

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

Hilchos Mikvaos

Shiur 1

Written by R' Yossi Sirote

This Series is dedicated to the memory of R' Barry Stern

– R' Bunim Lemuel ben Avraham Simcha Stern zt'l

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Introduction



Siman 201:1

What is a Mikvah?

1 A woman does not leave her status of [ritual] impurity through washing in a bath, and even if all of the waters in the world went over her, she remains in her status of impurity, and one would be liable for Kareis for [cohabiting with] her, unless she immerses her entire body at once in the waters of a mikvah or a spring which contains 40 Seah.

Its measure is an ama by an ama by the height of 3 Amos cubed, using an ama which is 6 tefachim plus a half a finger long. If it is wider [than one amah] and is not so deep [as three amos] it is kosher if she can cover her whole body in it at once.

It is required that the total body of water be [at least] 44,118 cubic finger lengths and an extra half. It is required that the cavity which the water is in be larger than this measure, so that as a woman enters to immerse and the water displaces, there will be 40 seah remaining.

Torah Source

There are many places in the Torah which say that the procedure to become *Tahor* (spiritually clean) after certain *Tuma* (ritual impurities) is via washing “ורחץ במים”, “and he should immerse in water.”¹ What are these waters that one must immerse in, in order to become *Tahor*?

The Torah writes in *Vayikra* (Leviticus) 11:36:

Except a spring and a pit of gathered water, will be pure.

**אֵד מַעִין וּבֹר מְקוּהָ -
מִים, יִהְיֶה טָהוֹר.**

The context of this *pasuk* (verse) is with respect to impurity caused by vermin.

The Torah writes,

THEY CAUSE ANYTHING THAT THEY TOUCH TO BECOME IMPURE EXCEPT A SPRING (MAAYAN) AND A PIT OF GATHERED (MIKVAH) WATER.

The Sifra writes:

“A SPRING IF [ONE IS] TAMEH WILL MAKE ONE TAHOR; THE TORAH THUS WRITES: ‘A MIKVAH AND A MAAYAN WILL BE PURE (SINGULAR)’.”

The term used in the Torah is “**yihyeh tahor**” in singular, even though there are two subjects: a spring and a mikvah.

Rashi explains the Pasuk (based on the **Sifra**) thus:

Will be pure (singular) – one who immerses in them will become pure. Thus the intention of the singular form is to teach us that if one immerses in a **Mikva** or a **Maayan**, he will become tahor.

The **Chasam Sofer**² (Shu”t YD 213, וראיתי) and **Ralbag**³ (commentary on Torah) use a different explanation to derive this property of a **Maayan** and a **Mikvah** to purify.

¹ See: Vayikra (Leviticus) 14:8-9, 15:All, 16:4, 16:24-28, 17:15, 22:6, Numbers (Bamidbar) 19:7-8, 19:19

² R' MOSHE SOFER SCHREIBER - CHASAM SOFER - Born: Frankfurt, Germany, 1762. Died: Pressburg, Hungary, 1839. Notes: Commentator and Halachist. A son-in-law of R' Akiva Eiger, his family traced its roots to Rashi. He was appointed Rav of Mattesdorf, Hungary, in 1798 and Rav and Rosh Yeshiva in Pressburg in 1807, he ultimately became one of the most influential poskim of his time. He became an outstanding leader of Hungarian Jewry and led the struggle against Reform under the banner of “Chadash assur min HaTorah”/Torah Law forbids innovations. Author of *Torat Moshe*, a commentary on the Chumash, *Chasam Sofer*, a commentary on the

They explain that only water that cannot contract tumah could be used for immersion to make someone tahor.

Otherwise,

When the Tameh person would immerse, he would make the water tamei, which is not logical. Thus, since the Torah tells us that only these bodies of water cannot become tamei, then, only these bodies of water could be used to immerse in to make one tahor.

Dimensions of a Mikvah and Maayan

S E I F 1

The Sifra (**Toras Cohanim** 11:36) writes:

One may think that just like a maayan [purifies] with any amount, so to a mikvah purifies with any amount, thus the torah writes “Except a spring”. A spring purifies with any amount and a mikvah with 40 seah.

