<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>II</td>
<td>Two approaches to potentially permit multifetal pregnancy reduction</td>
<td>2</td>
</tr>
<tr>
<td>III</td>
<td>The “obstructed labor” situation: When can the mother be saved at the expense of the fetus’ life?</td>
<td>7</td>
</tr>
<tr>
<td>IV</td>
<td>The “fugitive” situation: When can the townspeople save themselves at the expense of the fugitive’s life?</td>
<td>9</td>
</tr>
<tr>
<td>V</td>
<td>Reason for the difference within the two obstructed labor and the two fugitive situations (Approach 1)</td>
<td>11</td>
</tr>
<tr>
<td>VI</td>
<td>Reason for the difference within the two obstructed labor and the two fugitive situations (Approach 2)</td>
<td>14</td>
</tr>
<tr>
<td>VII</td>
<td>Application of אין דוחין נפשׁ מפני נפשׁ and רודף דין to the multifetal pregnancy situation</td>
<td>25</td>
</tr>
<tr>
<td>VIII</td>
<td>Possible approach to permitting multifetal pregnancy reduction based on Rav Moshe Feinstein’s explanation of the רודף דין</td>
<td>27</td>
</tr>
<tr>
<td>IX</td>
<td>Conclusion</td>
<td>32</td>
</tr>
<tr>
<td>X</td>
<td>References</td>
<td>34</td>
</tr>
<tr>
<td>Appendix A</td>
<td>The Views of רבי יוחנן and רבי יוחנן Regarding the “Fugitive” Situation, in the Talmud Yerushalmi</td>
<td>35</td>
</tr>
<tr>
<td>Appendix B</td>
<td>Rashi’s View of the מאי חזית Logic in the “Coerced Murder” Case, as Explained by Rav Moshe Feinstein</td>
<td>43</td>
</tr>
<tr>
<td>Appendix C</td>
<td>Medical Facts Relevant to Multifetal Pregnancies and Multifetal Reduction</td>
<td>50</td>
</tr>
<tr>
<td>Appendix D</td>
<td>אין דוחין נפשׁ מפני נפשׁ: Rav Moshe Feinstein’s Explanation of Rashi</td>
<td>LI</td>
</tr>
</tbody>
</table>

Note: This Shiur it is not intended as a source of practical Halachic (legal) rulings. For matters of Halacha (practical details of Jewish law), please consult a qualified Posek (rabbi).
Multifetal Pregnancy Reduction in Halacha

Table of Sources

<table>
<thead>
<tr>
<th>Source No.</th>
<th>Pages No.</th>
<th>Source</th>
<th>Source Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>גמרא, מס' סנהדרין, דף ע&quot;א</td>
<td>יחרג ולא יעבד</td>
</tr>
<tr>
<td>2</td>
<td>3</td>
<td>גמרא, מס' יומא, דף ע&quot;ב</td>
<td>יחרג ולא יעבד - לא תרצח</td>
</tr>
<tr>
<td>3</td>
<td>4</td>
<td>רashi, מס' סנהדרין, דף ע&quot;א</td>
<td>יחרג ולא יעבד - לא תרצח</td>
</tr>
<tr>
<td>4</td>
<td>4</td>
<td>ריקרא פק' יה: ייטה דף מא ע&quot;א</td>
<td>The &quot;זורב בה&quot;-dispensation</td>
</tr>
<tr>
<td>5</td>
<td>6</td>
<td>mishnah, מס', אבותה, פך: ר'</td>
<td>דין רוח</td>
</tr>
<tr>
<td>6</td>
<td>7</td>
<td>mishnah, מס', אבותה, פך: ר'</td>
<td>The &quot;Obstructed Labor&quot; Situation</td>
</tr>
<tr>
<td>7</td>
<td>8</td>
<td>גמרא, מס', סנהדרין, דף ע&quot;ב</td>
<td>משלימה את רדפי לה</td>
</tr>
<tr>
<td>8</td>
<td>8</td>
<td>פְּנֵיה דְּתַנְתָּרוּת, מַכָּה בְּרָא</td>
<td>יחרג ולא יעבד - לא תרצח</td>
</tr>
<tr>
<td>9</td>
<td>9-10</td>
<td>תוספאת, מס' תורמאות, מ' 'י</td>
<td>The &quot;Fugitive&quot; Situation</td>
</tr>
<tr>
<td>10</td>
<td>10</td>
<td>ירoslפְּר, מס' תורמאות, פ' 'י</td>
<td>The &quot;Fugitive&quot; Situation</td>
</tr>
<tr>
<td>11a-b</td>
<td>11</td>
<td>רש''י, מס' סנהדרין, דף ע&quot;ב (מס' 'י שלף תורמאות ומשתתף)</td>
<td>The &quot;Obstructed Labor&quot; Situation</td>
</tr>
<tr>
<td>12</td>
<td>12</td>
<td>thesis זר עלתוספאת הורמאות</td>
<td>The &quot;Fugitive&quot; Situation</td>
</tr>
<tr>
<td>13</td>
<td>14</td>
<td>רמב''ם, חל', רדסה פ' 'י, 'י</td>
<td>The &quot;Obstructed Labor&quot; Situation</td>
</tr>
<tr>
<td>14</td>
<td>16</td>
<td>אגרות משה, והשב, המס' 'י, 'י</td>
<td>The &quot;Obstructed Labor&quot; Situation</td>
</tr>
<tr>
<td>15</td>
<td>17</td>
<td>אגרות משה, וזור'ה דעה 'י, 'ס, 'י</td>
<td>Fugitive and Obstructed Labor Situations</td>
</tr>
<tr>
<td>16</td>
<td>17</td>
<td>ירoslפְּר, מס' שבת, פ' 'י</td>
<td>The &quot;Obstructed Labor&quot; Situation</td>
</tr>
<tr>
<td>17</td>
<td>21</td>
<td>אגרות משה, וזור'ה דעה 'י, 'ס, 'י</td>
<td>The &quot;Obstructed Labor&quot; Situation</td>
</tr>
<tr>
<td>18</td>
<td>21</td>
<td>אגרות משה, וזור'ה דעה 'י, 'ס, 'י</td>
<td>The &quot;Fugitive&quot; Situation</td>
</tr>
<tr>
<td>19</td>
<td>26</td>
<td>nsmehתافظה, והשב, המס' 'י, 'י</td>
<td>P'sak of Rav Shlomo Zalman Auerbach regarding MPR</td>
</tr>
</tbody>
</table>
Multifetal Pregnancy Reduction in Halacha

I. Introduction

The focus of this presentation is to explore the possible approaches for permitting multifetal pregnancy reduction (abbreviated as: MPR) in Halacha, by applying the teachings of the Talmud (Mishna, Braita and Gemara), post-Talmudic commentators and Poskim (Halachic authorities).

Multifetal pregnancies (abbreviated as: MFP) are associated with several risks including complete pregnancy loss (miscarriage and stillbirth) and very preterm birth (i.e., occurring before 32 completed weeks of gestation) which is often complicated by postnatal mortality (i.e., death after birth) and long-term disabilities. MPR is a procedure performed by obstetricians to reduce the number of fetuses in utero in a MFP, to improve the survival probability of the remaining fetuses. Reducing the number of fetuses leads to improved outcomes, as measured by lower rates of miscarriage, fewer very preterm births and reduced postnatal mortality (see Appendix C, p. 50). MPR is usually performed between 9 to 15 weeks of gestational age. Historically, MPR has been generally performed in triplet or higher-order pregnancies; however, cases of twin to singleton pregnancy reductions have also been reported.

It is understood that the goal of MPR is to optimize the survival chances of the remaining fetuses in cases where there is a high risk of fetal death without intervention. Yet, since MPR, by definition, terminates one or more fetal lives, contemporary Poskim and religious physicians have endeavored to understand how Halacha views this predicament. This dilemma falls into the rubric of a general question: Can we end one life to save another life? Generally, taking a life cannot be justified even if it is the sole means for promoting the survival of another life. This principle is described in Tractate Oholot as: "נפשׁאין דוחין נפשׁ מפני נפשׁ" (which will henceforth be referred to as: "אין דוחין"), i.e., we may not push aside one life on account of another life. Nonetheless, in very limited applications discussed below, we are instructed to save a life even if this will lead to the demise of another life. The following discussion describes selected applications and limits of "אין דוחין" and their relevance to the potential permissibility of MPR.

In the course of this discussion, we will explore two different approaches for permitting MPR in cases where the failure to intervene will lead to a high risk of total fetal/neonatal death (i.e., death either in utero or shortly after birth). One approach is derived from the discussion in the Talmud concerning the ruling that one must give up his or her life not to commit murder: "יהרג ואל יעבור" (i.e., be killed rather than transgress). Perhaps the basis for the "יהרג ואל יעבור" ruling, which the Talmud describes as a logical reasoning that one may not presume one life is more valuable than any other life, may not apply in a case of multifetal pregnancy if the fetuses are likely to perish without intervention. If this is true, perhaps the principle of "אין דוחין" also will not apply under these conditions and MPR may therefore, be permitted. The second approach for permitting MPR is the "דין רודף" (i.e., the law of the pursuer) which states that the life of a pursued person must be saved even at the expense of the pursuer’s life. According to this approach, the fetuses that will be reduced (i.e., aborted) are considered as “pursuers” after the other fetuses. We develop this approach through the brilliant writings of the Gaon and Tzaddik, Rav Moshe Feinstein, זצ״ל, (who was a...
leading Halachic decisor, Posek, spanning a half-century period in America, who will henceforth be referred to as: “Rav Moshe”) in his magnum opus, Igros Moshe. These approaches are built on two Talmudic cases, the “obstructed labor” and the “fugitive” situations, which will be explained below with different interpretations and their applications to MPR.

II. Two approaches to potentially permit multifetal pregnancy reduction:

Notwithstanding the general principle of דוחיןאין, we will examine two approaches that could be applied to permit MPR in certain cases. These approaches, which originate from two different “life-vs.-life” discussions in the Talmud, will be referred to as: 1) the מאי חזית logic; and 2) the דףורדין.

1. The “coerced murder” case and the מאי חזית logic:

Definitions:

\(\alpha\): The coerced person: The Jewish person who was ordered by the governor (i.e., the hooligan) to kill another Jew (\(\beta\)) under the threat of being killed if he refused.

\(\beta\): The hooligan’s target: The person who \(\alpha\) was ordered to kill.

A. The Gemara Sanhedrin (Source 1) states that שפיכת דמים (murder, i.e., violating the prohibition of לא תרצח, “do not commit murder”), is one of the three prohibitions for which one must sacrifice his or her own life rather than transgress. This ruling is called ייהרג ואל יעבור.

Source 1: Talmud Bavli - Sanhedrin 74a: Three cases where Halacha requires one to sacrifice his life to avoid transgressing

B. The Gemara (Source 2) states that the Rabbis deduced the Halacha of ייהרג ואל יעבור with respect to שפיכת דמים (murder), through a logical reasoning (סברא), for which the gemara recounts a true incident: The governor ordered person “\(\alpha\)” to kill person “\(\beta\)” or else the governor would kill \(\alpha\). (This case will henceforth be called the “coerced murder” case). 

Rava (or רבא) ruled that \(\alpha\) must be killed rather than kill \(\beta\) because of the following logic: "הרי זה התזזו..."
Multifetal Pregnancy Reduction in Halacha

"Why do you presume that your blood is redder? Maybe that man’s blood is redder.” This reasoning will henceforth be called the “מאי חזית logic”.

Source 2: Talmud Bavli - Yoma 82b: Reason for the ירור של אדם יניבור by שפיכת דמים (the “coerced murder” case):

From where do we know that a person must sacrifice his life rather than commit murder? It is based on logic (סברא) as we see from the following incident: A certain person (א) came before רבא and told him, “The governor of my village said to me, ‘Go kill So-and-so (ב), and if you do not [kill him], I will kill you.’” Rav replied to him (א), “Let him kill you and do not kill (ב). Why do you presume that your blood is redder [than ב’s blood]? Perhaps the blood of that man (ב) is redder.”

C. What is the meaning of the "מאי חזית" logic and how does it dictate the Halacha of ירור של אדם יניבור (the “coerced murder” case)? The following two approaches are presented:

i. Approach 1: The "מאי חזית" logic operates from a perspective of uncertainty, i.e., since we do not know whose life is considered more valuable, the uncertainty dictates that one must maintain a passive stance (שב ואל תעשה) to avoid arbitrarily selecting who should be allowed to live versus who should be killed, even at the pain of his own death (Talmidei Rabbeinu Yonah, Reference 1; see also p. 45, Source B-2). Rav Nochum Partzovitz (Reference 2) attributes this approach to Tosfot in Sanhedrin 74b.

According to this approach, in cases of MFP where there is a high risk of total fetal/neonatal death, an argument could be made to permit MPR. Since the fetuses that would be reduced (i.e., aborted) via the MPR procedure would likely die anyway if we remained passive, perhaps it is not considered selecting them for death and therefore, the "מאי חזית" logic would not apply. This will be discussed further below (see VII-2-C, p. 25).

ii. Approach 2: Rashi (Source 3) explains that although the "maidar" derives the principle that מצות are pushed aside for the preservation of life from the words "ויחי בהם" (Vayikra 18:5, "and he shall live by them", Source 4), this "ויחי בהם-dispensation" does not extend to the prohibition against murder because of the "מאי חזית logic": If א would murder ב to save his own life, the intent of the "ויחי בהם-dispensation", i.e., preservation of a Jewish life, cannot be fulfilled because a Jewish life (ב’s life) will be lost through the very violation of the "maidar" (לָא תרוצו לְהַרְצוּ), i.e., transgression of the "maidar". In the absence of the "ויחי בהם-dispensation", the מצות must be observed even at the cost of his (א’s) own life. (See Figure 1, p. 5 for a schematic
Multifetal Pregnancy Reduction in Halacha

diagram of Rashi’s explanation). Rav Moshe, when discussing this Rashi, adds, “Therefore, we infer [from Rashi] that with regard to this [ורר וְאֵלֶּה יְבֵּר] iversal, his (α’s) life and the life of his friend (β) are equal” (Reference 3). Possibly, Rav Moshe inferred the equality of both lives (α and β) from Rashi’s explanation that the intent of the “וחָיָן הבָּהָם-dispensation” is negated when the preservation of one life is neutralized by the destruction of another equally valued life (see Appendix B, pp. 43-49, for further aspects of Rashi’s view of the logic, with Rav Moshe’s explanation).

Source 3: Rashi’s explanation of the מַאי חזית logic: Inapplicability of the “וחָיָן הבָּהָם-dispensation” in the “coerced murder” case (Talmud Bavli - Sanhedrin 74a):

| [The logic is]: α may not push aside his friend (β’s) life which entails two negative consequences, “תרתי”, a loss of (β’s) life and transgression of an עבירה (ריצח), in order to save himself [from being killed] which would only entail one negative consequence, “חדא”, a loss of (α’s) life, but he will not transgress (לֹא תרֵץ). |
| The Torah only permitted us to violate מַאי חזית based on the “וחָיָן הבָּהָם-dispensation” because a Jewish life is precious in the eyes of Hashem. |
| However, here, regarding [the transgression of] murder, [i.e., if α kills β, the “וחָיָן הבָּהָם-dispensation” will not apply for the following reason]: Since a life will be lost in any event, why should it be permitted to transgress? |
| Who says (literally: who knows) that your (α’s) life is dearer to Hashem than your friend (β’s) life? |
| Therefore, the word of Hashem (לֹא תרֵץ) may not be pushed aside. |

Source 4: Basis for the dispensation to suspend nearly all מצות for the preservation of human life: The “וחָיָן הבָּהָם-dispensation” (Vayikra 18:5 and Talmud Bavli - Yoma 85b).

| You shall observe my statutes and ordinances which a man shall do and live by them, I am Hashem. |
| Rav Yehuda said in the name of Shmuel: The words “וחָיָן البָּהָם” teach us that he shall live by them (מעמדה) and he shall not die by them. |

| וְיָשָׁרְתֶם אֶת חֻקֶּותִי וְאֶת מִשְׁפָּטֵי אֲשֶׁר יַﬠֲשֶׂה אֹתָם אַנִי יְהֹוָה וָחַי בָּהֶם. |
| אמר רב יהודה אמר שמואל ... וְיָשָׁרְתֶם בָּהָם. |
Figure 1: Rashi explains the logic as the basis for יeration אלא יター in the “coerced murder” case: The “dispensation” is inapplicable.
If $\alpha$ would murder $\beta$ to save his own life (Option 1), there would be two negative consequences: the loss of a life ($\beta$’s life) and violation of a מצוה (i.e., transgression of לא תרצח). On the other hand, if $\alpha$ remains passive (Option 2), only one negative consequence would occur: the loss of $\alpha$’s life, but no מצוה will transgress. The reason for the “וחי בהם”-dispensation is that a Jewish life ($ישראל נפש$) is dearer to Hashem than His מצות and thus, He prefers to forego His מצות in favor of preserving a $ישראל נפש$. However, here, since a life ($\beta$) will be lost in end, why should Hashem be willing to forego his מצוה (i.e., why should He allow $\alpha$ to transgress לא תרצח)?

