response to precepts, whereas Abba Saul's view is that it is a response to personal example. The connection between this aggadah and the one before it is that Abba Saul alludes to the passage "the Lord, the Lord, a merciful and gracious God" (Exodus 34:8), which is God's response to Moses' request that He reveal Himself over and above His outward actions, namely, "do show me Your glory" (Exodus 33:18). God says, "I will pass all My goodness by your face ... My back you will see, but My face will not be seen" (Exodus 33:19, 23). Concerning this another aggadah states, "R. Hana bar Bizna said in the name of R. Simon Hasida that this teaches us that the Holy-One-blessed-be-He showed Moses the knot of His tefillin." In a midrash which comes later in the sequence discussing God's prior upholding of the mitzvot, the mitzvot are seen as being the means of Israel's unique self-actualization in intimate relationship with God.
"And My commandments you shall keep and do them (vasitem otam)" (Leviticus 26:3). R. Hama bar R. Hanina said that if you keep the Torah I [God] will consider it as if you yourselves made them and made yourselves (attem). R. Hanina bar Pappi said [God said to them], 'if you keep the Torah, I will consider it as if you both made yourselves and made them [the commandments].42

Only a response of imitation could enable one to experience the mitzvot as co-creation along with God's creation of one's own self. The Halakhah too recognized that the self-motivation which results from the internalization of the mitzvot is as important an incentive as revelation itself.

R. Gidal said in the name of Rab, 'How do we know that one may take an oath (she-nishba' in) to uphold the commandments?' --Because it says in Scripture, 'I take an oath and then I will uphold your righteous ordinances' (Psalms 119:108). But has he not already been foresworn and does it not stand from Mount Sinai? —This lets us know that it is permitted for one to motivate himself (le-zeruzay nafshayh).43

6. Human Judgment and Divine Compliance

If through the covenant God subjects Himself to the practice of the mitzvot, then the question of where disputes concerning the meaning of the mitzvot are decided is the next issue to be dealt with in apodietic sequence. This comes out in one of the most famous and oft-quoted aggadot, concerning an halakhic debate between R. Eliezer ben Hyrkanus and R. Joshua ben Hananyah.

R. Eliezer said to them again, 'If the halakhah is according to my view, God (Shamayim) will so attest.' A heavenly echo (bat qol) came forth and declared, 'Why do you hold a position against that of R. Eliezer? the halakhah is always according to him.' R. Joshua stood up on his feet and said, 'It is not in heaven' (Deuteronomy 30:12) ...' R. Jeremiah said that the Torah has already been given from Mount Sinai and we do not regard a heavenly echo as being authoritative, for You already wrote at Mount Sinai, "Incline after the majority" (Exodus 23:2). R. Nathan happened to meet Elijah. He said to him, 'What did the Holy-One-blessed-be-He do at that time?' He said to him that He smiled and said, 'My children have vanquished Me indeed (nitzhuni)! 44

Both R. Eliezer and R. Joshua affirm that the Torah has been fully given at Mount Sinai. There are no new mitzvot in the Scriptural sense.45 The question between them is whether halakhic disputes are decided in heaven or on earth. The term "vanquish"
Logic of the Covenant

(nitzuah) is crucial here. Earlier in the presentation of this incident, when R. Eliezer brought forth other supernatural phenomena, R. Joshua dismissed them out of hand saying, "if scholars vanquish (menatzhim) each other in Halakhah, what business is that of yours? Such phenomena are clearly irrelevant to the situation at hand. However, when God Himself endorses the view of R. Eliezer, but the law is decided according to R. Joshua nevertheless, then not only is R. Eliezer vanquished but so is God, as it were. The Torah has been fully given, therefore there is no room for man to institute a new Law. And, since the Torah has been fully given to man on earth, there is thus no room for God to determine subsequent interpretation. The very act of human interpretation requires both imagination and courage. Both in terms of revelation before and, especially, other-worldly reward and punishment afterwards, man is clearly subject to the power and authority of God. But, by binding Himself to a Law He has given to man on earth, that is to Israel, God is now subject to man's interpretation and judgment concerning these mutual mitzvot. God's happiness in this dependence is brought out in this aggadah.