The Gemora in **Chagiga** 11a writes:

“Taharos: The Torah writes of it, but it is needed [for the Rabbi’s to expand on] the dimensions of a mikvah which is not written in the Torah. It is taught [in a Braisa] “And he should immerse in water” (Vayikra, Leviticus 15:16) – in the waters of a mikvah [one should immerse] “all of his body” - waters that all of his body can go into.

How much is that?

One amah by one amah with a height of three Amos; and the sages computed the amount of a mikvah to be 40 seah. (This Gemora also appears in **Pesachim** 109a-b).

Tosefos (**Pesachim** 109a, ברום שלש אמות) asks,

Why the shiur for a mikvah is 1x1x3 Amos, but we learn in Baba Basra (101) that the height of a person is 3.5 Amos and not three Amos? Tosefos answers that 1x1x3 is enough water for a person to tovel in because water displaces when someone immerses and it will fully cover him.

Talmud, a commentary on the Shulchan Aruch, and Teshuvot Chasam Sofer, a large collection of Responsa. Among his students was his son the Ktav Sofer.

3 R' LEVI BEN GERSHON - RALBAG - Born: Bagnols, Provence, 1288. Died: France, 1344. Notes: Also known as Gersonides. Torah commentator, philosopher, mathematician, and astronomer. Author of commentary on almost the entire Bible. His philosophical views were expressed in Sefer Milchamot Ad-nai, a supplement to Rambam's philosophy, which was the subject of harsh criticism by R' Chasdai Crescas, R' Yitzchakben Sheshet and R' Yitzchak Abrabanel among others.

He adds that the mikvah should be larger than 1x1x3 Amos so that the water does not overflow when he immerses and there will continue to be a shiur of 40 seah. The Shulchan Aruch brings this down in Seif 1.

The Shulchan Aruch explains that for a mikvah, we measure with an extended amah which is half a finger longer than a regular amah. A regular amah is 6 tefachim, each tefach is 4 fingers. Thus an extended amah is 24.5 fingers, and 1x1x3 Amos are $3 \times 24.5^3 = 44,118.375$ cubic fingers, which the Shulchan Aruch rounds off to nearest half a finger. The Shach (6) further explains that this is 41472 extended fingers ($44,118.375 / (24.5/24)^3$). (This is the calculation in the Gemora Pesachim 109a)⁴.

In modern day measurements:

- **The Chazon Ish** measures an amah as 60 cm, which translates to 648 liters. The Chazon Ish says that this amount is b'dieved, and l'chatichila one should use at least 750 liters.
- **Rav Chaim Naeh** (Shiurei Torah, Shiur Mikvah, pg 154) holds that L'chatchila one should use 922 liters, but b'dieved 454 liters suffices.
- **Rav Moshe** (Igros Moshe OC 1:136) said that normally an amah is 21¼ inches which would translate to a mikvah of 472 liters, however, for Hilchos Mikvaos one should use a measurement of 24 inches per amah, which translates to 680 liters; Rav Moshe later wrote (Igros Moshe YD 2:89) to be even stricter and hold that an amah is 24.5 inches for Hilchos **Mikvaos**, which translates to 723 liters.
- **Rav Yaakov Kanievsky** (Sheurin Shel Torah) puts the measure at 750 liters (about 200 US gallons).
- In practice the accepted minimum is **1000 liters** (about 265 US gallons) to account for all opinions with a margin.

Mikvah Tosefos (**Nazir** 38a-b, “בר מדהויא”) writes that d'Oraisa we need 40 seah for a person, but vessels may be immersed in as little as a revi'is. However, deRabbanan we require 40 seah for vessels as well. This is also implied by **Rashi** (**Pesachim** 17b “בקרקע טהוריין”).

⁴ 1 seah = 6 kabs; 1 kab = 4 logs; 1 log = 4 revi'is; 1 amah = 6 tefach; 1 tefach = 4 fingers. In Pesachim 109a R. Chisda said that a revi'is = $2 \times 2 \times 27$ [extended] fingers = 108 cubic [extended] fingers. Thus: 1 Seah = 96 revi'is; 40 seah = $96 \times 40 = 3840$ revi'is. Hence the cubic capacity of mikvah is $3840 \times 108 = 41472$ [extended] fingers.