The logic in the “coerced murder” case, according to Rashi:

- **חרי-גילוי** - two negative consequences vs. one negative consequence

**Option 1:**
- If $\alpha$ kills $\beta$ to save his own life
  - 2 negative consequences
  - "\(\times\)" Denotes the loss of a Jewish life ($ישראל נפש$) or a violation of a מצוה.

**Option 2:**
- If $\alpha$ remains passive
  - 1 negative consequence
  - "\(\checkmark\)" Denotes the fulfillment of a מצוה.
2. Concept of Pursuer - The דין רודף (Source 5):

**Definitions:**

- **Pursuer (רודף)**: Person who endangers the life of a prospective victim.
- **Pursued person (נרדף)**: The prospective victim, whose life is endangered by the רודף.

A. A pursuer who attempts to kill a prospective victim is called a רודף. The Torah authorizes the נרדף or anyone else to preemptively take the רודף's life to save the נרדף. This is called the דין רודף.

**Source 5**: Mishna - Sanhedrin 73a: The דין רודף: Saving the intended victim by killing the pursuer.

These are to be saved at the cost of their (attackers’) lives: One pursuing his fellow man to kill him ...  

B. For the purposes of this discussion, we will divide pursuers (רודפים) into two categories:

i. **Intentional רודף**: This category refers to the classic pursuer who intends to kill or endanger another person. This category may perhaps be expanded to a situation where a person displays blatant disregard for another’s life by engaging in an activity with the awareness that it may result in a loss of life even if his goal is not to bring about someone’s death.

ii. **Unintentional רודף**: This category refers to a pursuer who has no intention to endanger anyone, but nonetheless unwittingly poses a threat to another’s life. This type of pursuer may be a passive participant in a process that leads to endangerment of another person, without knowledge nor intent of any potential harmful consequences.

C. There are two approaches, as to whether the דין רודף applies only to (permit killing) intentional pursuers or to both intentional and unintentional pursuers.

i. **Intentional pursuit only**: According to the *Dina Dechayei* (authored by Rav Chaim Benveniste, Reference 4) and the *Minchat Chinuch* (authored by Rav Yosef Babad, Source 8, p. 8), the דין רודף only applies to cases of intentional pursuit.

ii. **Intentional and unintentional pursuit**: According to the *Chazon Ish* (authored by Rav Avrohom Yeshaya Karelitz, Reference 5; see pp. 57-58) and Rav Moshe (Source 15, p. 17), the דין רודף applies to cases of both intentional and unintentional pursuit.

D. According to the position that the דין רודף applies even to unintentional pursuit, in cases of MFP where there is a high risk of total fetal/neonatal death, perhaps it would be permitted to reduce one or more of fetuses based on the premise that they pursue after the other fetuses. This will be discussed further below (see VIII, 2-7, pp. 27-30).
Multifetal Pregnancy Reduction in Halacha

III. The “obstructed labor” situation: When can the mother be saved at the expense of the fetus’ life?

1. Mishna, Tractate Oholot (Source 6): ‘non-emerged fetus’ vs. ‘partially-emerged fetus’

This Mishna discusses the case of a woman in mortal danger during obstructed labor. The only way to save her life would be to dismember and remove the fetus. Before the fetus’ head has emerged (henceforth described as the ‘non-emerged fetus’), the fetus should be cut out (i.e., killed) to save his mother’s life. The Mishna’s reason to permit sacrificing the fetus is “because her life takes precedence over his life”. However, after the emergence of fetus’ head (henceforth described as the ‘partially emerged fetus’), we must allow the childbirth to proceed although the mother will die, because of the principle of אין דוחין, i.e., we may not push aside the fetus’ life to save his mother.

Source 6: Mishna - Oholot 7:6: “Obstructed labor” situation:
Source for the permissibility to save the mother at the expense of the unborn fetus.

A woman who is having difficulty giving birth (and her life is endangered), we cut the fetus within the womb and remove him limb-by-limb, because her life has precedence over his life. However, if his (i.e., the fetus’) head has emerged, we may not touch (i.e., kill) him, because we may not push aside one life on account of another life.

*According to the text in Talmud Bavli - Sanhedrin 72b

Table 1: Summary of the “obstructed labor” situation. Whose life is spared: the mother or the fetus?

<table>
<thead>
<tr>
<th>Case</th>
<th>Description</th>
<th>What is the Halacha?</th>
<th>Whose life is spared?</th>
<th>Reason stated in the Mishna</th>
</tr>
</thead>
<tbody>
<tr>
<td>‘non-emerged fetus’</td>
<td>Fetus is still totally in utero</td>
<td>Cut out the fetus</td>
<td>Mother</td>
<td>The mother’s life has precedence over the fetus’ life</td>
</tr>
<tr>
<td>‘partially-emerged fetus’</td>
<td>Fetus’ head has emerged during birth process</td>
<td>Remain passive</td>
<td>Fetus</td>
<td>We may not push aside one life to save another life</td>
</tr>
</tbody>
</table>

2. Gemara (Talmud Bavli) - Sanhedrin 72b (Source 7):

In this Gemara, רב חסדא states that a child pursuer may be killed to save his prospective victim. He posed the following challenge to רב הונא from the above Mishna in Oholot: Since the Mishna rules that we may not kill the ‘partially emerged fetus’ to save his mother even though he is the cause of her endangerment, it is apparent that the דין רודף is not applied to kill a child pursuer? The Gemara answers, “That (obstructed labor) case is different because she is being pursued by Heaven.” Two explanations of the Gemara’s answer are presented:
A. The *Minchat Chinuch* (Source 8), who believes the דינין רודף does not apply in cases of unintentional pursuit, understands the phrase, “משׁמיא קא רדפי לה - she is pursued by Heaven” to mean that, in fact, the ‘partially emerged fetus’ is not considered a רודף because physiology (childbirth), rather than volition, has endangered his mother’s life (per Rabbi Dr. Zalman Levine, Reference 6). Accordingly, the Gemara answers the above question on רב הונא by differentiating between the child pursuer and the ‘partially emerged fetus’, i.e., the דינין רודף applies to the former case because the child pursuer intends to kill his prospective victim but not to the latter case because the emerging fetus lacks volition.

B. The explanation of the Gemara’s answer, according to Rav Moshe Feinstein, will be discussed below (VI, 4-6, pp. 14-17).

**Source 7:** Talmud Bavli - Sanhedrin 72b: Does the דינין רודף apply to a child pursuer?

Source of the משׁמיא קא רדפי לה concept.

<table>
<thead>
<tr>
<th>תלמוד בבלי סנהדרין דף עב עמוד ב:בלי סנהד</th>
<th>אמר רב והנא קטין הורודף נתן ליהצילו בנו בנו.  ... אימר מחב בכתא לרב והנא קא רודפיו ליה.  ... היא הורודף.  בשאינו מלשנים קא רדפי ליה.</th>
</tr>
</thead>
</table>

| The Gemara in Sanhedrin states that a child pursuer may be killed to save his prospective victim. The Gemara asked from the Mishnah in Oholot, “… If his head has emerged, we may not touch him for we may not push aside one life on account of another person’s life.” But why not kill the fetus – he is a רודף (pursuer)? [The Gemara answers]: That [obstructed labor case] is different because she (i.e., the mother) is being pursued by Heaven. |

| The Gemara in Sanhedrin states that a child pursuer may be killed to save his prospective victim. The Gemara asked from the Mishnah in Oholot, “… If his head has emerged, we may not touch him for we may not push aside one life on account of another person’s life. But - why not kill the fetus – he is a רודף (pursuer)?” The Gemara answered, “that [obstructed labor case] is different because she is being pursued from Heaven.” Hence, the fetus is not a רודף and it is forbidden to save one life by taking another life since [the transgression of] murder is not pushed aside [to save a life]. |

**Source 8:** *Minchat Chinuch*, Mitzvah 296: The דינין רודף does not apply to unintentional pursuit.

(See Supplement 1, Source 3, p. 52, for a more extensive excerpt from the Minchat Chinuch).
IV. The “fugitive” situation: When can the townspeople save themselves at the expense of the fugitive’s life?

**Definitions:**

**Fugitive:** Refers to the individual hiding in the city that the hooligans wish to kill. The hooligans order the townspeople to hand the fugitive over to them.

**Townspeople:** Refers to the remainder of the people in the city who are ordered by the hooligans to either hand over the fugitive or else they will all be killed.

**מסירה:** Refers to the act of handing over a Jew to the gentiles.

1. The Tosefta in Terumot (Source 9) discusses a case in which a group of people (i.e., ‘townspeople’) are surrounded by hooligans who demand they hand over an individual (i.e., a ‘fugitive’) to be killed or else they will all be killed. The Tosefta and the Yerushalmi - Terumot (Source 10) distinguish between a case where the hooligans designate (i.e., single out) a specific victim to be delivered to them versus a case where they simply demand that the townspeople hand over any person to them. If the hooligans do not designate a specific victim, it is forbidden for the townspeople to hand over anyone even though everyone will then be killed. However, if the hooligans designate a specific victim to be handed over, under specified conditions, the townspeople may hand him over to save themselves. The paradigm presented by the Tosefta is the episode of **שבע בן בכרי** (**ש.ב.ב**) in Shmuel II, Ch. 20. After **ש.ב.ב** was a fugitive from justice for leading a revolt against **דוד המלך**, took refuge in the city Avel, the townspeople delivered him to **יואב**’s sieging army, thereby saving the lives of all the townspeople who otherwise would have been killed when the army invaded the city. Clearly, **ש.ב.ב** was a designated fugitive (and was liable to the death penalty for rebelling) as **יואב** stated, (ibid, verse 21) “**ש.ב.ב** has lifted his hand against the king, against David; give us him alone and I will depart from the city.”

Source 9: Tosefta Terumot 7:20: “Fugitive” situation *(Explanation is based on the Eitz Yosef on Bereishis Rabboh, 94).*

(See Supplement 1, Source 4, p. 53, for a more extensive explanation)

<table>
<thead>
<tr>
<th>If a group of people [were accosted by] gentiles who said to them, “Give us one of you and we will kill him; and if not, we will kill all of you,” [the ruling is]: Let them all be killed, and they may not give over one Jewish life to them.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>טפשתה מסכת חירים פרק ז הלכה כ</strong></td>
</tr>
<tr>
<td><strong>Source 1:</strong> Terumot 7:20: “Fugitive” situation (Explanation is based on the Eitz Yosef on Bereishis Rabboh, 94).</td>
</tr>
<tr>
<td>(See Supplement 1, Source 4, p. 53, for a more extensive explanation)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>But if the gentiles designated someone (i.e., a ‘fugitive’) in the manner that they designated <strong>ש.ב.ב</strong>, they should hand him over rather than all being put to death.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>אמר רבי יהודה בעל ברית ידידה</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>And if the fugitive is in the exterior [and he can escape] while the townspeople are in the interior [and are unable to escape]. However, if all of them are in the interior since [no one can escape and consequently] they will all be killed, they should hand him over to them rather than all being put to death.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>אמר רבי יהודה בעל ברית ידידה</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>If a group of people [were accosted by] gentiles who said to them, “Give us one of you and we will kill him; and if not, we will kill all of you,” [the ruling is]: Let them all be killed, and they may not give over one Jewish life to them.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>טפשתה מסכת חירים פרק ז הלכה כ</strong></td>
</tr>
<tr>
<td><strong>Source 1:</strong> Terumot 7:20: “Fugitive” situation (Explanation is based on the Eitz Yosef on Bereishis Rabboh, 94).</td>
</tr>
<tr>
<td>(See Supplement 1, Source 4, p. 53, for a more extensive explanation)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>But if the gentiles designated someone (i.e., a ‘fugitive’) in the manner that they designated <strong>ש.ב.ב</strong>, they should hand him over rather than all being put to death.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>אמר רבי יהודה בעל ברית ידידה</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>And if the fugitive is in the exterior [and he can escape] while the townspeople are in the interior [and are unable to escape]. However, if all of them are in the interior since [no one can escape and consequently] they will all be killed, they should hand him over to them rather than all being put to death.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>אמר רבי יהודה בעל ברית ידידה</strong></td>
</tr>
</tbody>
</table>
As it states, “And the woman approached all the people with her wisdom” (Shmuel II, Ch. 20, v. 22). She said to them, “Since he will be killed and you will be killed, give him over to them so that all of you will not be killed.”

Rabbi Shimon said, so she said to them, “Anyone who rebels against the kingdom of David, is liable to execution.”

2. Yet, the hooligans’ designation of a specific victim (in most cases) is not sufficient to permit handing the fugitive over. In the Tosefta (Source 9, third statement), Rabbi Yehuda states that the second requirement for permitting handover (מסירה) is that the fugitive must be unable to escape (‘fugitive without escape capability’) even if they do not hand him over. However, if the fugitive can escape (‘fugitive with escape capability’), it is forbidden to hand him over even though he was designated by the hooligans.

3. The permissibility of מסירה is subject to further dispute between Rabbi Yochanan and Rabbi Shimon Ben Lakish in the Talmud Yerushalmi (Source 10). Rabbi Yochanan maintains that the designated fugitive must liable to the death penalty (חייב מיתה) in order to permit handing him over, whereas Rabbi Shimon Ben Lakish believes that even if the fugitive was not liable to the death penalty, it is permitted to hand him over. Refer to Appendix A (pp. 35-41) for an explanation of the positions of Rabbi Yochanan and Rabbi Shimon Ben Lakish.

Source 10: Talmud Yerushalmi, Terumot 8:4: Fugitive situation: Dispute between Rabbi Yochanan and Rabbi Shimon Ben Lakish.

We learned: If groups of people, who were traveling on the road, were accosted by gentiles who said, “Give us one of you and we will kill him; and if not, we will kill all of you,” [the ruling is]: Even if all of them will be put to death, they should not hand over [even] one person of Israel. But if the gentiles designated someone, as in the קרבאelope episode, they should hand him over and not get killed.

Rabbi Shimon Ben Lakish said, This is providing he is liable to the death penalty like ב.ב.ש. was. But Rabbi Yochanan said, This applies even if he is not liable to the death penalty like ב.ב.ש.
V. Reason for the difference within the two obstructed labor and the two fugitive situations (Approach 1):

1. **Obstructed labor situation:** What is the reason that the mother’s life is prioritized only over the life of the ‘non-emerged fetus’, but not over the life of the ‘partially-emerged fetus’? The Sefer Meirat Einayim (סמ״ע; Source 11b) and the Minchat Chinuch (Supplement 1, Source 3, p.52) take the approach that the unborn (‘non-emerged’) fetus does not have the Halachic status of a living human being. These commentaries interpret Rashi’s statement regarding a fetus, “as long as he has not emerged into the air of the world, he is not a נפש” (Source 11a), to mean that a fetus is not deemed a Halachic life. As such, feticide does not constitute שפיכת דמים (murder) and therefore, the fetus’ life may be pushed aside to save the mother, just as the imperative to save lives (פיקוח נפש) pushes aside all מצות (other than murder, idolatry and illicit relations). However, once the fetus’ head emerges, since he has the full Halachic status of a living being, killing him constitutes שפיכת דמים and therefore, we must remain passive so as not to push aside one life on account of another life.

**Source 11a-b:** Rashi in Sanhedrin (11a) and the Sefer Meirat Ainayim (סמ״ע) on Shulchan Aruch (11b):

**Status of the ‘non-emerged fetus’** (See Supplement 1, Source 2, p. 51, for full text of Rashi):

**Source 11a:**
This is referring to a woman who is having difficulty giving birth and her life is endangered. The first section of the Mishna states that the midwife extends her hand, cuts him and removes him limb-by-limb. As long as he (i.e., the fetus) has not emerged into the air of the world, he is not a נפש (i.e., a life) and it is permitted to kill him to save his mother.

**Source 11b:**
Nonetheless, while he is still in utero, it is permitted to dismember him even though he is alive because there is no name (i.e., status) of a נפש on him before he emerges into the air of the world. The proof is from the fact that one who strikes a pregnant woman aborting her pregnancy, must pay restitution for the fetuses, but there is no name of a murderer or death penalty upon him.