R. Kahana said in the name of R. Ishmael ben R. Jose that it is written "For the Leader (la-mnatzeah), a song of David" (Psalms 13:1) in Scripture as if to say, 'sing to Whom is vanquished and is happy about it.' Come and see that the way of the Holy-One-blessed-be-He is not like that of flesh and blood. Flesh and blood when vanquished is sad, but when vanquished the Holy-One-blessed-be-He is happy.

The covenant means that God has initiated a relationship with man to which both are then mutually subject. Within the context of this relationship God has chosen to be affected by man. This is essentially an act of Divine self-limitation (tzimtzum), which the later kabbalistic theologians developed considerably. This is why God responds to human pleas not to annul this self-limitation, which would destroy the human covenantal participant. God is implored to remain faithful to the covenant, to remain within the relationship, even when man has attempted to transcend it by turning away from God to idolatry in all its forms.

This notion is developed in the aggadic treatment of Moses' dialogue with God regarding the sin of the Golden Calf. Like all persuasive discourse the dialogue entails an explicit logic. The aggadah develops the logical implication of this imagined dialogue by placing it in an halakhic context inasmuch as the covenant was taken to imply God's own lawfulness.
Because He said, "let Me alone and I will destroy them" (Deuteronomy 9:14), Moses said, 'this matter depends on me.' He stood up and strengthened himself in prayer and sought mercy... R. Abbahu said that were it not written in Scripture it would be impossible to utter it. It teaches us that Moses grabbed the Holy-One-blessed-be-He like a man grabbing another by his garment. He said to Him, 'Master-of-the-universe, I will not release You until You have compassion and forgive them!' So far we see a general expression of the aggadic notion that Israel will not allow God to remove Himself from the convenantal relationship. In the continuation of this discussion, however, a crucial halakhic element is inserted, which deepens our insight into the exact character of the covenantal relationship.

"And Moses implored (va-yehal) the presence of the Lord" (Exodus 32:11).... Rava said this means until he released (she-hittir) Him from His vow (nidro). It is written here "and he implored," and it is written elsewhere in Scripture, "he did not break (yahel) his word" (Numbers 30:3) —and a master stated that this means, 'he did not break it but others may do so for him.'... Remember Abraham, Isaac and Israel Your servants to whom You took an oath (nishba'ta) by Your own self (hakh)" (Exodus 32:13). What does "by Your own self" mean? R. Eleazar said that Moses said to the Holy-One-blessed-be-He, 'Master-of-the-universe, if You had taken an oath for them by heaven and earth, I would have said that just as heaven and earth will be destroyed (betelim), so will Your oath be destroyed. Now that You took an oath for them by Your great Name: just as Your great Name lives and endures forever and ever, so does Your oath endure forever and ever....' "And the Lord said that I have forgiven according to your word (salakhti ki-debarekha)" (Numbers 14:20).... It was taught in the school of R. Ishmael... in the future the nations-of-the-world will say, 'happy is the disciple whose master agrees with him!' The dialogue consists of three steps: (1) God proposes to destroy the people of Israel for their sins; (2) Moses pleads that this would be inconsistent with God's own covenantal commitment; (3) God accepts Moses' plea and limits His full reaffirmation of absolute omnipotence, for such a reaffirmation would make relationship impossible. Now this aggadah figuratively employs the halakhic institution of the release from vows (hattarat nedarim) in the following way. (1) God's proposal is taken to be a vow (neder), namely, a promised action. (2) Moses attempts to release God from this vow by showing that God's proposal is inconsistent with His covenantal commitment (shebu'a). This is precisely how
one is released from any ordinary vow, namely, not by the person who made the vow, in
that he lacks the insight and objectivity to distinguish between his words and his true
intent, but rather by another concerned and authorized person who can make this
distinction in the best interests of all involved. (3) God accepts Moses' releasing Him
from His vow by reaffirming His initial promise which He made in the form of an oath.
This is precisely like Israel's Sinaitic obligation which precludes subsequent oaths which
are themselves inconsistent with it.