A *reviis* is only allowed for vessels that were tamei, but according to the **Gemora (Avoda Zara 75a)**, vessels that were acquired from a non-Jew require the same 40 **Seah** d'Oraisa that a person does, as the Torah (**Bamidbar, Numbers 31:23**) requires such utensils to be immersed in “במי נדה”, “the waters [that] a Nida [must immerse in]”. (**Shach 42**).

According to most poskim,

The requirement of 40 seah in a mikvah is d'Oraisa even for small people that could immerse in less. They bring a proof from the Mishna in Mikvaos (2:1) which states that if one immersed but there is a doubt if there is 40 seah he is still tamei. Obviously, he was small in stature and immersed himself fully (or there would be no doubt that he was tamei) and, that he was still tamei shows us that the din of 40 seah is d'Oraisa even for a small person.

The **Bach**⁵ and **Levush**⁶ claims that **d'Oraisa**,

A small person may immerse in less than 40 seah and it is only a deRabbanan that we need 40 seah even for small people.

The **Rivash**⁷ claims,

The amount of 40 seah is actually twice the amount that could cover an average person. He claims that the language of the Gemora was that 40 seah is the amount of water that “עולה” (exceeds) the whole body.

Neither the **Bach** nor the **Rivash** are accepted explanations.

⁵ *Bach* – R' Yoel Ben Shmuel Sirkes - Born: Lublin, Poland, 1561. Died: Cracow, Poland, 1640 Served as Rav of Beltz, Brest-Litovsk, and Cracow where he became Av Bet Din and Rosh Yeshiva in 1619. Author of *Beis Chadash/The Bach*, a major commentary on the Tur, where he establishes the source of the laws in the Talmud and traces their developments through the interpretations of the different generations, *Hagabos HaBach*, emendations on the Talmud included in the traditional versions of the Talmud. Two major volumes of his responsa were published after his death, *Shealot v'Teshuvot Beit Chadash* and *Shealot v'Teshuvot Beit Chadash HaChadasbot*. He was as well the father – in – Law of the *Taz*.

⁶ *Levush* – R' Mordechi Ben Avraham Yaffe - Born: Prague, 1530. Died: Posen, 1612. Successor of the Maharal of Prague. Author of *Levush*, a Code of Jewish Law that follows the framework of the *Shulchan Aruch*. Known as the *Levush* after his many parts whose names begin with this word. This work starts from the premise that the *Beis Yosef* is too technical and the *Shulchan Aruch* too succinct. It is divided in 10 parts, the first five on legal issues and the last five on biblical commentaries, philosophy etc.

⁷ *Rivash* – R' Yitzhak Ben Sheshet Perfet - Born: Barcelona, Spain, 1326. Died: Algiers, c. 1408. Notes: Talmudic and Halachic scholar. A student of the Ran. Lived in Spain most of his life presumably until around the time of the Spanish Massacres of 1391. Settled in Algiers where he became the Chief Rabbi. Author of commentaries on the Talmud preserved as part of the *Shita Mekubetzes*, as well as responsa. He warned against the study of philosophy and Kabbalah. His students included the *Rashbatz*.

Maayan According to the **Rambam**⁸ (Hilchos *Mikvaos* 9:6), **Raavid**⁹, **Gra**¹⁰(6) and many others, a *Maayan* purifies with any amount (at least a *reviis*) so that a small person may immerse in less than 40 seah of a maayan. They bring a proof from a **Zav**, a male who has a condition that causes a seminal discharge.

Rambam,
Raavid, Gra

According to the Torah (*Leviticus* 15:13),

A **Zav** must immerse in “מים חיים”, “living water” or spring water. However the pasuk does not say “כל גופו”, “his entire body” as it does in most places – thus a maayan does not need to be 40 seah, which is the size for an average body. The Shach (20) explains that a maayan is connected to the ground water, and in total there is more than 40 seah. [The Taz may disagree with this logic, we will revisit this when we discuss waves.]