2. **Fugitive situation:** Why is it prohibited to hand over a ‘fugitive with escape capability’ while it is permitted to hand over a ‘fugitive without escape capability’? The Chasdei Dovid (authored by Rav Dovid Pardo, Source 12) explains this distinction based on the logic of מאי חזית. If the fugitive has the capability to escape, the townspeople have two theoretical options: (1) they could either allow the fugitive to escape and they will all be killed, or (2) they could save themselves by handing over fugitive to be killed. This is the standard מאי חזית dilemma, i.e., Why do you presume that the townspeople’s blood is redder than the fugitive’s blood? Accordingly, the townspeople must remain passive and allow
the fugitive to escape. However, if the fugitive has no capability to escape, the logic does not apply since he cannot be saved even if the townspeople do not hand him over. Since the entire basis for the Halacha of יָהַרגְהוּ וְאֵל יָעַבְרֹה is the מַאי חֶזְיָה logic, when the מַאי חֶזְיָה logic does not apply, i.e., if he is unable to escape, it is permitted to hand him over (See Supplement 2, p.46, paragraph 6a-b, for further explanation of the basis to permit מסירה).

Source 12: Chasdei Dovid on the Tosefta (Source 9): Basis for differentiating between the ‘fugitive with escape capability’ and the ‘fugitive without escape capability’: The מַאי חֶזְיָה logic.

(See Supplement 1, Source 5, p. 54, for a more extensive excerpt from the Chasdei Dovid).

A. This explanation fits well with the opinion of the Minchat Chinuch that מַאי חֶזְיָה is called אַבֵּי זְרֵא דְשָׁפְכָּת דְּמָיָה – i.e., an “ancillary form” of murder. Accordingly, just as the ruling of יָהַרגְהוּ וְאֵל יָעַבְרֹה by שָׁפְכָּת דְּמָיָה is based on the מַאי חֶזְיָה logic, the ruling of יָהַרגְהוּ וְאֵל יָעַבְרֹה by מסירה is also based on the מַאי חֶזְיָה logic. Therefore, since the מַאי חֶזְיָה logic is inapplicable when the fugitive cannot escape, it is permitted to hand him over.

B. On a deeper level, the Chasdei Dovid’s understanding can be explained as follows: Perhaps the Halacha of יָהַרגְהוּ וְאֵל יָעַבְרֹה only dictates that one must remain passive (i.e., in the “coerced murder” case) when only one of the two parties will be killed and the only question is which of the two shall be killed. Since we don’t know whose life is more valuable, the logic dictates that we must remain passive rather than arbitrarily choosing one party to be killed. However, since the ‘fugitive without escape capability’ will be killed regardless of which option the townspeople choose, there is no reason to remain passive since we are not choosing any person for death. The only choice is whether to have all the townspeople killed along with the fugitive or to spare them, for which we may argue that מַאי חֶזְיָה does not pertain.
Table 2: Summary of Approach #1 to explain the different rulings in the obstructed labor and fugitive situations:

Based on the position that an unintentional pursuer does not have a status of a רודף⁴⁻².

<table>
<thead>
<tr>
<th>Type of Situation</th>
<th>Sub-category</th>
<th>Who will be saved, as a consequence of choosing the ________ option?</th>
<th>Is the active option a de facto selection? who shall live vs. who shall die?</th>
<th>Is the active option considered שפיכת דמים (murder)?</th>
<th>Does the מאי חזית logic apply to forbid choosing the active option?</th>
<th>How does the Halacha decide? which option?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obstructed labor</td>
<td>non-emerged fetus</td>
<td>Mother</td>
<td>Fetus</td>
<td>Yes</td>
<td>By terminating the fetus, we are choosing that the mother, rather than the fetus, will live.</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>partially-emerged fetus</td>
<td>Mother</td>
<td>Fetus</td>
<td>Yes</td>
<td>The fetus now has a ‘נפש’ status</td>
<td>Yes</td>
</tr>
<tr>
<td>Fugitive</td>
<td>with escape capability</td>
<td>Townspeople</td>
<td>Fugitive</td>
<td>Yes</td>
<td>Fugitive will escape if we remain passive</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>without escape capability</td>
<td>Townspeople</td>
<td>No one</td>
<td>No</td>
<td>Fugitive will be killed even if we remain passive</td>
<td>Yes</td>
</tr>
</tbody>
</table>

¹Dina Dechayai (see Supplement 1, Source 6c, pp. 54-55)
²Minchat Chinuch (Source 8, p. 8)
³The active option is as follows: In the ‘obstructed labor’ situation: feticide; in the ‘fugitive’ situation: מסירה (handing him over).
⁴Based on the Chasdei Dovid (Source 12, p. 12)
⁵Rish Lakish maintains that מסירה is only permitted if there is a death sentence against the ‘fugitive without escape capability’.

13
VI. Reason for the difference within the two obstructed labor and the two fugitive situations (Approach 2):

1. According to Rav Moshe Feinstein and the other Halachic authorities who maintain that the דין רודף applies even to an unintentional רודף, both the fetus and the fugitive have the status of a רודף since they (albeit unintentionally) pose a danger to the mother or the townspeople, respectively. Accordingly, the permissibility to kill the ‘non-emerged fetus’ or to hand over the ‘fugitive without escape capability’ is based on the דין רודף. Rav Moshe (Reference 7), as well as Rav Chaim Soloveitchik (Reference 8) and Rav Elazar Menachem Man Shach (Reference 10), derive this approach from the Rambam (Source 13) who states that it is permitted to kill the ‘non-emerged fetus’ because he is considered a רודף after his mother.

Source 13: The Rambam’s view: The fetus is viewed as a רודף after the mother.

This is one of the negative commandments not to take pity on the life of a pursuer. On this basis, our Sages ruled regarding a woman who is having difficulty giving birth (and her life is endangered), that it is permitted to cut out the fetus in utero, either medicinally or manually, because the fetus is considered a pursuer after her to kill her. However, if [the fetus’] head has emerged, we may not touch (i.e., kill) him since we may not push aside one life on account of another life and this is the natural order of the world.

2. Rav Moshe deduces from the Rambam that a fetus is deemed a living being to the extent that feticide is included under the prohibition against murder (לא תרצח) unless the mother’s life is threatened. If feticide was not included under the prohibition of לא תרצח, it would not be necessary to invoke the דין רודף to authorize saving the mother at the fetus’ expense since all prohibitions (other than the three prohibitions mentioned above) are pushed aside for the sake of saving lives (פיקוח נפש).

3. However, according to this view, since intent is not needed to be considered a רודף, the ‘partially-emerged fetus’ should also be considered a רודף and therefore, should be killed to save his mother? What is the basis for the distinction in Halacha between the ‘non-emerged fetus’ and the ‘partially emerged fetus’? Similarly, if the basis for handing over the fugitive is his status as a רודף, why is there a distinction between a fugitive who can escape and a fugitive who cannot escape? In both cases, he endangers the lives of the townspeople and should be handed over to save them?

4. To explain Rav Moshe’s resolution of this dilemma, we must present his explanation of the phrase, "משรามטא קא רדפי ל"ז "she is being pursued by Heaven", which the Gemara (Source 7, p. 8) states is the reason the ‘partially-emerged fetus’ must not be harmed even to save his mother. According to Rav Moshe’s explanation, the concept applies equally to the ‘partially-emerged fetus’ and ‘fugitive with escape capability’ cases. The following is the premise of his explanation:
Multifetal Pregnancy Reduction in Halacha

A. The obstructed labor and fugitive situations are cases of “bidirectional pursuit”:

i. In the obstructed labor situation, the mother and fetus mutually pursue each other;

ii. In the fugitive situation, the fugitive and townspeople mutually pursue each other.

**Definition:** “Rodef-א” = fetus or fugitive and “Rodef-ב” = mother or townspeople

**Note:** The terms “opposing רודפים” or “opposing parties” denote a confrontation between “Rodef-א” and “Rodef-ב”.

B. In the obstructed labor and fugitive situations, Heaven has arranged that there would be an “inverse relationship” between the respective survivals of Rodef-א and Rodef-ב:

i. If the passive option is chosen, Rodef-א will live and Rodef-ב will die;

ii. Conversely, if the active option is chosen, Rodef-ב will live and Rodef-א will die.

C. The reason why the fetus is considered a רודף despite having no intention to pursue or harm his mother, is because his only path to survival is by allowing the birth to proceed, which will cause his mother’s death. Similarly, the fugitive is considered a רודף because his only path to survival is by escaping, which will lead to the death of the townspeople.

D. One might ask, it is understandable that the fetus and fugitive are considered pursuers (רודפים) since their “arrival on the scene” threatens the lives of mother or townspeople, respectively. However, the mother and townspeople merely wish to defend themselves from the threat imposed on them. If so, how can they be defined as pursuers?

E. Rav Moshe writes (Source 14) that the message of משׁמיא קא רדפי לה is: Despite the fact that the mother’s life was not endangered until after the “arrival” of the fetus, we do not view the fetus as a unilateral רודף. Rather, Heaven ordained the “arrival” of the fetus with the purpose that both he and his mother would live, and only after this, the situation of danger befell both equally. My limited understanding of Rav Moshe’s explanation is: Since Heaven designed the (obstructed labor or fugitive) situation with an inverse relationship between the respective survivals of Rodef-א and Rodef-ב, none of which intended to cause harm, therefore, neither party is considered a greater contributor or more responsible for this situation. Accordingly, the same logic that defines the fetus and fugitive as pursuers, also defines the mother and the townspeople as pursuers since their only path to survival is through the death of the fetus and fugitive, respectively.

**Note:** Rav Moshe’s understanding of Rashi’s statement regarding a fetus, “as long as he has not emerged ... he is not a נשא,” can be found in Supplement 2, pp. 66, and is explained in Appendix D, p. LVII.
5. Thus, the questions in paragraphs 3 and 4D (pp. 14 and 15) can be answered by explaining that the משמיא קא רדפי לָה concept tells us that we view the obstructed labor or fugitive situations such that Heaven has arranged that רודף א and רודף ב are equal participants in an impasse in which each one’s survival is dependent on the other’s demise, thus rendering both of them equal pursuers after each other. Consequently, we cannot apply the דין רודף to kill the ‘partially-emerged fetus’ or hand over the ‘fugitive with escape capability’ because of the חזיתמאי logic. Why should you presume that רודף א pursues after רודף ב more than רודף ב pursues after רודף א? See Source 15; also Figures 2-3, pp. 18-19, for schematic diagrams.

6. Rav Moshe points out that the Gemara’s answer, משמיא קא רדפי לָה, is identical (or, similar) to an answer in the Talmud Yerushalmi (Source 16). The Yerushalmi attempted to prove that the ‘partially-emerged fetus’ does not apply to a child pursuer, from the prohibition to kill the ‘partially-emerged fetus’ (stated in the Mishna in Oholot). The Yerushalmi then refuted this proof with the following statement, "שנייא היא תמן של אין את יודע מי הורג את מי - "That case (of the emerging fetus) is different because you do not know who is killing whom." Rav Moshe explains the meaning of the answer "you do not know who pursues whom", i.e., the mother and the ‘partially-emerged fetus’ equally pursue each other and therefore, the דין רודף cannot be applied because of the חזיתמאי logic. The Divrei Yissachar (Reference 9) and Rav Shach (Reference 10) also understand that our Gemara’s answer, משמיא קא רדפי לָה, aligns with the Yerushalmi’s answer of "you do not know who pursues whom".
**Multifetal Pregnancy Reduction in Halacha**

**Note:** The term “מאי חזית” described by Rav Moshe is identical to that discussed above in Section II-C, pp. 3-5. However, to prevent confusion, we will refer to this term when used by Rav Moshe in the context of (i.e., in the ‘partially-emerged fetus’ and ‘fugitive with escape capability’ cases), as “Rodef”.

**Source 15:** Rav Moshe’s explanation of the concept in the ‘partially emerged fetus’ and ‘fugitive with escape capability’ cases. *(See Supplement 2, pp. 65-66; 68-70, for more extensive excerpts).*

We must explain that the reason [to permit handing over the fugitive] is that he is considered a רודף because the townspeople will be killed on account of him. [One may question] since the fugitive had no intention to pursue them, [the] רודף should not apply because of the reasoning [as in the case of the ‘partially-emerged fetus’]? We can answer that this reasoning is only effective [to protect the fugitive] if he could escape and hide. Since he has no intent to pursue, it is only Heaven Who arranged that it is impossible for both parties to survive, for if they spare the fugitive, the townspeople will die and if they spare themselves, the fugitive will die. This is analogous to the obstructed labor case after emergence of the fetus’ head, where he and his mother are considered [equal] pursuers after each other. Although the fetus is the cause [of his mother’s danger], since he has no intent [to harm], we cannot permit [killing him] on the basis of the רודף logic — *Why do you presume that the fetus pursues after his mother more than she pursues after the fetus?*

**Source 16:** Talmud Yerushalmi - Shabbat 14: 4: The ‘partially emerged fetus’ does not apply to the ‘partially emerged fetus’.

*(See Supplement 1, Source 7b, p.55, for the commentary of the Pnei Moshe on the Yerushalmi).*

Rav Chisda asked, Can you save an adult [who is being pursued], by killing a child [pursuer]? Rav Yirmiya answered, Is this not addressed in the Mishnah *(in Oholot)*, “If *most [of the fetus] has emerged, we may not touch him because we may not push aside one life on account of another life?” Rav Yosse son of Rav Bon, quoting Rav Chisda said, That case [of the emerging fetus] is different because you do not know who is killing whom.

---

*This text of the Mishna in Oholot differs from the version quoted in the Talmud Bavli (see Source 7, p. 8).*
Multifetal Pregnancy Reduction in Halacha

Figure 2: The ‘partially-emerged fetus’ case, as explained by Rav Moshe: The respective survivals of the fetus and mother are “inversely related”: If the active option is chosen (i.e., if the fetus is killed), the mother will live at expense of the fetus' life. If the passive option is chosen, the fetus will be born while his mother will die. Therefore, the fetus and his mother pursue each equally and the רודף logic determines that we may not apply the דין רודף.

- “”: Denotes the saving of a life
- “”: Denotes the loss of a life
Figure 3: The ‘fugitive with escape capability’ case, as explained by Rav Moshe: The respective survivals of the fugitive and townspeople are “inversely related”: If the active option is chosen (i.e., if the fugitive is handed over), the townspeople will live at the expense of fugitive’s life. If the passive option is chosen, the fugitive will escape and live while the townspeople will be killed. Therefore, the fugitive and the townspeople pursue each other equally and the מאי חזית Rodef logic determines that we may not apply the דין רודף Rodef.

“✓” : Denotes the saving of a life
“✗” : Denotes the loss of a life
7. However, this “flips” our original question (in paragraph 3, p. 14) “on its head”. By his own definition of משמיא קא רדפי לה, how can Rav Moshe explain the permissibility to kill the ‘non-emerged fetus’ or to hand over the ‘fugitive without escape capability’ based on the דין רודף? Since all the obstructed labor and fugitive situations involve bidirectional רודס, we always have a מאי חזית dilemma and therefore, the דין רודף should not apply?

8. Rav Moshe explains that in the ‘non-emerged fetus’ and ‘fugitive without escape capability’ cases, Rodef-א has a lower “level” of life than Rodef-ב. In the ‘non-emerged fetus’ case, the fetus has an “incomplete נפש” status whereas the mother has a “complete נפש” status. Similarly, in the ‘fugitive without escape capability’ case, the fugitive only has transient life (חיי שעה, i.e., short stay of execution until the hooligans invade the city and kill everyone if the townspeople do not hand him over), while the townspeople have the potential for normal life expectancy (חיי עולם) if they hand him over. Therefore, we say that there is a “differential” (abbreviated with the symbol “Δ”) between the respective “life-levels” of Rodef-א and Rodef-ב. Only Rodef-א pursues after this Δ and therefore, with respect to this Δ, only Rodef-א is a רודף. Since they are not equal pursuers (with respect to the Δ), Rodef-א is assigned the “definitive רודף” status and thus, there is no מאי חזית Rodef dilemma. Accordingly, the דין רודף will be applied to permit sacrificing the ‘non-emerged fetus’ or ‘fugitive without escape capability’ to save the mother or townspeople, respectively.

Note: See Table 3, p. 21 and Figure 4, p. 22, for depiction of the “differential” (Δ) concept.

Note: The expression “definitive רודף” status, in reference to Rodef-א (the fetus or fugitive), is not intended to suggest that Rodef-א is considered more responsible (or a greater contributor) than Rodef-ב for the perilous situation they are in. It is merely a convention that was created to refer to Rav Moshe’s explanation that Rodef-א alone pursues a “differential” between their “life levels”.