Vows can be cancelled in one of two ways. The first type of cancellation is called
hattarat nedarim, that is, "release from vows." Here the person who has made the vow
requests a rabbinical authority to show the inner inconsistency of his vow, how the words
uttered are inappropriate for the end intended. The second type of cancellation is
called hafarat nedarim, "nullification of vows." Here, on the other hand, we see the prior
right of one person to approve or disapprove the vow of someone under his authority
before it is translated into action. The former type of cancellation necessarily involves
rational analysis, a psychological examination of motivation. The latter type of
cancellation, conversely, simply requires the exercise of authority and does not
necessarily require any rational analysis whatsoever. Clearly the former not the latter
is a paradigm for theology as a rational enterprise.

As the aggadah presents it, God grants man the privilege of hattarat nedarim
namely, the privilege of counsel. However, He does not grant man the power of hafarat
nedarim because this would be based on the following erroneous analogy: man is to God
as a husband is to his wife. But, halakhically, the husband initiates the relationship with
his wife. Indeed, in the Aggadah as a whole, in the erotic analogy of husband and wife,
God is the husband and Israel is the wife since it is God, not Israel, who substantially
initiates the covenant.

Israel has the privilege of releasing God from His vow to destroy them, if it can be
shown that this vow is inconsistent with the original covenental oath taken at Sinai. This
aggadic point can only be properly understood if the halakhic points it presupposes are
explicated. These points are: (1) the difference between an oath (shabu'a) and a vow
(neder); (2) the difference between cancelling a vow by privileged fiat (hafarat nedarim)
and cancelling a vow by juridical reasoning, showing an inner inconsistency between word
and prior intent (hattarat nedarim).
The Talmud notes an essential difference between an oath and a vow in that "with vows one prohibits (mitasar) an article (heftza) from himself ... with oaths one prohibits himself (nafshayh) from an article." Although it looks like these two definitions are interchangeable, a deeper examination indicates that they are fundamentally different. In a vow the primary concern is with the external object and then the person's relation to it. Thus one may actually vow not to have anything to do with an object associated with a mitzvah—for example, a sukkah—and the vow is valid because it is primarily concerned with an external object, which in and of itself is not the subject of a prior obligation as is the person. However, in an oath the primary concern is with the person himself and only secondarily with the external object to which he is related. Thus if one takes an oath not to personally practice a certain mitzvah for which he is obligated, that oath is null and void ab initio because it contradicts the prior personal obligation which is the foundation of the covenantal response of Israel at Mount Sinai, a response expressed in the oath, "all that the Lord has spoken we will do" (Exodus 19:8). In this important sense an oath is of greater importance than a vow precisely because it is a more personally relevant act.

Translating this halakhic teaching into the aggadic scenario of the long Talmudic passage we just examined, we see that God's personal choice to covenant Himself with Israel—as in an oath—takes precedence over any vow to disassociate them from Himself. Moses, as the paradigm of all subsequent sages, identifies what is primary and what is secondary in God's relationship with His people and confronts God with it as a rabbinic authority would confront one who took a vow which, if carried out, would alienate him from those nearest to him, those from whom he never meant to be so alienated. It is man in the process of theological reflection who uncovers this inner logic.

Concerning the cancellation of a vow by fiat as opposed to nullification of a vow through rational analysis, the Talmud notes, "a sage releases (mattir) but not a husband; a husband nullifies (mefar) but not a sage." The point distinguishing cancellation from nullification is retroactivity. Nullification of a vow is the power to cancel its being fulfilled; it is a procedure of prevention located between a word and the act it intends. Here there is no retroactivity. Release from a vow, what we call cancellation, on the other hand, is the power to show retroactively that the vow should have never been uttered, let alone put into practice, because it contradicts prior intention. In the case
of a vow taken by a human being such intention can even be tacit. We may assume, for example, that the person had previously wanted a normal marital state by the very fact that he married and, therefore, could not have possibly meant to prevent contact with his wife, which would be the result of following his impulsive vow. Applying this halakhic model to the theological reality with which this aggadah deals, and using the analogy of marriage so often used in Aggadah, we might say that Moses (and his rabbinical successors) functions as a rabbinical authority attempting to show an angry husband (God) that he did not mean to separate himself from his wife (Israel) despite his impulsive vow to the contrary. Moreover, in this case God's intention is not tacit but explicit. Moses reminds Him of the oath He took to be personally involved with Israel forever. This is the prime reality from which God cannot be released because nothing prior to it is acknowledged which could possibly be the basis for any such release. In other aggadot, when the angels challenge God's choice of Israel as the recipient of His Torah as being contrary to His omnipotent interests, He retorts by indicating that the Torah (by implication the Torah to which He is already personally committed to practice Himself) is itself meaningless without the irrevocable bond with Israel.