Ri, Rashba, Rosh According to **Tosefos (Ri**¹¹, Pesachim 17b אלא), the **Rashba**¹², the **Rosh**¹³, and many others, there is no minimum size for a maayan with respect to vessels; however, a person must immerse in 40 seah, even in a maayan. The **Ri** explains,

⁸ **Rambam** – R' Moshe Ben Maimon - Born: Cordova, Spain, 1135. Died: Cairo, Egypt, 1204. Notes: Also known as Maimonides. Great Talmudic commentator, Halachic codifier and philosopher. Born in Spain, he had to flee right after his Bar Mitzvah and lived most of life in Egypt. A physician to the Caliph. Author of Peirush HaMishnayos, commentary on the Mishna, Sefer HaMitzvot, an enumeration of the 613 commandments and an introduction to Mishneh Torah, a monumental and original code of Jewish Law also known as Yad Chazakah, Yad having the numerical value of 14 the number of parts in this work, and Moreh Nevuchim/Guide for the Perplexed, a philosophical treaty. Possibly the most important Halachic authority among Rishonim and the greatest Jewish scholar ever. His epithet reads “From Moses to Moses there is no one like Moses”, the first Moses referring to Moses Rabbeinu.

⁹ **R' Avraham Ben David of Posquieres** – Raavad III – Born: Narbonne, Provence, c. 1120. Died: Posquieres, Provence, 1198. Notes: Talmudic and Halachic scholar, he was the foremost authority of his time in France. Being of great personal wealth he is known to have lived a very modest life and have personally supported many needy students in his Yeshiva in Posquies.

¹⁰ **Vilna Gaon Rabbi Eliyahu ben Shlomo Zalman of Vilna** - The, Gaon Rabbeinu Eliyahu/Gra - Born: Vilna, Lithuania, 1720. Died: Vilna, Lithuania, 1797. Notes: Arguably the greatest Torah scholar of the past two centuries and one of the most marking figures in Halachic Judaism since the Beis Yosef he is revered throughout the Jewish world for his vast knowledge and saintly character. He devoted every minute of his life to Torah study never having slept more than two hours a day. He never took any position as a Rav or Rosh Yeshiva.

¹¹ **RI** - R' YITZCHAK BEN SHMUEL OF DAMPIERES - Born: Ramperupt, France, c. 1120. Died: Dampieres, France, c. 1200. - Notes: Also known as Ri HaZaken. A nephew and student of Rabbeinu Tam and the Rivam, married a descendent of Rabbi Yehuda ben Natan. One of the most important Tosefists together with Rabbeinu Tam.

¹² **Rashba** - **SHLOMO BEN AVRAHAM IBN ADERET** -Born: Barcelona, Spain, c. 1235. Died: Barcelona, Spain, c. 1310. Notes: Student of Rabbeinu Yonah Gerondi and the Ramban. Rabbi of Barcelona and leader of the Spanish Jewry. Author of Chidushei HaRashba, a commentary on the Talmud. Author of Teshuvot HaRashba, 8 volumes containing about 16,000 Responsa, the most extensive of any Rishon, which are of great important to psak Halacha and lay the foundation of the later codes like the Tur and Shulchan Aruch.

¹³ **Rosh** – Rabbi Asher ben Yechiel Born: Germany, c. 1250. Died: Toledo, Spain, 1327. Notes: Talmudist and Halachist, one of the most important in Jewish history. He was a descendant of the Meor HaGolah and a leading student of the Maharam M'Rottenberg and his successor as the leader of Germany. Left Germany in 1303 in the aftermath of the Rindfleisch massacres and was welcomed by the Rashba in Barcelona. Became Rav and Av Beis Din of Toledo in 1305 and became the leading authority in Spain after the death of the Rashba. In this capacity he introduced in Spain the methods of the Tosefists and Ashkenazic minhagim. Among his students was his son, the Tur.

That the Gemora in *Chagiga* 22a says that if a basket splits a mikvah in two (and neither side has 40 seah) then it is not kosher. The Gemora there rejects the argument that the ground is porous [that attaches to the rest of the waters of the earth], but the argument would only be valid if we were talking about a maayan. Thus the Gemora implies that a maayan with less than 40 seah is invalid.

The **Shulchan Aruch** paskens like the **Ri**, **Rashba** and **Rosh**, and so is the Halacha (**Aruch HaShulchan** 201:9).

Nida, Zava & Zav Earlier it was mentioned that a Zav must immerse in a maayan, not a mikvah. What about a Zava? A Zava is a woman that has off-cycle bleeding. We hold that all of our women have the din of a Zava (**Nida** 66a). If a Zava must immerse in a spring, our women would have to as well. The Tosefta *Zava* 3:1 states: **A Zav is more stringent than a Zava, because a Zav requires living water [a maayan] and a Zava does not require living water.** This is brought down by **Rashi**¹⁴, **Tosefos** (Shabbos 65b), **Rambam** (Perush HaMishna Mikvaot 5:5), **Ramban**¹⁵ and the **Rosh**. The **Shach** (1) brings it down as the Halacha.