A. In the case of ‘non-emerged fetus’, only the fetus pursues after the נפש-Δ between the complete נפש of the mother and his own incomplete נפש. Therefore, the fetus has the “definitive רודף” status and the דין רודף will permit killing him to save his mother. However, after the emergence of his head, since both the mother and the fetus have a complete נפש, there is no נפש-Δ between them. Therefore, they are equal דין רודף and the דין רודף cannot be applied because of the מאי חזית Rodef logic (Source 17).

B. Similarly, in the case of the ‘fugitive without escape capability’, only the fugitive pursues after the לifespan-Δ between the townspeople’s normal life expectancy (חיי עולם) and his own transient life (חיי שעה). Therefore, the fugitive has the “definitive רודף” status and the דין רודף will permit handing him over to save the townspeople (see Figure 5, p. 23, for a
schematic diagram of the ‘fugitive without escape capability’ case). However, if he can escape, since both the fugitive and the townspeople have potential for life expectancy-Δ between them. Therefore, they are equal דרי של ׳רוּף׳ and the רודף cannot be applied because of the logic (Source 18).

Source 17: Rav Moshe’s explanation why the ‘non-emerged fetus’ (See Supplement 2, pp. 65-66, 70-71):

However, [the ‘non-emerged’] fetus does not yet have a complete נפש, as we deduce from the fact that one does not incur capital liability (for killing an unborn fetus). Therefore, regarding the advantage (i.e., the נפש-Δ) that the mother has over the fetus – that she is a complete נפש while he is not yet a complete נפש – only the fetus is a רוּף and his mother is not a רוּפת (pursuer). Therefore, the רוּף רודף applies to the fetus because of the advantage that the mother has over him.

Source 18: Rav Moshe’s explanation why the ‘fugitive without escape capability’ (See Supplement 2, pp. 67, 69):

However, if it is evident that everyone will die [including the fugitive, if they remain passive] ... the townspeople only pursue after the fugitive’s transient life (חיי שעה) while he pursuers after all their life ⟨חיי עולם - normal life expectancy⟩. Thus, regarding the essential life – which is the advantage (i.e., the life expectancy-Δ) that the townspeople have over the fugitive’s life – the fugitive pursues after them while they do not pursue after him at all. Thus, the רוּף רודף applies to the fugitive despite his lack of intent to harm, since he nevertheless is the cause [of their impending danger].

Table 3: Description of “differentials” between the participant’s respective “levels” of life in the ‘non-emerged fetus’ and ‘fugitive without escape capability’ cases

<table>
<thead>
<tr>
<th>Case</th>
<th>Participant</th>
<th>“Level” of life</th>
<th>Type of “differential”</th>
<th>Abbreviation for “differential”</th>
</tr>
</thead>
<tbody>
<tr>
<td>‘non-emerged fetus’</td>
<td>Fetus</td>
<td>incomplete נפש</td>
<td>נפש-differential נפש-Δ</td>
<td>דחי life expectancy-differential life expectancy-Δ</td>
</tr>
<tr>
<td></td>
<td>Mother</td>
<td>complete נפש</td>
<td></td>
<td></td>
</tr>
<tr>
<td>‘fugitive without escape capability’</td>
<td>Fugitive</td>
<td>דחי נפש</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Townspeople</td>
<td>דחי עולם</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Figure 4:  The “differential” (Δ) in the ‘non-emerged fetus’ and ‘fugitive without escape capability’ cases: The term “level” refers to “life-level”, either the “נפש-level” or the “life expectancy-level”. Rodef-א’s “Level 2” is higher than, and is inclusive of, Rodef-א’s “Level 1”. The Δ refers to the “differential” between “Level 1” and “Level 2”. Accordingly, only Rodef-א pursues after the Δ and therefore, he has the “definitive רודף” status.

<table>
<thead>
<tr>
<th>Case</th>
<th>Rodef-א</th>
<th>Rodef-ב</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Name</td>
<td>“Level 1”</td>
</tr>
</tbody>
</table>
| ‘non-emerged fetus’              | Fetus   | incomplete נפש-לא מלא | Mother | complete נפש-
|                                 |         |           |         |           |
| ‘fugitive without escape capability’ | Fugitive | רוחו פטור | Townspeople |_normal life expectancy |
|                                 |         | transient life |         |           |

Unidirectional pursuit

Bidirectional pursuit
Figure 5: The ‘fugitive without escape capability’ case: If the active option is chosen (i.e., if the fugitive is handed over), the townspeople will live at the expense of the fugitive’s life. If the passive option is chosen, both the fugitive and townspeople will only haveחיי שׁעה (temporary life extension). Since there is a *life expectancy-Δ* between them, they do not pursue each other equally and there is no Rodef dilemma.

```
Active option
Hand over fugitive
(מסורה)

Fugitive

Townspeople

‘fugitive without escape capability’ case

Hand over fugitive
(מסורה)

Fugitive

Townspeople

Passive option
No hand over

Fugitive

Townspeople

"✓": Denotes the saving of a life

"✗": Denotes the loss of a life

"✓ ✓": Denotes the temporary extension of life
```
Table 4: Summary of Approach #2, (approach of Rav Moshe), to explain the different rulings in the obstructed labor and fugitive situations:

Based on the position that an unintentional pursuer has a status of a רודף.

<table>
<thead>
<tr>
<th>Type of Situation</th>
<th>Sub-category</th>
<th>Who will be saved, as a consequence of choosing the ________ option?</th>
<th>Does $^2\text{Rodef}<em>\text{א}$ pursue a $^3\Delta$ between the “life-levels” of $\text{Rodef}</em>\text{א}$ and $\text{Rodef}_\text{ב}$?</th>
<th>$^4$Does משמיא קא רדפי לה apply?</th>
<th>Who is assigned “definitive-רודף” status?</th>
<th>How does the Halacha decide? which option?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obstructed labor</td>
<td>non-emerged fetus</td>
<td>Mother’s complete נפש - Fetus’ incomplete נפש</td>
<td>Yes The fetus pursues the $^3\Delta$ between the mother’s complete נפש and his own incomplete נפש.</td>
<td>No</td>
<td>Fetus</td>
<td>Active (Feticide)</td>
</tr>
<tr>
<td></td>
<td>partially-emerged fetus</td>
<td>Mother’s complete נפש - Fetus’ complete נפש</td>
<td>No The fetus and mother equally pursue each other’s complete נפש.</td>
<td>Yes</td>
<td>No one</td>
<td>Passive</td>
</tr>
<tr>
<td>Fugitive</td>
<td>with escape capability</td>
<td>$^5\text{TP’s}$ חיי עולם - Fugitive’s חיי עולם</td>
<td>No The fugitive and TP equally pursue each other’s חיי עולם.</td>
<td>Yes</td>
<td>No one</td>
<td>Passive</td>
</tr>
<tr>
<td></td>
<td>without escape capability</td>
<td>$^5\text{TP’s}$ חיי עולם - Fugitive’s חיי שׁעה</td>
<td>Yes The fugitive pursues the $^3\Delta$ between the TP’s חיי עולם and his own חיי שׁעה.</td>
<td>No</td>
<td>Fugitive</td>
<td>Active (מסירה)</td>
</tr>
</tbody>
</table>

$^1$The active option is as follows: In the obstructed labor situation: feticide; in the fugitive situation: hand-over (מסירה).  

$^2\text{Rodef}_\text{א}$ = fetus or fugitive; $\text{Rodef}_\text{ב}$ = mother or townspeople; $^3\Delta$ = “differential”, either a נפש-$\Delta$ or a life expectancy-$\Delta$.  

$^4$For simplicity purposes, this can be regarded as synonymous with: “Is there a תzinאTrouble Rodef dilemma?”.

$^5\text{TP}$ = Townspeople  

$^6$חיי עולם = Normal life expectancy; $^7$חיי שׁעה = Transient life (expectancy);  

$^8$Rish Lakish maintains that מסירה is only permitted if the hooligans imposed a “death sentence” (they have a grievance) against the ‘fugitive without escape capability’.
VII. Application of אין דוחין נפשׁ because נפשׁ to the multifetal pregnancy (MFP) situation:

1. The following discussion refers to a hypothetical sextuplet pregnancy (6 fetuses), in which:
   A. There is a high probability of fatality for all fetuses either in utero or shortly after birth, if MPR is not performed. In this scenario, “F_{reduce}” = the 3 fetuses that the physician wishes to reduce, and “F_{save}” = the remaining 3 fetuses that the physician wishes to save.
   B. All fetuses have the same potential to survive if other fetuses are reduced.
   C. No fetus displays a gross abnormality or malformation (based on ultrasound imaging studies).

2. In light of the above discussions, several arguments can be made to either allow or prohibit MPR:
   A. On one hand, perhaps the principle of אין דוחין would forbid performing MPR even though it would increase the survival probability of the remaining fetuses, since we would be forced to save some lives at the expense of others.
   B. On the other hand, just as we are permitted to hand over the ‘fugitive without escape capability’ where everyone would die if the townspeople remained passive, perhaps we should be permitted to reduce some of the fetuses to save the others if all fetuses are otherwise likely to perish (without MPR). We have looked at two different approaches for the permissibility to hand over the ‘fugitive without escape capability’ (i.e., the permissibility for מסירה). The logic inherent in each of these approaches may also provide a basis to permit MPR.
      i. Approach 1 - Chasdei Dovid: The permissibility for מסירה is based on the inapplicability of the דין חזית logic. Since the fugitive will die whether or not the townspeople hand him over, the logic of דין חזית does not apply.
      ii. Approach 2 - Rav Moshe: The permissibility for מסירה is based on the דין חזית since the fugitive is considered a רודף after the townspeople.
   C. Rabbi Dr. Zalman Levine (Reference 6) suggests that the דין חזית logic may not apply in a MFP situation where there is a high risk of total fetal/neonatal death without reduction. Therefore, just as the inapplicability of the דין חזית logic permits מסירה (when the fugitive is unable to escape, according to the Chasdei Dovid, Approach 1), this approach may also permit MPR.
   D. According to Rav Moshe (Approach 2), perhaps each fetus in an MFP situation has the status of a רודף after the other fetuses. Just as the דין חזית permits מסירה (when the fugitive is unable to escape, according to Rav Moshe) despite the absence of volition to harm or wrongdoing, perhaps the דין חזית will permit MPR if the passive option is likely to lead to total fetal/neonatal death.

This approach is problematic, however, because Rav Moshe explains that the permissibility to hand over the ‘fugitive without escape capability’ is based on the fugitive being considered the
Multifetal Pregnancy Reduction in Halacha

“definitive רודף” due to the life expectancy-∆ between himself and townspeople. By MFP, there is no life expectancy-∆ between the fetuses, assuming all have the same survival probability. Accordingly, even if the fetuses are considered pursuers (רודפים), they all equally pursue after each other, and thus, we have a רודף dilemma: Why do you presume that that F_reduce pursues after F_save more than F_save pursues after F_reduce? Apparently, it does not seem possible for the רודף to permit MPR?

3. In personal correspondence with Rabbi Dr. Zalman Levine (Reference 6), Rav Yosef Sholom Elyashiv ruled that the single deciding factor for permitting MPR is the probability of mortality for each of the fetuses. Rav Elyashiv permitted MPR (in a specific case presented to him by Rabbi Dr. Levine) if the probability of all fetuses perishing was greater than 50%. In addition, Rav Elyashiv ruled that major disability or morbidity (which is common in surviving multifetal-pregnancy babies) may not be considered a factor in allowing MPR.

4. In Sefer Nishmat Avraham (Source 19), Rabbi Dr. Abraham records the ruling of Rav Shlomo Zalman Auerbach (henceforth referred to as “Rav Shlomo Zalman”) who permitted MPR in “cases where the pregnancy is at high risk” on the basis that “each of the fetuses has the status of a רודף”. I do not know the risk level necessary to be considered a “high risk” to the pregnancy, in order to permit MPR according to Rav Shlomo Zalman. Similarly, Rav Mordechai Eliyahu wrote that if all fetuses will otherwise die, each fetus is a רודף after the others and therefore, MPR would be permitted (Reference 11).

Source 19: Rav Shlomo Zalman Auerbach permits MPR in certain cases of high risk to the pregnancy based on the דין רודף; Sefer Nishmat Avraham. (See Supplement 1, Source 11, p. 58, for a more extensive excerpt).
VIII. Possible approach to permitting MPR based on Rav Moshe Feinstein’s explanation of the דִּין רְודָף:

Note: Rav Moshe has not published any ruling on the permissibility of MPR (possibly because this procedure was not yet clinically well established during his life time). Thus, any thoughts below are intended as merely an attempt to logically extend Rav Moshe’s Halachic analysis from the fugitive and obstructed labor situations discussed above, to multifetal pregnancy.

1. Rav Hershel Schachter (Reference 12) explains that the position of Rav Moshe, i.e., the prohibition of feticide is included under לא תרצח, is based upon the eventuality that a fetus would become a viable born person. Therefore, if the physicians state with near-certainty that all fetuses will die unless MPR is performed, since the eventuality of a viable born person does not exist, there would be no prohibition of לא תרצח. Therefore, MPR would be permitted to save the remaining fetuses in such cases. According to this approach, Rav Moshe would presumably not agree with Rav Elyashiv that a mortality risk of merely greater than 50% suffices to permit MPR. Rather, a much higher mortality risk would likely be required to permit MPR.

2. Above (VII-2-D, pp. 25-26), we suggested the possibility that perhaps Rav Moshe would consider each fetus as a רודף after the others and accordingly, the דין רודף would provide the basis for permitting MPR, which is the position of Rav Shlomo Zalman. However, we challenged this supposition: Since there is no life expectancy-∆ between fetuses, the מאי חזית Rodef logic (Why do you presume that FReduces pursues after FSaves more than FSaves pursues after FReduces ?) would prevent the דין רודף from permitting MPR?

3. I would suggest that the key to determining whether the דין רודף can be applied to permit MPR is by assessing if the concept of משלימה קא רדפי לה extends to the MFP situation. If the concept applies to MFP, then, just as in the ‘partially-emerged fetus’ and ‘fugitive with escape capability’ cases, we cannot apply the דין רודף and thus, MPR would be forbidden. Conversely, if the concept does not apply to MFP, the דין רודף could be applied (just as in the ‘fugitive without escape capability’ case) and MPR would be permissible.

4. For purposes of simplicity, I suggest that Rav Moshe’s explanation how the משלימה קא רדפי לה concept applies in the ‘partially-emerged fetus’ and ‘fugitive with escape capability’ cases, may be presented as follows: There are two ends of the “active-vs.-passive option spectrum” (abbreviated as “A-vs.-P spectrum”): The “passive end” and the “active end”. At the “passive end”, Rodef א (the fetus or fugitive) will live at the expense of Rodef ב (the mother or townspeople); whereas, at the “active end”, Rodef א will live at expense of the Rodef ב (see Figures 2-3, pp. 18-19). Since we see that their respective survivals are inversely related, it is evident that Heaven has arranged that Rodef א and Rodef ב are equally “opposing רודפים”. Accordingly, we have no basis to assign the “definitive רודף” status to one party more than to the other and thus, the דין רודף cannot be applied.
5. How does this help us determine if משלמא קא רדפי לה applies to the MFP situation? Two opposing perspectives are suggested, to either support or oppose applying משלמא קא רדפי לה to MFP.

A. On one hand, there are two analogies between the MFP situation and the ‘fugitive with escape capability’ case: (1) Each fetus in the MFP situation has a similar potential to survive if other fetuses are reduced, and thus, there is no life expectancy-∆ between the fetuses; (2) Since $F_{\text{save}}$ can only live if $F_{\text{reduce}}$ is reduced and visa versa, therefore, the respective survivals of all the fetuses are inversely related. From this vantage point, we should say that all fetuses pursue after each other equally. Accordingly, just as in the ‘fugitive with escape capability’ case, the משׁמיא קא רדפי לה concept should apply and the רודף דין would not apply to permit MPR.

B. On the other hand, a strong argument could be made against applying משלמא קא רדפי לה to MFP, as follows: At the “passive end” of the “A-vs.-P spectrum” (i.e., if MPR is not performed), no fetus is likely to live at the expense of another fetal life since there is a high risk of total fetal/neonatal death. Only at the “active end” (i.e., if MPR is performed), some fetuses (i.e., $F_{\text{save}}$) will live at the expense of the others (i.e., $F_{\text{reduce}}$) (see Figure 6, p. 31). Accordingly, the survivals of $F_{\text{save}}$ and $F_{\text{reduce}}$ are not truly inversely related in the same manner as in the ‘partially-emerged fetus’ and ‘fugitive with escape capability’ cases. Therefore, we would not say that Heaven has arranged that all parties pursue each other equally. Accordingly, the משׁמיא קא רדפי לה concept would not apply to the MFP situation in question and the רודף דין could permit MPR despite the absence of a life expectancy-∆.