At the time when the Holy-One-blessed-be-He sought to give the Torah to Israel the ministering angels . . . said, 'Master-of-the-universe, it is for Your happiness, Your honor, Your glory, that Your Torah be in heaven.' He said to them, 'no satisfaction (shuqah) comes from you . . . it is written in it, "when a person dies in a tent" (Numbers 19:14). Is there any death among you?'

The logic of oaths is also invoked to convince Israel that from their side of the covenantal relationship it is just as irrevocable.

And so we find that when Moses had Israel take the oath he said to them, 'it is not with your consent (al da'atkhem) that I adjure you but with God's consent and my own.' . . . he could have said to them, 'uphold 613 commandments.' Now according to your [Moses'] theory you should have said to them, 'with my consent (al da'ati)', but why say to them, 'with God's consent (al da'at ha-Maqom)'? —So that there could be no nullification (hafarah) of their oath.

The text becomes clearer when we see it in relation to the following famous text, a text from a later period.

R. Simlai interpreted that 613 commandments were transmitted to Moses. R. Hammuna said, 'what is the meaning of the Scriptural verse,
"Moses commanded a Torah to us as an inheritance" (Deuteronomy 33:4)? The numerical value (gematria) of the letters in Torah is 611. "I am the Lord" and "there shall be no other gods" (Exodus 20:2-3) they heard directly from the mouth of God (mi-"pi ha-Gebruh).\textsuperscript{65}

In other words, the whole Torah is of Divine origin, but most of it was transmitted through Moses to Israel indirectly. In reaffirming the covenant forty years later on the plains of Moab, Moses reminds the people that because their original covenantal oath pertained directly to God, there is no prior basis for ever nullifying it. Any appeal to human authority and tradition aside from revelation can be refuted.\textsuperscript{66}

7. Conclusion

What we have seen from this brief examination of some seminal agadic texts is that God's irreducible covenantal oath to remain with Israel in a relationship constituted by the Torah is the foundation for any Jewish theology. It cannot be derived from any prior idea. In the development of this idea we have seen how systematic theology was formulated by the rabbis and how it lends itself to further systematic efforts long after their time. This systematic effort is largely possible because of the incorporation of concepts from the most evident system within Judaism—Halakhah. The point of contact between the two disciplines is that both are conceived in relational terms. Moreover, this relational reality, on both levels, Halakhah and Aggadah, calls forth an examination of relational logic for the sake of judgment; in Halakhah for the sake of practical judgment; in Aggadah for the sake of theoretical judgment.\textsuperscript{67} The tendency to look at Judaism as a "pan-halakhic" phenomenon (in Professor Heschel's magnificent characterization of a certain form of Jewish fundamentalism\textsuperscript{68}) is often made on intellectual grounds, namely, the "real" Jewish intellect is almost exclusively halakhic. In an earlier study I attempted to show how Aggadah participated in the very intellectual formulation of Halakhah. One cannot understand the latter without the former.\textsuperscript{69} Here I have tried to show how aggadot dealing with the covenantal foundation of Judaism could not have been logically formulated without the intricate incorporation of halakhie content. Halakhah provides Jewish thinkers with the means for a systematic inquiry into the revealed acts of man—an exciting and rewarding challenge to heart and mind. Aggadah, with the help of Halakhah, provides Jewish thinkers with the means for a systematic
inquiry into the revealed acts of God—an even more exciting and rewarding challenge to heart and mind.