It should be noted that **Rashi** quotes his Rabbeim as not holding by this leniency for a Zava. Thus according to **Rabbosai of Rashi** (Rashi Shabbat 65b 'Vesavar') a Zava (and our Nidahs) require a Maayan to immerse rather than a mikvah. As stated earlier we do not hold like this.

Chumra of Hilchos Mikvaos

There is a principle in **Hilchos Mikvaos** to be as stringent as possible.

We try to accommodate as many minor opinions as possible. This principle was already in effect at the time of the Rishonim (Teshuvot **Tashbetz**¹⁶ 1:17,

¹⁴ *Rashi – R' Shlomo Ben Yitzchaki of Troyes - Born: Troyes, France, 1040. Died: Troyes, France, 1105. He is, arguably, the greatest Biblical commentator of all times. Traced his ancestry all the way to King David through Hillel the Elder and other Tanaim. Rabbeinu Tam, his grandson said, that Rashi's commentaries on Chumash were nothing short of Ruach haKodesh*

¹⁵ *Ramban – R' Moshe Ben Nachman - Born: Gerona, Spain, c. 1194. Died: Israel, c. 1270. Notes: Also known as Nachmanides. Great Biblical and Talmudic commentator, Kabbalist, and Jewish leader, and a physician and linguist by trade. Scion of a renowned rabbinical family, he was a relative of R' Yonah of Gerona, and was a student of R' Yehuda ben Yakar. R' Natan ben Meir and a disciple in Kabbalah of R' Meir Abulafia, R' Ezra of Gerona, and R' Ezriel of Gerona. He opposed the rationalism of the Rambam while not opposing his Halachic rulings. Participated in the Disputation of Barcelona in 1263 in the presence of King James I of Aragon and wrote Sefer HaVikuach, with a detailed account of this disputation. Banned from Spain in the aftermath of the disputation, he settled in Eretz Yisrael in 1267.*

¹⁶ **Tashbetz** – R' Yitzchak Ben Meir of Duren – Born: 1300s. Died: 1300s. Halachic codifier. A student of the Maharam M'Rottenberg. Lived in Duren, Germany. Author of Shaarei Dura/Gates of Duren or Issur V'Heter/Prohibition and Permission, dealing with dietary laws and which was **authoritative** until the Shulchan Aruch

Teshuvot **Radvaz** 1:85). Rav **Yirmiya Katz** (Mikva Mayim 3:14-16) lists many poskim that write to be especially strict regarding Hilchos Mikvaos.¹⁷

The Chazon Ish is famously quoted to have said that he has never seen a kosher eruv or a *passul* mikvah. An *eruv* is notoriously complex to build, and a mikvah has so many redundant stringencies that its kosher status is virtually certain.

The basic reason to be excessively stringent with respect to the construction and maintenance of a mikvah is to make sure that it can accommodate everyone. With respect to kashrus, if one does not hold by a certain *bechsber*, one could simply not eat that food, whereas with respect to tevila, all women must be able to immerse in every Jewish community worldwide. In addition, we want to avoid anyone casting doubts on anyone else's observance of *tabarat hamishpacha* (family purity laws).

Another reason given is by the **Divrei Chaim** who writes "one should strive to construct a mikvah that will be acceptable to all opinions because mikvah embodies the holiness of the Jewish People."

The **Satmar Rav** is quoted (Minchas Yitzchak, Chelkas Yaakov) as stating,

The *mikvah* is supposed to purify us, and not that we should have to "purify" the mikvah with explanations of why the mikvah is kosher. Rather, the kashrus of the mikvah should be beyond question.

However, **Rav Moshe Feinstein** (Igros Moshe YD1:111) notes,

It is virtually impossible to create a mikvah that will satisfy all opinions. Rav **Moshe** also wrote (**Igros Moshe** YD2:89), "In small Jewish communities one should certainly not be especially strict to impose an enormous financial burden" to accommodate minority opinions.