6. Thus, we have arguments both to support and oppose applying משלמא קא רדפי לה to the MFP situation. I would like to suggest the following approach why the משׁמיא קא רדפי לה concept should not apply to the MFP situation and thus, the רודף דין would permit MPR.

A. In the (Reference 8), Rav Chaim states, “The רב"ע understands that the רהו"ע’s authorization for killing the רודף is based on the imperative of saving the life of the pursued party (הצלת הנרדף).” In the ‘partially-emerged fetus’ and ‘fugitive with escape capability’ cases, whether we choose the active option or passive option, we will save the life of a נרדף since each רודף is simultaneously also a נרדף. If we choose the passive option, רodef א (the fetus or fugitive) is the נרדף who will be saved and if choose the active option, רodef ב (the mother or townspeople) is the נרדף who will be saved. Since the entire purpose of the רודף דין is to save the נרדף, unless we know that one of the “opposing parties” has the “definitive רודף” status, we should choose the passive option since we are saving a נרדף without actively taking a life. This would seem to fit with Rav Moshe’s explanation of משלמא קא רדפי לה: The same Heavenly process that caused the mother (Rodef ב) to be the object of the fetus’
Multifetal Pregnancy Reduction in Halacha

(Rodef’s) pursuit, i.e., that she would suffer such a difficult labor that she cannot live if the fetus’ life is spared, has also caused the fetus to become the object of the mother’s pursuit. Since the fetus is an equal נרדף as the mother is, there is just as much imperative to save his life as there is to save his mother’s life. The 로דף logic, therefore, dictates that we choose the option of saving a נרדף which would not require actively taking a life. Only if we know that 로דף is the “definitive 로드ף” (in the ‘non-emerged fetus’ and ‘fugitive without escape capability’ cases), which is another way of saying 로드ף is the “definitive נרדף”, the imperative of saving 로드ף determines that we must choose the active option.

B. However, in the MFP situation, there is only one option that would result in saving a נרדף, i.e., the active option (MPR). The passive option is not likely to save any lives. Therefore, the imperative of saving the life of a נרדף should determine that we choose the active option, i.e., we should perform MPR to save some of the fetuses.

7. Rav Moshe’s use of the 로דף terminology in the context of the ‘partially-emerged fetus’ and ‘fugitive with escape capability’ cases, may be analogous to Rashi’s understanding of the 로דף logic in the “coerced murder” case.

A. Rav Moshe portrayed Rashi’s view of the 로דף logic in the “coerced murder” case as “two negative consequences vs. one negative consequence” (see Figure 1, p. 5).

B. Similarly, in the ‘partially-emerged fetus’ and ‘fugitive with escape capability’ cases, we have a “standoff” between two options:

i. If we choose the passive option, there will be one positive consequence,점לט הנרדף (saving the pursued party), without performing an act of שפיכת דמים (murder).

ii. If we choose the active option, there will be a positive consequence,점לט הנרדף, but there will also be a negative consequence, an act of שפיכת דמים.

C. Thus, we have a “standoff” between: (1) the passive option, which will only produce a positive consequence; vs. (2) the active option, which will produce both a positive and a negative consequence. Therefore, the 로דף logic dictates that we should choose the passive option which will only produce a positive consequence.

8. However, in the MFP situation, there is no similar “standoff” since the passive option will not likely produce any positive consequence. The only available option which will produce the positive consequence of점לט הנרדף is the active option, i.e., performing MPR. Therefore, the 로דף logic and thus, the 로דף concept, will not apply and the 로드ף would permit MPR. The only remaining question is which fetus(es) to select for reduction. Perhaps this is not a question in
Halacha, but rather, a strategic medical question, i.e., which fetuses does the physician believe he can reduce while causing the least risk to the remainder of the fetuses as Rav Shlomo Zalman said (Source 19, p. 26).

9. There is a difficulty, however, with this rationale. Previously (VI-8, pp. 20-21), we explained that according to Rav Moshe, the reason why the משמיא קא רדפי לה concept does not apply in the ‘fugitive without escape capability’ situation is because of the life expectancy-∆ between the townspeople’s (חיי עולם) and the fugitive’s (חיי שׁעה) life expectancy.

However, if our rationale by MFP is correct, we should apply the same logic in the ‘fugitive without escape capability’ case, i.e., since the only end of “A-vs.-P spectrum” in which anyone will survive is at the “active end” (מסירה), the concept should not apply. Why does Rav Moshe need a life expectancy-∆ to explain why משמיא קא רדפי לה does not apply in the ‘fugitive without escape capability’ situation?

A. Perhaps we can answer that in the ‘fugitive without escape capability’ situation, even though there would be no survivors if the passive option was chosen, nonetheless, the fugitive would still haveחיי שׁעה remaining until the hooligans invade and kill everyone, which he stands to lose if the townspeople hand him over. Therefore, if not for the life expectancy-∆ between the townspeople’s וחיי עולם and the fugitive’sחיי שׁעה, we would still have the same dilemma as in the ‘fugitive with escape capability’ situation: If we choose the active option, the fugitive will lose hisחיי שׁעה and if we choose the passive option, the townspeople will lose theirחיי עולם. Accordingly, we would have reasoned since we can fulfillהצלת הנרדף through the passive option, i.e., temporarily extending the life of the fugitive, we must remain passive rather than performing an act ofשהיפה договор. Only because of the life expectancy-∆, we can say that the respective pursuits of the “opposing parties” are not equal and therefore, the concept will not apply.

B. However, in the MFP situation, if we believe that the concept ofחיי שׁעה does not exist during fetal life in utero, which is the position of the Yad HaMelech (Reference 13), there will not be any fulfillment of诸葛ל הגרדך through the passive option. Although the passive option will temporarily prolong the existence of the fetuses, since they do not haveחיי שׁעה, this prolongation is not considered life-saving (הצלת הנרדף) at all. Only the active option (MPR) can achieve诸葛ל הגרדך. Thus, the Rodef logic and the concept will not apply despite the absence of a life expectancy-∆ and the would permit MPR.
Figure 6: **Multifetal pregnancy (MFP) case**: If the passive option is chosen, there will not likely be any הצלת נודדים since there is a high risk of total fetal/neonatal death. Only if the active option (MPR) is chosen, some of the fetuses ($F_{save}$) will survive at the expense of the other fetuses ($F_{reduce}$).

**Active option**

- **Multifetal Pregnancy Reduction (MPR)**
  - $F_{reduce}$
  - $F_{save}$

**Passive option**

- MPR not performed
  - $F_{reduce}$
  - $F_{save}$

“✓”: Denotes the saving of a life

“✗”: Denotes the loss of a life
Multifetal Pregnancy Reduction in Halacha

IX. Conclusion

1. Table 5 summarizes Rav Moshe’s analysis of the fugitive and obstructed labor situations and compares these cases to the MFP situation.

2. We discussed several reasons to permit MPR in cases of high risk of total fetal/neonatal death:
   
   A. Rav Shlomo Zalman Auerbach ruled that in cases of high risk to the pregnancy, “each of the fetuses has the status of a רודף,” and on this basis, he permitted MPR.
   
   B. Rav Hershel Schachter explained that even according to Rav Moshe who believes that feticide usually is a violation of לא תרצח, if there is a near certainty that all fetuses will die without MPR, there would be no prohibition of לא תרצח and therefore MPR would be permitted to save the remaining fetuses.
   
   C. Rabbi Dr. Zalman Levine reasoned that if there is a high probability of fetal death, the מאי חזית logic would not apply (just as in the ‘fugitive without escape capability’ case according to the Chasdei Dovid’s explanation) and therefore MPR would be permitted.
   
   D. Although Rav Moshe did not rule on the permissibility of MPR, perhaps he would agree with Rav Shlomo Zalman that we apply the דין רודף even to unintentional pursuit. This approach is based on a suggestion that the רודף logic and thus, the משמיא קא רדפי לה concept, only apply if both the passive and active options can achieve הצלת הנרדף, i.e., in the ‘partially-emerged fetus’ and ‘fugitive with escape capability’ cases. However, in the MFP situation, if we assume that the concept of מאי חזית does not exist during fetal life, the only option that will achieve הצלת הנרדף is the active option (MPR). Therefore, קא רדפי לה will not apply and the דין רודף would permit MPR.

3. The question as to how Rav Moshe would have ruled regarding the permissibility of MPR cannot be definitively answered based on his rulings and insights that we have presented here. If we had the fortune to still have Rav Moshe leading us today, we could be certain that he would have marshaled his immense and profound understanding of all areas of Shas and Poskim, as well as his great Yirat Shomayim and Mesirat Nefesh for K’lal Yisroel to properly determine the Halacha in each type of multifetal pregnancy situation, to guide us through these very critical situations. It is our hope that through this essay, we have, in some small measure, demonstrated the timelessness of the Torah as well as the brilliance and ability of Torah giants such as Rav Moshe to transcend time and to thereby inspire the many to embrace the beauty that was Rav Moshe and that he left for us to further cultivate.

מבי על דאובדינ ולחפשכהי, מי יתן לה תמרות

Woe is to us that Rav Moshe is lost and not found. Who will give us another as him?
**Table 5:** Summary of Suggested Analyses of the Fugitive, Obstructed Labor and Multifetal Pregnancy Situations, Based on Rav Moshe’s Insights

<table>
<thead>
<tr>
<th>Type of Situation</th>
<th>Sub-category</th>
<th>Who will be saved if the ______ option is chosen?</th>
<th>Is there a $\Delta$ (differential) between $^2Rodef_{a}$ and $Rodef_{b}$?</th>
<th>Does the concept apply?</th>
<th>Why</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obstructed labor</td>
<td>non-emerged fetus</td>
<td>Mother’s complete נפש</td>
<td>Fetus’ incomplete נפש</td>
<td>Yes $\Delta$ between the mother’s complete נפש and the fetus’ incomplete נפש</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>partially-emerged fetus</td>
<td>Mother’s complete נפש</td>
<td>Fetus’ complete נפש</td>
<td>No</td>
<td>Both the fetus and mother have a complete נפש</td>
</tr>
<tr>
<td>Fugitive</td>
<td>with escape capability</td>
<td>$^3$TP’s חיי עולם</td>
<td>Fugitive’s חיי עולם</td>
<td>No</td>
<td>Both fugitive and TP have potential for חיי עולם</td>
</tr>
<tr>
<td></td>
<td>without escape capability</td>
<td>$^3$TP’s חיי עולם</td>
<td>Fugitive’s חיי שעה</td>
<td>Yes $\Delta$ between the TP’s חיי עולם and the fugitive’s חיי שעה</td>
<td>No</td>
</tr>
<tr>
<td>Multifetal Pregnancy</td>
<td>Assume: High risk of total fetal/neonatal death without MPR</td>
<td>$^6F_{save}$ (7$^F_{reduce}$ will be lost)</td>
<td>High probability: No one</td>
<td>Assume: All fetuses have the same survival potential if others are reduced.</td>
<td>No</td>
</tr>
</tbody>
</table>

---

1The active option is as follows: In the obstructed labor situation: feticide; in the fugitive situation: hand-over (מסירה); in the MFP situation: MPR (fetal reduction)

2$Rodef_{a}$ = fetus or fugitive; $Rodef_{b}$ = mother or townspeople; $^3$TP = Townspeople; $^4$חיי עולם = Normal life expectancy; $^5$חיי שעה = Temporary life (expectancy)

6$F_{save}$ = fetuses that the physician wishes to save; $^7F_{reduce}$ = fetuses that the physician wishes to reduce.
Multifetal Pregnancy Reduction in Halacha

X. References

<table>
<thead>
<tr>
<th>No.</th>
<th>Reference</th>
<th>Source/PP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>תהלמידי רבינו יונה על מס' סבאותה ורה רחנぬ ורה דא&quot;ו, ד&quot;ה ד&quot;הלמא דמא דרבער סופקをつけ מ&quot;פ</td>
<td>(See Appendix B, Source B-2, p. 45, for an excerpt and translation).</td>
</tr>
<tr>
<td>2</td>
<td>רבי נחמיה פרצוביץ, ספר זכרון תובל משה, בפנחס ויהור, וד&quot;לatum תובר</td>
<td>(See Supplement 2, pp. 83-85, for excerpts and translation).</td>
</tr>
<tr>
<td>3</td>
<td>אגרות משה, יודה דעט ח&quot;ב, פרק ק&quot;ד, ען די</td>
<td>(See Supplement 2, Source 6c, pp.54-55, for an excerpt of the Sefer Mitzvot Gadol and Dina Dechayei).</td>
</tr>
<tr>
<td>4</td>
<td>דינו דחוי על מס' מפרץ זוגות, לאויכו ק&quot;ס</td>
<td>(See Supplement 1, Source 10, pp.57-58, for an excerpt and translation).</td>
</tr>
<tr>
<td>5</td>
<td>חוף איש על מס', סנדרה, פרק כ&quot;ל</td>
<td>(See Supplement 1, Source 16, pp.62-62A, for an excerpt of the Yad Hamelech).</td>
</tr>
<tr>
<td>6</td>
<td>Rabbi Dr. Zalman Levine: “Multi Fetal Reduction”; audio file on YUTorah.org, October 2007</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>אגרות משה, חון מושפי ח&quot;ב, פרק ט&quot;פ, אחא א&quot;ג</td>
<td>(See Supplement 2, pp. 63-66, for excerpts and translation).</td>
</tr>
<tr>
<td>8</td>
<td>חורשים רבין חיים שלול על מ&quot;ד&quot;מ ד&quot;ה, ראתה ושהוה ת&quot;מ מ&quot;פ, פרק א' הלכה ט&quot;מ</td>
<td>(See Supplement 3, pp. 91-94, for full Hebrew text and partial translation).</td>
</tr>
<tr>
<td>9</td>
<td>דברי יששכר, חון מושפי, פרק ק&quot;ס</td>
<td>(See Supplement 1, Source 13, pp.60-61, for an excerpt and translation).</td>
</tr>
<tr>
<td>10</td>
<td>אבי עורי על מ&quot;ד&quot;מ ד&quot;ה, ראתה ושימורה הנפש, פרק א' הלכה א', הלכה ט&quot;מ</td>
<td>(See Supplement 4, pp. 95-99, for excerpts and translation).</td>
</tr>
<tr>
<td>11</td>
<td>הרב מרדכי אליהו, חומש, השמדת ביציות מופרות ודילול עוברים, פרק יא, ת&quot;ש</td>
<td>272</td>
</tr>
<tr>
<td>12</td>
<td>Rabbi Hershel Schachter: “Fetal Reduction”; audio file on YUTorah.org, March 2002</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>יד המלך על מ&quot;פ מ&quot;ד&quot;מ ד&quot;ה, שבת, פרק ב', הלכה ג&quot;ב</td>
<td>(See Supplement 1, Source 16, pp.62-62A, for an excerpt of the Yad Hamelech).</td>
</tr>
</tbody>
</table>
Appendix A: The Views of רבי יוחנן and רישׁ לקישׁ Regarding the Fugitive Situation, in the Talmud Yerushalmi

The discussion below is an explanation of dispute between רבי יוחנן and רישׁ לקישׁ in the Yerushalmi (Source 10, p. 10) regarding the fugitive situation, where the hooligans order the townspeople to hand over a designated fugitive to be killed, or else they will kill everyone in the town. In addition to the requirement that a specific fugitive was designated by the hooligans, רישׁ לקישׁ also requires that the fugitive deserves the death penalty (חייב מיתה) to permit handing him over (מסירה). However, רבי יוחנן permits even if the (designated) fugitive is not.

A. The view of רישׁ לקישׁ appears to parallel that of רבי שמעון in the Tosefta (Source 9, pp. 9-10). The Chasdei Dovid (Supplement 1, Source 5, p. 54) explains, “However, רבי שמעון believes that ... if the designated fugitive is תוחמת even if he could escape and the townspeople will be killed, it is permitted to hand him over because the logic of מאי חזית does not apply when he is תוחמת.” By stating that the logic does not apply when the fugitive is תוחמת, we can infer that the Chasdei Dovid understands the reason רבי שמעון permits מסירה is because the fugitive’s own culpability is the cause of the danger facing the townspeople. The Bach (ב”ח, authored by Rav Yoel Sirkes) presents this same reasoning (Source A-1), adding that: 1) רישׁ לקישׁ’s view is synonymous with רבי שמעון’ s view; and 2) since the fugitive’s liability to the death penalty is the basis to permit מסירה, even if he has escape capability, he may handed over.

Source A-1: The Bach’s explanation why מפיוה-road permits when the fugitive deserves the death penalty.

... If the townspeople are in immediate danger, even if the fugitive is outside the danger (i.e., he has escape capability), they should hand him over since he is תוחמת and the hooligans designated him. The logic, only applies if ב is not תוחמת, which is based on the “coerced murder” case, α must be killed rather than kill ב, which is based on the logic, only applies if ב is not תוחמת, תוחמת由此可见. However, if ב is תוחמת, then even if he is outside the danger, the logic does not apply since he brought [the danger] on himself through his actions, for which he deserves the death penalty by the [non-Jewish] laws. [In this case], we say, “on the contrary, the blood of α [and similarly, the blood of the townspeople] is redder,” since he (α) has not done anything at all for which he deserves to be killed.

B. Rav Moshe (Source A-2, p.36) explains רישׁ לקישׁ’ s position in a different manner than the Chasdei Dovid and the מפיוה-road. When states the fugitive must be “תוחמתו” to permit רישׁ לקישׁ, he does not require that a death sentence was issued by a legitimate justice system. Rather, believes that (even) if the hooligans merely have any grievance against a specific fugitive for which they wish to kill him, the townspeople are permitted to hand him over to the hooligans. Moreover, Rav Moshe points out that רישׁ לקישׁ agrees with מפיוה-road that רישׁ לקישׁ is only permitted if the fugitive has no escape capability, but if he has escape capability, מפיוה-road is prohibited even if the hooligans have a grievance against him.
Appendix A: The Views of רבי יוחנן and רישׁ לקישׁ Regarding the Fugitive Situation, in the Talmud Yerushalmi

Source A-2: Rav Moshe’s explanation of the position רישׁ לקישׁ in the Yerushalmi.
(See Supplement 2, pp.73, 75, for more extensive excerpts from the Sefer Igros Moshe).

C. From Sources A-2 and A-3, it seems evident that Rav Moshe understands that רבי יוחנן and רישי לקיש מתируется agree on the following two conditions to permit מיסירה based on the דין רודף:

1. **Condition 1:** The fugitive must be considered the cause of the lethal threat (the exact term Rav Moshe uses is: "הרביה הלדריה") facing the townspeople, thus defining him as a רודף; and

2. **Condition 2:** The fugitive must be unable to escape, thus, assigning him the "definitive רודף" status because of the "life expectancy-differential" (the "life expectancy-∆") between the townspeople’s חי עולםיח and the fugitive’s חי שׁעה (see VI-8-B, pp. 20-21).

D. Rav Moshe explains that רבי יוחנן and רישי לקיש merely disagree as to how absolute the hooligans must be when designating their victim in order to consider him the cause of the threat (thus, defining him as a רודף, condition #1). רבי יוחנן believes that by merely designating an individual, the hooligans demonstrate that they are prepared to kill all the townspeople unless he is handed to them. Therefore, he is deemed the cause of the threat against the townspeople. However, רישי לקיש believes that the designated person is only defined as a רודף if the hooligans have a grievance directed specifically against him since it is evident that their murderous desires will only be assuaged by receiving this specific victim. However, if they have no grievance against this individual, it is possible that the hooligans would have picked out someone else if this fugitive had not been present and thus, their arbitrary selection cannot render him as the cause of the threat (Source A-3, p. 37). The Chazon Ish explains רישי לקיש’s view in a similar manner (see Supplement 1, Source 10, p. 58).
Appendix A: The Views of רבי יוחנן and רישׁ לקישׁ Regarding the Fugitive Situation, in the Talmud Yerushalmi

Source A-3: Rav Moshe’s explanation of the dispute between רבי יוחנן and רישׁ לקישׁ in the Yerushalmi.

(Source Supplement 2, pp.72, 75, for more extensive excerpts from the Sefer Igros Moshe).

They disagree only inasmuch as רבי יוחנן understands that the analogy is merely to require designation, whereas, according to רישׁ לקישׁ, the analogy comes to additionally require designation similar to the situation where there was a grievance specific to him.

... רישׁ לקישׁ believes that we cannot assign the status of a רודף at all to the person that the hooligans designated to kill (in the absence of a grievance) since they have no basis to condemn him to die. It merely “fell upon” their minds to demonstrate their fearsomeness and kill a person who they singled out from the group, but this does not define him as the cause of the threat [facing the townspeople], since if he had not been present, it is possible that the hooligans would have designated someone else.

E. In Source A-2 (p. 36), Rav Moshe states, “Thus, the townspeople will be permitted to hand him over even according to רישׁ לקישׁ just as [we may kill the ‘non-emerged’] fetus ... since, in this case, the fugitive is certainly the cause of the pursuit (i.e., the threat) to kill the townspeople.” It appears clear that Rav Moshe understands that רבי יוחנן fundamentally agrees with Rav Moshe that as we consider the fugitive as a רודף after the townspeople despite his lack of volition or wrongdoing, because his only path to survival necessitates their death just as the fetus is considered a רודף after his mother because his only path to survival is through her death (see VI-4-C, p. 15). רישׁ לקישׁ only disagrees with רבי יוחנן by requiring a more definitive level of designation, i.e., a designation based on a grievance, but he agrees that the fugitive must be unable to escape, so that the life expectancy-∆ will enable the דין רודף to permit handing over (condition #2). However, if the fugitive has the capability to escape, even if he was defined as a רודף either via designation alone or in conjunction with the hooligans’ grievance, the townspeople are defined as equal pursuers (רודפים) after the fugitive, by the same logic that defines the fugitive as a רודף. Accordingly, the 멜 BCH logic states, Why should we presume the fugitive is more of a רודף after the townspeople, than they are רודפים after him?, which according to Rav Moshe is the essence of the משׁמיא קא רדפי לה concept. Therefore, the דין רודף will not apply to permit handing him over.

F. According to Rav Moshe’s explanation that the reason רישׁ לקישׁ requires a grievance against the fugitive is to define him as a רודף, if there are other means to define him as a רודף, רישיועו will agree with רבי יוחנן, that a grievance is not required to permit. Accordingly, Rav Moshe says if the fugitive was designated to be killed by the hooligans prior to his flight to the city, they will agree that the townspeople may hand him over even if hooligans have no grievance against him (Source A-4, p.38). I would suggest that the explanation is: Since the fugitive was designated for death prior to fleeing to the city, it is evident that the hooligans specifically are targeting him alone. Therefore, the circumstances define the fugitive as a רודף (condition #1) despite the absence of a grievance against him.
Even in a case where the hooligans have no grievance against the fugitive but nonetheless, if they designated him to be killed prior to his flight to the city and then the hooligans demand that the townspeople turn him over or else they will kill them all, it is as if the fugitive has a “death sentence”. Since the hooligans previously designated him to be killed, it is as if he was sentenced to death by the hooligans and therefore, he is defined as a רודף even though he has no intent to harm. Accordingly, רישׁ לקישׁ will agree with רבי יוחנן that if he is unable to escape to safety, but rather, everyone (including the fugitive) will definitely be killed, they are permitted to hand him over because of the life expectancy-∆ that the townspeople have over his חיי שׁעה, for which he is a רודף after them and not the reverse. However, if he can escape and be saved, even though the townspeople will then be killed, it is forbidden to hand him over since he is not literally a רודף (i.e., he is not a “full-fledged” רודף since he has no intent to harm).

G. Therefore, according to the Chasdei Dovid and the ב״ח who understand that the למירה ‘ורודף מיתה’ denotes that the fugitive legitimately deserved the death sentence, מסירה would be permitted regardless of his ability to escape. Since his own wrongdoing is the cause of the crisis, only he bears responsibility for his fate and thus, the townspeople should not suffer on his account. However, according to Rav Moshe who understands that that למירה ‘ורודף מיתה’ connotes a grievance by the hooligans which is (outside the purview of any system of law, and thus) unrelated to culpability of the fugitive, מסירה is only permitted if the fugitive is unable to escape, just as רבי יוחנן would understand without a grievance (based on the רודף רודף).

H. Rav Moshe suggests if the fugitive was aware that the hooligans would discover the city where he would seek refuge and that they could massacre the townspeople on his account, his subsequent entry into this city renders him “as a רודף with intent… since [the massacre of the townspeople] is an inevitable consequence [of him taking asylum there], it is certainly forbidden for him to save himself at the expense of his fellow’s life. In this situation, they would be permitted to hand him over even if he had the ability to escape.” This is consistent with Rav Moshe’s explanation that the requirement for escape incapability is to enable us to assign the “definitive רודף” status to the fugitive (condition #2). Therefore, if the fugitive took refuge in the city knowing that he was thereby endangering the townspeople’s lives, only he is the “definitive רודף” since the townspeople have not done anything to endanger him. Once he is deemed the “definitive רודף”, his ability to escape is immaterial and it is permitted to hand him over.
### Appendix A: The Views of רבי יוחנן and רישׁ לקישׁ Regarding the Fugitive Situation, in the Talmud Yerushalmi

#### Table 1: Rav Moshe’s analysis of the fugitive cases: When is a grievance or inability to escape a requirement to permit hand over (מסירה)?

<table>
<thead>
<tr>
<th>Case</th>
<th>Fugitive had aware that the hooligans would discover the city where he would seek asylum?</th>
<th>Fugitive designated by the hooligans before or after he took asylum in the city?</th>
<th>Fugitive has escape capability</th>
<th>Fugitive has NO escape capability</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>(designation without a grievance)</td>
<td>After</td>
<td>3 אסור</td>
<td>3 מותר</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Before</td>
<td>3 אסור</td>
<td>2 מותר</td>
</tr>
<tr>
<td>Yes</td>
<td>Before or after</td>
<td></td>
<td>3 אסור</td>
<td>2 מותר</td>
</tr>
<tr>
<td>4 Yes</td>
<td>?</td>
<td>Before</td>
<td>4 מותר</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Case</th>
<th>Fugitive had aware that the hooligans would discover the city where he would seek asylum?</th>
<th>Fugitive designated by the hooligans before or after he took asylum in the city?</th>
<th>Fugitive has escape capability</th>
<th>Fugitive has NO escape capability</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>(designation without a grievance)</td>
<td>After</td>
<td>3 אסור</td>
<td>3 מותר</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Before</td>
<td>3 אסור</td>
<td>2 מותר</td>
</tr>
<tr>
<td>Yes</td>
<td>Before or after</td>
<td></td>
<td>3 אסור</td>
<td>2 מוחר</td>
</tr>
<tr>
<td>4 Yes</td>
<td>?</td>
<td>Before</td>
<td>4 מוחר</td>
<td></td>
</tr>
</tbody>
</table>

1. Before he took asylum in the city whose residents were threatened by the hooligans to either hand him over or else everyone will be killed.
2. If the hooligans had no grievance against anyone but merely picked out a person in the city to kill, רישׁ לקישׁ maintains that the arbitrariness (or capriciousness) of their designation cannot render this fugitive as the cause of the threat and thus, he is not defined as a רודף. However, if he was designated by the hooligans before his flight to the city, Rav Moshe maintains that מסירה would be permitted without a grievance even according to רישׁ לקישׁ.
3. If the fugitive has the capability to escape, we have a מפסירה dilemma and therefore, the דין רודף will not apply to permit מסירה.
4. The fugitive knew that: (1) the hooligans wanted to kill him, (2) they would find him in the city in which he would hide, and (3) they had the ability to kill everyone in the city if he was not handed over, and despite this knowledge, he still took asylum in the city. Since he intentionally placed the townspeople at risk to save himself, he is considered like a רודף with intent to harm and therefore, Rav Moshe says it is probable that they are permitted to hand him over even if he has the ability to escape. However, Rav Moshe states that further analysis is required to finalize the Halacha accordingly.

**Note:** If the fugitive was truly deserving of the death penalty even through a (legitimate) non-Jewish legal system, Rav Moshe would appear to agree with the Chasdei Dovid and the דיני רודף, i.e., that he may be handed over even if he has escape capability. The ט״ז (Supplement 1, Source 9b, p. 57) states that in such a case, such as one who revolts against the non-Jewish government, he should be handed over even if the authorities did not demand (that they hand him over) since he is certainly a רודף after the townspeople because of his evil actions, while they have done nothing to endanger him. Rav Moshe quotes this דיני רודף, from which I inferred that Rav Moshe concurs. This would logically apply even if this individual has the ability to escape.
Appendix A: The Views of רבי יוחנן and רישׁ לקישׁ Regarding the Fugitive Situation, in the Talmud Yerushalmi

Figure 1: Two-step process to apply the דין רודף in the fugitive case, based on Rav Moshe’s analysis:

Condition 1: The fugitive must be the cause of the threat and thus, he is defined as a רודף. According to רבי יוחנן, this is determined by the mere designation by the hooligans (1a), whereas רישׁ לקישׁ also requires that they have a grievance against the fugitive (1'b). Condition 2: The fugitive must have the “definitive רודף” status (e.g., if he is unable to escape), because of the life expectancy-∆ (2a). However, if he can escape (2b), since the fugitive and townspeople (TP) are viewed as equal pursuers, there is a מאי חזית dilemma and the דין רודף cannot apply.
Appendix A: The Views of רבי יוחנן and רישׁ לקישׁ Regarding the Fugitive Situation, in the Talmud Yerushalmi

J. The Views of רבי יוחנן and רישׁ לקישׁ (Rav Moshe Isserles, Supplement 1, Source 9a, p. 57) follow the position of רישׁ לקישׁ who requires a “death sentence” (i.e., the hooligans’ grievance against this fugitive, according to Rav Moshe’s interpretation) to permit ממסירה. This poses a difficulty for the suggestion that MPR could be permitted based on the רדף דין (Section VIII, pp. 27-30). Certainly, no fetus in the MFP situation has a death sentence or a grievance against him. According to the רמ״א and the ר״א, how could the רדף דין be applied to permit MPR?

Source A-5: The ס״רמב follows ריש לקיש’s position regarding handing over the fugitive.

K. Perhaps we can answer this question based on Rav Moshe’s understanding that the only reason רישׁ לקישׁ requires a “death sentence” is to define the fugitive as the cause of the threat (להרדים הסבה) confronting the townspeople and thus, define him as a רדף (see paragraphs C-D, p. 36). In the fugitive situation, there is no inherent basis for any one person to be considered as the cause of the threat even if he was designated because the entire origin of the crisis (i.e., the hooligans) was externally imposed (according to Rav Moshe’s understanding that רישׁ לקיש’s ruling is unrelated to any culpability of the fugitive). Thus, we need some method to discern that this fugitive is considered the cause of the threat. The “death sentence”, unjust as it may be, serves to define him as the cause of the threat since it demonstrates that the hooligans specifically selected this individual and they will not be assuaged by handing over anyone else. As an illustration of this notion, Rav Moshe notes that רישׁ לקיש will agree with רבי יוחנן that a grievance is not required if other situational details demonstrate that the fugitive is the cause of the threat, e.g., if the fugitive was designated before he fled to their city, the townspeople may hand him over even without a grievance (see paragraph F, p. 37).

L. By contrast, in the MFP situation, the cause of the danger is internally imposed, i.e., it is evident that the fetuses themselves are the origins of the threat and therefore, we do not require any external imposition of a “death sentence” to define any fetus as a רדף. Therefore, the dispute between רבי יוחנן and רישׁ לקיש as to whether the mere designation by the hooligans without a “death sentence” suffices to define the fugitive as the רדף, לזרי לקולא, is not germane to the MFP situation.
Appendix A: The Views of רבי יוחנן and שיקי regarding the Fugitive Situation, in the Talmud Yerushalmi

M. In summary, the Chasdei Dovid and Rav Moshe offer two different explanations for the permissibility for מסירה (i.e., to hand over the designated fugitive):

1. According to the Chasdei Dovid, the permissibility for מסירה is because the logic does not apply, as follows:
   a. If the fugitive does not deserve the death penalty, but he and townspeople have no escape capability, מסירה is permitted “because the reason of מאי חזית does not apply when they all are in an equal state of danger” (Source 12, p. 12).
   b. If the fugitive deserves the death penalty (**חייב מיתה**), even if he can escape, המסירה is permitted “because the logic of מאי חזית does not apply when he is **ḥov’ah מיתה** (Supplement 1, Source 5, p. 54).

2. However, according to Rav Moshe, the permissibility for המסירה is because the fugitive is considered a רודף after the townspeople since he is the cause of their impending doom (**להרדיפה הסבה**). Both רבי יוחנן and רשי agree that this applies: (1) only if the fugitive has no escape capability; and (2) even if the fugitive does not deserve the death penalty through a legitimate justice system.

   a. רבי יוחנן believes that merely by being designated, the fugitive is the cause of their impending doom, conferring upon him the status of a רודף and therefore, he may handed over; whereas
   b. רשי believes only if the hooligans have a grievance against this fugitive for which they wish to kill him, he cause of their impending doom and has the status of a רודף. Alternatively, if the fugitive was designated prior to fleeing to the city, he may be handed over even without a grievance against him.