Rav Moshe also points out that we heat our mikvahs even though there are those that hold that this is forbidden (Shulchan Aruch 201:75). This is to make the mikvah more inviting for women, which has priority over being excessively stringent.

Mikvah vs Maayan

Seif 2 - The waters of a spring purify even if they are flowing (*that is, continually flowing and moving and are not gathered together*). Rain water does not purify unless it is in an

¹⁷ Maharam Milublin (97), Divrei Chaim (2:97 and 99), Maharash Engel (1:78), Divrei Malkiel (4:85), Minchas Elazar (4:7), Mahari Shtief (number 71) citing the Chasam Sofer, Chelkas Yaakov (2:90 and 3:57), Doveiev Meisharim (3:36), and Minchas Yitzchak (9:94).

"ashboren" (*that is, to say a deep place in which water can collect: called ashboren*). (*But [rain water] that is flowing is invalid biblically*).

It says in **Toras Cohanim** (Sifra, **Vayikra** 11:36): **One may think that just like a maayan (spring) purifies while flowing (zochlin) so to a mikvah purifies while flowing, thus the Torah wrote "Except a spring." A spring purifies while flowing, and a mikvah purifies while still (ashboren).**

A *Maayan* must be flowing (*zochlin*) in order to have the din of a maayan; otherwise it has the din of a mikvah. A mikvah must be still (*ashboren*) to immerse in it. A mikvah that has a flow (*zechila*) is invalid. It is noted that if a mikvah has a crack which causes the water to flow then it is invalid. We will come back to this in later shiurim (Shiur 17).

There are many differences between a mikvah and a Maayan:

1. In order to purify one from *tumas meis* (impurity due a dead body) one must have the ashes of a red heifer (*parah adumah*) mixed with *mayim chaim* (spring water) sprinkled on them (**Numbers** 19:17). This is referred to as *Mei chatas*. Only water from a maayan may be in the mixture, not water from a mikvah.
2. A metzora (one inflicted with a form of halachic leprosy) must be sprinkled with a concoction that contains, among other things, *mayim chaim* (Leviticus 14:5-7). Again, only water from a maayan may be used, not water from a mikvah.
3. As stated earlier a *Zav* must immerse in a maayan not a mikvah (Leviticus 15:13). And a *Zava* according to Rashi's Rebbi, although not according to most authorities.
4. A mikvah requires 40 seah; a maayan only requires a *reviis* (see above).
5. A Mikvah must be still, whereas a Maayan must be flowing. A spring that is still, no longer has the din of a Maayan, but it is still kosher to immerse in as a Mikvah (i.e. it has the din of a Mikvah).
6. *Nasan Seah v'Natal Seah* may apply only to a mikvah (*Dagul Meirvava* on Shach 63, *Teshuvos Maharsham* 1:44). This will be explained in later shiurim.
7. The issue of discoloration of the water does not apply to a maayan (Shulchan Aruch 201:28). This will be explained in shiur 10.
8. The concern for "mayim sheuvim" does not apply to a maayan according to most Rishonim (see Shulchan Aruch Y.D. 201:15 and **Aruch HaShulchan** Y.D. 201:106-110). This will be explained in later shiurim.

Most *Mikvaos* are in fact just that – a mikvah. There have been “mikvahs” built that are actually halachic maayans, the most famous of these being the Ari’s “mikvah”, which is actually a maayan. Anyone who has immersed in it will know that it is freezing cold due to it being spring water that comes from melted snow. As can be seen from the list above, building a maayan has several advantages, but it is often not practical to build one.

Water Cycle

The Gemora (**Taanis** 9b-10a, **Eruvin** 45b) talks about the water cycle.

It is clear from the Gemora that Chazal were aware of the water cycle - that rain falls from clouds, gathers in oceans and seas, is evaporated back up into the clouds, and the cycle starts again with rain.

It is clear,

That every drop of water has been around the world, fallen as rain many times, been in aquifers, and man-made vessels – each of which has a different halachic status. Yet, when rain is evaporated into clouds and falls back to earth, its status is reset.

Rainwater that falls and gathers is valid for a *Mikvah*, even if it had previously been in a vessel. Additionally, the Torah classified rainwater that has been absorbed into the ground and gone into underground aquifers and then back up to the surface (i.e. springs) as “*mayim chaim*”, and instilled in it the special properties of a maayan.