N. The two approaches we offered for potentially permitting MPR if there is a high probability of total fetal/neonatal death (VII-2, pp. 25-26), may well align well with these two approaches for the permissibility for מסירה. According to the Chasdei Dovid who states that the logic does not apply if everyone is in equal danger, perhaps MPR can be permitted because the logic will not apply if all the fetuses will likely die without intervention. This approach was suggested by Rabbi Dr. Zalman Levine. However, according to Rav Moshe who considers the fugitive as a רודף even without any culpability simply because he is the cause of another person’s impending doom, perhaps MPR can be permitted because each fetus is a רודף after the others. This approach of Rav Shlomo Zalman Auerbach was recorded by Rabbi Dr. Abraham (Source 19, p. 26).
Note: The “coerced murder” case is described in subsection II-1A-B, on pp. 2-3. “Options 1 and 2” in the following paragraph, are schematically depicted in Figure 1 on p. 5.

1. Rashi (in סנהדרין; Source 3, p. 4) explains the “מאי חזית logic” as the basis for the דין of יהרג ואל יעבור, i.e., one must be killed rather than violate the prohibition (איסור) against שפיכות דמים (murder), as follows: The “וחי בהם-dispensation”, which generally suspends observance of מצוות to save a Jewish life, is inoperative in the “coerced murder” case (pp. 3-5) for the following reason: If α would murder β to save his own life (“Option 1” in Figure 1), there will be two negative consequences (“תרתי”: The loss of a Jewish life (β’s life) and violation of a מצוה. On the other hand, if α remains passive (“Option 2”), there will only be one negative consequence (“חדא”: The loss of a Jewish life (α’s life), but the מצוה will be observed. Therefore, as Rashi in יומא (Source B-1) states, “... if you kill β, since a Jew will be killed and aמצוה will be violated, why should it be acceptable in the eyes of Hashem to violate hisמצוה?” The terminology which Rav Moshe describes to formulate Rashi’s reasoning is the “תרתי-נגד-חדא argument – “two negative consequences vs. one negative consequence” (see Supplement 2, pp. 86-87).

Source B-1: Rashi’s explanation of the ‘מאי חזית logic: Inapplicability of the “וחי בהם-dispensation”’:

Rashi responds to α who asked if he may accede to the hooligan’s demand to kill β: “What is your premise to permit [yourself to kill β]? Is it based on ‘וחי בהם ולא שימות בהם’?”

[Your premise is untrue because] the reason [for the ‘וחי בהם-dispensation’] is that Jewish lives are more dear to Hashem than the מצוות. Therefore, the Holy One, blessed be He, says, “let the מצוות be abrogated (i.e., violated) and this person will live.”

But now [if you kill β], since a Jew will be killed and the מצוות will be violated, why should it be acceptable in the eyes of Hashem to violate hisמצוה (ל先חרב מצוות)?

Why should your (α’s) blood be more precious to Him [i.e., to Hashem] than the blood of your Jewish friend (β)?

Note: The “coerced murder” case is described in subsection II-1A-B, on pp. 2-3. “Options 1 and 2” in the following paragraph, are schematically depicted in Figure 1 on p. 5.

1. Rashi (in סנהדרין; Source 3, p. 4) explains the “מאי חזית logic” as the basis for the דין of יהרג ואל יעבור, i.e., one must be killed rather than violate the prohibition (איסור) against שפיכות דמים (murder), as follows: The “וחי בהם-dispensation”, which generally suspends observance of מצוות to save a Jewish life, is inoperative in the “coerced murder” case (pp. 3-5) for the following reason: If α would murder β to save his own life (“Option 1” in Figure 1), there will be two negative consequences (“תרתי”: The loss of a Jewish life (β’s life) and violation of a מצוה. On the other hand, if α remains passive (“Option 2”), there will only be one negative consequence (“חדא”: The loss of a Jewish life (α’s life), but the מצוה will be observed. Therefore, as Rashi in יומא (Source B-1) states, “... if you kill β, since a Jew will be killed and aמצוה will be violated, why should it be acceptable in the eyes of Hashem to violate hisמצוה?” The terminology which Rav Moshe describes to formulate Rashi’s reasoning is the “תרתי-נגד-חדא argument – “two negative consequences vs. one negative consequence” (see Supplement 2, pp. 86-87).

Source B-1: Rashi’s explanation of the ‘מאי חזית logic: Inapplicability of the “וחי בהם-dispensation”’:

Rashi responds to α who asked if he may accede to the hooligan’s demand to kill β: “What is your premise to permit [yourself to kill β]? Is it based on ‘וחי בהם ולא שימות בהם’?”

[Your premise is untrue because] the reason [for the ‘וחי בהם-dispensation’] is that Jewish lives are more dear to Hashem than the מצוות. Therefore, the Holy One, blessed be He, says, “let theמצוה be abrogated (i.e., violated) and this person will live.”

But now [if you kill β], since a Jew will be killed and theמצוה will be violated, why should it be acceptable in the eyes of Hashem to violate hisמצוה (ל‘תרצה מצוות)?

Why should your (α’s) blood be more precious to Him [i.e., to Hashem] than the blood of your Jewish friend (β)?
of α’s life. According to Rav Moshe’s understanding, apparently Rashi believes that the Torah declares total equivalence between the two lives in question regardless of any factor that may appear to render one life more valuable than the other. Accordingly, even if there was a method to discern that α’s life has a higher value than β’s life, the inapplicability of the “וחי בהם-dispensation” and thus, the ḥarit ha-‘edut, would remain in place.

3. Therefore, according to Rashi, in a different “coerced murder” case where the hooligan orders α, “either kill β or I will kill both of you,” although β will certainly be killed in any event, it appears logical that α would still be forbidden to save his life by killing β because of the “חרית ה-עבירה” reasoning: If α remains passive, even though both α and β will die, this would still be classified as “חרית ה-עבירה” ("one type of negative consequence"), without transgression of an עבירה. However, if α kills β, there will be “חרית ה-עבירה” ("two types of different negative consequences"): β’s death and a transgression of an עבירה. Therefore, the “וחי בהם-dispensation” is inapplicable and the ḥarit ha-‘edut of ירהר ואל יעבור would apply even if β will certainly be killed anyway. Thus, on a fundamental level, since Rashi considers the inapplicability of the “חרית-עבירה” as the basis of the מאי חזית logic, whenever we have a “חרית-עבירה” situation, the מאי חזית logic, and thus, the ḥarit ha-‘edut of ירהר ואל יעבור, will remain in force.

4. We discussed two approaches to understand the permissibility of handing over (מסירה) the ‘fugitive without escape capability’ (see Appendix A, p. 42, paragraph M).

   a. The Chasdei Dovid (Source 12, p. 12) explains since the fugitive will certainly be killed with the townspeople if he is not handed over, “the logic of מאי חזית does not apply when they all are in an equal state of danger.” Since the מאי חזית logic is not applicable, the ḥarit ha-‘edut would not apply and therefore, the townspeople are permitted to hand over the fugitive.

   b. However, according to Rav Moshe, the reason for the permissibility to hand over the ‘fugitive without escape capability’ is because he is considered as a רודף after the townspeople (Source 15, p. 17). Below (paragraph 6b, p. 46), we will suggest a possible reason why Rav Moshe does not explain in the same way as the Chasdei Dovid.

5. In II-1-C, pp. 3-4, we discussed two approaches for the מאי חזית logic in the “coerced murder” case and how it dictates the Halacha of ירהר ואל יעבור.

   a. The Talmidai Rabbeinu Yonah (1st explanation; Source B-2), as elucidated by Rav Nochum Partzovitz, understand the מאי חזית logic as follows: Since we do not know whose life (α vs. β) is considered more valuable, therefore, the uncertainty dictates that α must remain passive (שב ואל תעשה), even at the pain of his own death. According to this approach, if there was a way to definitively determine that α’s blood is redder than β’s blood, (i.e., that α’s life is definitively more valuable), since there is no uncertainty, perhaps α would be permitted to kill β to save himself.
Source B-2: First explanation of the meaning of מאי חזית in the Talmeidai Rabbeinu Yonah: The logic operates from a perspective of uncertainty (about the relative worth of the two lives):

The explanation is since his (your friend, β’s) blood is redder, he should continue to live and perform ציוות הכהן. By living, he (β) will continue to fulfill the will of הכהן. If you will ask, since the matter lies in doubt [whose blood is redder], let α kill β so that he (α) will not be killed? The answer is [the loss of a life by] remaining passive is different [than loss of life through murder]: A person must refrain from actively transgressing a sin.

Now we will explain how the דין יחרג ואל יעבור would apply: If the non-Jew tells you (α), “Go and kill So-and-so (β) or else I will kill you,” even though the non-Jew has the power to kill him (β), [nonetheless], α must allow himself to be killed rather than kill β since perhaps his friend’s blood is more red and [therefore], β should continue to live and perform the ציוות הכהן. However, this only applies if the non-Jew tells you (α), “Go and kill β or else I will kill you and I will allow β to live,” then certainly α may not kill β. However, if the non-Jew tells α, “Go and kill β or else I will kill both of you,” since β is condemned to die by the king and it is impossible for him to be saved, α should kill β rather than be killed as stated in the גמרא.

b. However, Rashi, as explained by Rav Moshe, believes that the primary message of the מאי חזית logic is the inapplicability of the “וחי בהם-dispensation” to the prohibition against שפיכות דמים. When the Gemara used the words מאי חזית, it never meant to suggest that the דין יחרג ואל יעבור could be influenced by any assessment of the relative worth of the two lives. Rather, the two lives in question are always considered equal, requiring α to sacrifice his life not to murder β, “even if α is a תלמיד חכם and β is an عدم האריך (ignoramous)” (Supplement 2, p. 84). Rav Moshe expands this thought, “For [in the ‘coerced murder’ case] the logic of מאי חזית is based on a certainty ... it must be that the Heavenly decree is on α [to be killed], even though he has the [unlawful] possibility of saving himself by committing murder.” Thus, Rav Moshe understands that the מאי חזית logic is not based on an uncertainty whose life is more worthy, but rather on the inapplicability of the “וחי בהם-dispensation” due to the "תרתי-נגד-חדא" argument. Therefore, the מאי חזית logic and thus, the דין יחרג ואל יעבור cannot be undermined even if theoretically, one could determine that one life is more valuable than the other.

6. Perhaps the two approaches to explain the permissibility of handing over (מסירה) the ‘fugitive without escape capability’ are related to the two approaches to understand the מאי חזית logic:
Appendix B: Rashi’s View of the מאי חזית Logic in the “Coerced Murder” Case, as Explained by Rav Moshe Feinstein

a. The Chasdei Dovid, who states that the מאי חזית logic does not apply if the fugitive has no escape capability, would likely subscribe to first opinion in the Talmeidai Rabbeinu Yonah. The מאי חזית logic dictates if we are uncertain about the relative worth of the two lives and thus, perhaps β’s blood is redder than α’s blood, this uncertainty forbids α from killing him. However, if the fugitive cannot be saved regardless of the townspeople’s actions, the redness (i.e., relative worth) of his blood is irrelevant since he is certain to die anyway. Since the מאי חזית logic is based on the ויהרג ואל יעבור logic, if this logic is not applicable, it would be permitted to hand over the fugitive. Similarly, the Talmeidai Rabbeinu Yonah state if the gentile orders α, “either kill β or I will kill both of you,” if β was condemned to die by the king, α would be permitted to kill β (apparently with his own hands) (Source B-2). It appears from the text of the Talmeidai Rabbeinu Yonah, that their reasoning is that the מאי חזית logic does not apply when β is certain to die in any event.

b. Perhaps the reason Rav Moshe offers a different explanation (to permit מסירה) than that advanced by the Chasdei Dovid, is because he understands from Rashi that the מאי חזית logic of ויהרג ואל יעבור is not based on any uncertainty about the relative worth of the respective lives, but rather, on the inapplicability of the ‘תרתי-נגד-חדא’ argument. Therefore, even though the ‘fugitive without escape capability’ will certainly be killed if the townspeople remain passive, the מאי חזית argument and thus, the inapplicability of the ‘תרתי-נגד-חדא’ argument, will still remain true, as discussed above in paragraph 3 (p. 44). Although the מאי חזית may be less (severe) than the מאי חזית, Rav Moshe states that the ‘תרתי-נגד-חדא’ argument, and thus, the מאי חזית applies even to indirectly causing someone’s death (such as removing a ladder needed to rescue a person trapped in a pit; see Supplement 2, p. 88), which certainly would also include מסירה. The Bach (ב״ח, authored by Rav Yoel Sirkes; Source B-3) appears to take a similar approach to answer the question of the כסף משׁנה on רישׁ לקישׁ. Therefore, Rav Moshe understands that the sole reason for the permissibility to hand over the ‘fugitive without escape capability’ is the מאי חזית.

Source B-3: Thebach answers the כסף משׁנה’s question regarding the ‘fugitive without escape capability’:  

<table>
<thead>
<tr>
<th>The bach addresses the question of the כסף משׁנה (Supplement 1, p. 56): The logic of מאי חזית does not apply since the designated fugitive will be killed along with everyone else?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Why does ויהרג ואל יעבור prohibit handing over the ‘fugitive without escape capability’ if he is not 缺乏 escape capability’?</td>
</tr>
<tr>
<td>(The bach answers): This is not a difficulty since the primary reason for the מאי חזית logic is as Rashi (Source B-1, p. 43) explains: ‘If α would kill β to save himself, since a Jew (β) will be killed and the מצוה will be violated, why should it be acceptable in the eyes of Hashem that you (α) should violate the מצוה? Why should your (α’s) blood be more precious to Him than the blood of this person (β).’ Therefore, if the fugitive is not 缺乏 escape capability’, all of [the townspeople] should be killed so that the מצוה will not be abrogated.</td>
</tr>
</tbody>
</table>
Appendix B: Rashi’s View of the מאי חזית Logic in the “Coerced Murder” Case, as Explained by Rav Moshe Feinstein

However, if he is היכא דמחויב with מיתה, he caused [the danger] for himself and therefore, his blood is on his head. We should not become ensnared because of his blood and it is permitted to hand him over. We do not describe this as [a situation] where the מצוה is abrogated [if we hand him over] since he himself abrogated this מצוה through his actions, whereby he caused the death for himself.

Table 1: Summary of the מאי חזית basis for the דין of יהרג ואל יעבור by שפיכת דמים (murder) and its relevance to permit handing over the ‘fugitive without escape capability’

<table>
<thead>
<tr>
<th>Basis for שפיכת דמים by יהרג ואל יעבור</th>
<th>‘fugitive without escape capability’</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proponent</td>
<td>Meaning of the מאי חזית logic</td>
</tr>
<tr>
<td>1st opinion in the Talmeidai Rabbeinu Yonah*</td>
<td>Uncertainty about whose life (α vs. β) is more valuable</td>
</tr>
<tr>
<td>2nd opinion in the Talmeidai Rabbeinu Yonah: (Rashi)</td>
<td>שפיכת דמים is excluded from the &quot;Tracker-Gen-Hada&quot; dispensation because of the &quot; aşeray-negada &quot; argument</td>
</tr>
</tbody>
</table>

*Rav Nochum Partzovitz attributes this approach to Tosfot in Sanhedrin 74b (see p. 34, Reference 2).

7. With this same reasoning, Rav Moshe would maintain that, even if by some Halachic “gauge”, one could assess that β’s level of life is definitively lower than α’s level of life, the דין of יהרג ואל יעבור would remain in force since the "_tracker-Gen-Hada" reasoning, and thus, the inapplicability of the "asheray-negada" dispensation", would still hold true. However, according to first opinion mentioned in the Talmeidai Rabbeinu Yonah and presumably the Chasdei Dovid, since the מאי חזית logic is operative only if we are concerned that β’s life may be more valuable than α’s life, if we are certain that the opposite is true, the מאי חזית logic, and thus, the דין of יהרג ואל יעבור, does not apply. Killing an unborn fetus or a תריפה (person with only transient life remaining, due to an illness or injury) is not subject to capital punishment, whereas killing a שלם (person with normal life expectancy) incurs capital punishment. According to those who understand that the דין of יהרג ואל יעבור is based on the uncertainty about whose life is more valuable, if β is an unborn fetus or a תריפה and the hooligan threatens α to either kill β or be killed, perhaps α would be permitted to kill β to
Appendix B: Rashi’s View of the מאי חזית Logic in the “Coerced Murder” Case, as Explained by Rav Moshe Feinstein

save his own life since here it is known that α’s life is “more valuable”. However, if the הורג ואל יעבור of דרי is based on the inapplicability of the חיו בהם-dispensation, this Halacha would still be in effect (i.e., α would be prohibited to kill β) even though a Halachic “gauge” tells us that α’s life is at a higher level than β’s life.

a. The Minchat Chinuch states that in the fugitive case, if a טריפה was in the town, the townspeople would be permitted to hand him over even if the hooligans did not single anyone out, “because the logic of why do you presume that your blood is more red etc. (מאי חזית does not apply since certainly the townspeople’s blood is more red)” (Supplement 1, Source 3, p. 52). This position is also stated by the Meiri (Reference 1).

b. By contrast, regarding the ‘non-emerged fetus’, Rav Moshe describes, “the advantage that the mother has over the fetus, that she is a complete נפש while he is not yet a complete נפש,” which is based on “the fact that one does not incur capital liability (for killing an unborn fetus)” (Source 17, p. 21). Nonetheless, Rav Moshe does not say that the permissibility to kill the ‘non-emerged fetus’ (to save her mother) is because the מאי חזית logic does not apply. If not for the דין רודף, the דין ירה ואל יעבור would have prohibited saving the mother at the fetus’ expense, per Rav Moshe’s understanding of the Rambam (Supplement 2, pp. 63-66). Similarly, Rav Shach writes (explaining the same Rambam), “Even though killing the mother is subject to the death penalty whereas killing a ‘non-emerged fetus’ is not, nonetheless, since fetocide is included under the איסור רצח קדום (prohibition against murder), both the fetus and mother are equal with regard to the איסור רצח קדום and thus, the מאי חזית logic of מאי חזית would apply” (Supplement 4, pp. 95). Even though Rav Shach explicitly states, “the blood of a born person is redder than the blood of an unborn person because the murder of a born person is punishable by death whereas the murder of an unborn person is not” (ibid),” he still believes that the logic of מאי חזית would have prohibited killing the ‘non-emerged fetus’ if not for the דין רודף, which aligns with Rav Moshe’s understanding.

c. Moreover, Rav Moshe states, “It is obvious that we would apply the דין of דרי if hooligans attempt to coerce a טריפה שולב to kill a שולב, even though murdering a healthy person is punishable by the death penalty while murdering a טריפה is not” (ibid). The Nodeh B’Yehuda takes the same position (Reference 2). Thus, Rav Moshe’s position is consistent that the דין ירה ואל יעבור is fundamentally unrelated to the relative worth of the respective lives, but rather, on the inapplicability of the חיו בהם-dispensation”, in accordance with Rashi’s understanding.

8. In a similar way, Rav Shmuel Rozovsky, based on the commentary of Rav Chaim Soloveitchik on the Rambam, explains Rashi (in פסחים, Source B-4) that the meaning of the מאי חזית logic is: Since the lives of α and β are equal and one life will be lost in any event, therefore, the imperative of saving α’s life (i.e., α’s imperative) cannot permit the transgression of לא תרצח (i.e., the חיו בהם-dispensation” does not exist in this case). This is because the entire purpose of the לא תרצח-dispensation” is to save Jewish lives and here, a Jewish life (β) will be lost through the very transgression (see Source B-5).
Appendix B: Rashi’s View of the Logic in the “Coerced Murder” Case, as Explained by Rav Moshe Feinstein

Source B-4: Rashi’s explanation of the logic: Inapplicability of the “וחי בהם-dispensation”:

<table>
<thead>
<tr>
<th>Source B-4: Rashi’s explanation of the logic: Inapplicability of the “וחי בהם-dispensation”:</th>
<th>[Rashi responds to α who asked if he may kill β to save himself: “You are coming to ask [if you may kill β] because you know that no prohibition against murder should also be pushed aside because of your [prohibition against murder] Therefore, you believe that this [prohibition against murder] should also be pushed aside because of your [prohibition against murder].”]</th>
</tr>
</thead>
<tbody>
<tr>
<td>49 כולם כולם באים לישא לכל. אלא אם כן אסחה ידע שאֶל ממהו ו.Permission בפיה נפש שאר השורים. ו.Prayer נפש בהנה נפש.</td>
<td>¿Y áplica la ley que no se puede maltratar a otro para salvar a uno mismo por la razón de la ley que no se puede maltratar a otro? No.</td>
</tr>
<tr>
<td>[However, this premise is untrue because] this [לא אגרה עבירה] is unlike other עבירות, since one life will be lost in any event.</td>
<td>حق כי לא תעשה ו.Habla en su nombre.</td>
</tr>
<tr>
<td>And the הרה נחרת만 because of the preciousness of a Jewish life.</td>
<td>ו.התרה לא תגרה אל הדודו את המצות אלא מפריך</td>
</tr>
<tr>
<td>But, here [if you kill β], an עבירה will be transgressed and a life will be lost.</td>
<td>אם יאמר שמשנה העבירה לפנים המצות והר תגר</td>
</tr>
<tr>
<td>Who says that your (α’s) life is more precious to Hashem than β’s life?</td>
<td>מי יאמר שמשנה העבירה לפנים המצות והר תגר?</td>
</tr>
<tr>
<td>And consequently, an עבירה will be transgressed and a life will be lost.</td>
<td>ונמצא עבירה נעשית ונפש אבודה</td>
</tr>
</tbody>
</table>

Source B-5: Rav Shmuel Rozovsky: Rashi and the Rambam understand that there is no imperative (for saving α’s life) in the “coerced murder” case.

<table>
<thead>
<tr>
<th>Source B-5: Rav Shmuel Rozovsky: Rashi and the Rambam understand that there is no imperative (for saving α’s life) in the “coerced murder” case.</th>
<th>The following is not the explanation of the logic: Due to the equivalence between the respective imperatives [i.e., the imperative of saving the lives] of α and β, therefore, α must remain passive [so as not to actively push aside β’s imperative]. Rather, the explanation [of the logic] is: Since α’s life and β’s life are equal and one of them will die in any event, the imperative of saving α’s life cannot generate any dispensation [to transgress נ_has הרא] since his friend (β) will be killed through [the transgression]. This is because the entire reason for the imperative (i.e., the “וחי בהם-dispensation”) is so that a Jewish life will be saved.</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Rab responds to α who asked if he may kill β to save himself: “You are coming to ask [if you may kill β] because you know that no prohibition against murder should also be pushed aside because of your [prohibition against murder] Therefore, you believe that this [prohibition against murder] should also be pushed aside because of your [prohibition against murder].”]</td>
<td>תודרש רבי שמואל על מצות פסחין. ספומ. ב.’</td>
</tr>
<tr>
<td>[However, this premise is untrue because] this [לא אגרה עבירה] is unlike other עבירות, since one life will be lost in any event.</td>
<td>הדוא האפרים פא ומית דדמה רדך סומק פמ. דילמה דמא</td>
</tr>
<tr>
<td>And the הרה נחרת만 because of the preciousness of a Jewish life.</td>
<td>והתורה לא תגרה_el הדודו אהו המצות אלא מפריך</td>
</tr>
<tr>
<td>But, here [if you kill β], an עבירה will be transgressed and a life will be lost.</td>
<td>וכן עבירה נעשית ונפש אבודה.</td>
</tr>
<tr>
<td>Who says that your (α’s) life is more precious to Hashem than β’s life?</td>
<td>מי יאמר שנפשך חביבה לפני המקום יותר משל זה?</td>
</tr>
<tr>
<td>And consequently, an עבירה will be transgressed and a life will be lost.</td>
<td>ונמצא עבירה נעשית ונפש אבודה.</td>
</tr>
</tbody>
</table>

References

| 1 | רב מנחם המאירי, בית הבחירה, סנהדרין דף עד |
| 2 | שו”ת נודע ביהודה תנינא, סימן נט.’ |

49
Appendix C: Medical Facts Relevant to Multifetal Pregnancies and Multifetal Reduction


- Morbidity (major illness or disability) and mortality associated with multifetal pregnancies increase with increasing numbers of fetuses. Many adverse outcomes are the consequence of preterm birth:
  - 11 percent of twins, more than one-third of all triplets, and more than two-thirds of all quadruplets and higher order multiples were delivered very preterm (<32 weeks of gestation), compared with less than 2 percent of singletons.
  - Early mortality (death from 20 weeks of gestation through the first year of life) was 4.8 percent for twins, 8.6 percent for triplets, 10.8 percent for quadruplets, and 28.9 percent for quintuplets.

- The two most serious risks of multifetal pregnancies are: (1) loss of the pregnancy and (2) preterm birth, with its potential sequelae including perinatal mortality (i.e., death within the first week after birth), respiratory and gastrointestinal complications, infection and long-term neurologic impairment.

- Prevalence of cerebral palsy ranges from 1.6 to 2.3 per 1000 surviving infants in singletons, 7 to 12 per 1000 surviving infants in twins, and 28 to 45 per 1000 surviving infants in triplets.

II. Goals and clinical effects of multifetal pregnancy reduction:

- The goal of MPR is to reduce the risk of adverse outcomes in survivors of multifetal pregnancies by decreasing the number of fetuses in utero, since the risk of complications is proportional to the number of fetuses.

- Reducing pregnancies with three or more fetuses to a twin pregnancy results in fewer pregnancy losses, fewer preterm births and fewer postnatal infant deaths than in non-reduced pregnancies.

- See table below for summary of the effects of fetal reduction on decreasing the rate of spontaneous pregnancy loss (from: Evans M, Andriole S and Britt D, Fetal Diagnosis and Therapy, volume 35: pp. 69-82, 2014):

<table>
<thead>
<tr>
<th>Type of Pregnancy (starting # of fetuses)</th>
<th>Spontaneous Pregnancy Loss Rates (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Without fetal reduction</td>
</tr>
<tr>
<td>Quintuplet (5)</td>
<td>50</td>
</tr>
<tr>
<td>Quadruplet (4)</td>
<td>25</td>
</tr>
<tr>
<td>Triplet (3)</td>
<td>15</td>
</tr>
</tbody>
</table>
Appendix D: Rav Moshe Feinstein's Explanation of Rashi

**Note:** The following discussion is based on Rashi (Source D-1) in the Gemara Sanhedrin (72b) which discusses the fetus whose head has emerged (the 'partially-emergent fetus') in the Mishna Ohalot (see Section 1, III, pp. 7-8). This Mishna is the source of the "אין נפש נפש" ruling (henceforth abbreviated as: "אין נפש נפש"), translated as, "we may not push aside one life on account of (i.e., to save) another life".

1. Rashi (Source D-1) asks the following question concerning the Mishna's "אין נפש נפש" ruling in the 'partially-emergent fetus' case: Why were the townspeople in the שבע בן בכרי (abbreviated as: "ש.ב.ב") episode permitted to push aside ש.ב.ב's life to save their own lives? Rashi provides two answers, based on the statements of רבי יהודה and רבי שמעון in the Tosefta Terumot (Section 1, V, pp. 9-10): (1) In the ש.ב.ב episode, everyone (including ש.ב.ב) inevitably would have been killed if they did not hand ש.ב.ב over since he had no avenue of escape (i.e., he was a 'fugitive without escape capability'). Therefore, they were permitted to hand him over. However, if ש.ב.ב had the ability to escape, handing him over (מסירה) would have been forbidden.
   (2) ש.ב.ב revolted against the kingdom of המלך and thus, was deserving of the death penalty.

**Source D-1:** Rashi in Sanhedrin 72b:  
1) Status of 'non-emergent fetus' vs. the 'partially-emergent fetus';
2) How does the ש.ב.ב-episode differ from the 'partially-emergent fetus' case?

---

This is referring to a woman who is having difficulty giving birth and her life is endangered. The first section of the Mishna states that the midwife extends her hand, cuts him and removes him limb-by-limb. As long as the fetus has not emerged into the air of the world, he is not a נפש and it is permitted to kill him to save his mother. However, once his head has emerged, we may not touch him (i.e., we do not intervene) to kill him since he is [legally] considered a born person and we may not push aside one life on account of another life. One may ask that in the ב.ב.ש episode, where (Shmuel II 20 states) "His head shall be thrown to you," they pushed aside one life (i.e., ב.ב.ש’s life) on account of other lives (i.e., the townspeople’s lives)?

Answer: The ב.ב.ש episode has two unique distinctions from the 'partially-emergent fetus' case:

1) There, even if they did not hand him (i.e., ב.ב.ש) over, he would have been killed in the city when יואב would capture it and they (i.e., the townspeople) would have been killed along with him. But if he could have been saved (i.e., if he could escape), even though the townspeople would consequently be killed, they would not have been permitted to hand him over to save themselves.

2) Another answer is: [They were permitted to hand over ב.ב.ש] because he revolted against the kingdom. So it is explained in the הוספתא.

[Heaven is pursuing] the mother.
Appendix D: Rav Moshe Feinstein's Explanation of Rashi

2. The first answer mentioned in Rashi is discussed in Section 1. Two approaches were presented to explain the permissibility (יתר) to hand over a ‘fugitive without escape capability’:

A. The Chasdei Dovid (Section 1, V-2; pp. 11-12) understands the ‘יתר’ to hand over a ‘fugitive without escape capability’ through the prism of the “מאי חזית” logic which is the basis of the obligation to sacrifice one’s life rather than commit murder (described as: “יהרג ואל יעבור”; see the “coerced murder” case in Section 1, II-1; pp. 2-5). In the ‘fugitive without escape capability’ case, the מאי חזית logic is inapplicable because the fugitive will be killed whether he is handed over or not. Therefore, the prohibition against מסירה is pushed aside for the sake of the townspeople’s נפש פיקוח (imperative to save an endangered life).

B. Rav Moshe Feinstein (“Rav Moshe”) explains that the ‘יתר’ to hand over a ‘fugitive without escape capability’ is based on the דין רודף which sanctions killing a pursuer (רודף) to save the life of the pursued person (נרדף). This understanding is based on the following three premises:

1. The דין רודף applies even in the absence of any volition to harm (i.e., an unintentional רודף);
2. The fugitive and townspeople are engaged in reciprocal (bidirectional) pursuit after each other; and
3. The pursuit of the ‘fugitive without escape capability’ after the townspeople is greater than their pursuit after him since the fugitive only has potential for חיי שׁעה (temporary life extension) while they have potential forחיי עולם (normal life expectancy).

Consequently, although the fugitive has no intention to harm the townspeople, he is assigned the “definitive רודף” status and his life is pushed aside to save the townspeople (see Section1, VI, 1-4, pp. 14-15 & VI-7 & 8, pp. 20-23).

3. Rav Shmuel Rozovsky (“Rav Shmuel”; Source D-2) asks, why did Rashi develop his question about the מ.ב.ב episode based on the Mishna’s אין דוחין ruling in the ‘partially-emerged fetus’ case. Even without this Mishna, the מ.ב.ב episode poses a difficulty, “It is obvious that we cannot kill one person to save another person?” The “obvious” aspect to Rav Shmuel’s question may be: Why did Rashi need the Mishna’s אין דוחין ruling to prompt him to ask about the מ.ב.ב episode? Rashi could have asked the same question by invoking the מאי חזית logic: Just as the מאי חזית logic prohibits killing one person to save another in the “coerced murder” case, it should also prohibit handing מ.ב.ב über to save the townspeople? Rav Shmuel offers the following answer: Without the Mishna’s ruling of אין דוחין, we would have assumed that the דין רודף applies even to an unintentional רודף, and this was the basis for the townspeople’s יתר to hand מ.ב.ב über. However, once the Mishna ruled אין דוחין in the ‘partially-emerged fetus’ case, it is evident that the דין רודף does not apply to an unintentional רודף per the Gemara’s statement, משמיא קא רדפי לה (“she is pursued from Heaven”; Section 1, Source 8, p. 8) which is interpreted by Rav Shmuel that the fetus is not deemed a רודף because he lacks volition to harm.

Accordingly, Rashi was troubled, why was the מ.ב.ב episode treated differently than the ‘partially-emerged fetus’ case? In both cases there is no volition to harm and thus, the דין רודף should not apply to either case? Rav Shmuel explains Rashi’s first answer in the same manner as the Chasdei Dovid. Since everyone would be killed even if they did not hand מ.ב.ב über, the מאי חזית logic did not apply and therefore, it was permitted to hand him over to save the townspeople.
Appendix D: Rav Moshe Feinstein’s Explanation of Rashi

Source D-2: Rav Shmuel Rozovsky’s explanation of Rashi (Source D-1):

Regarding the Mishna’s statement, “If his head has emerged, we may not touch him because we may not push aside one life on account of another life,” Rashi wrote, “In the ב.ב.ב episode, why did they push aside one life on account of another life? There, even if they did not hand him over, he would have been killed along with the townspeople when יואב captured it.” This appears difficult – why was Rashi’s difficulty [with the ב.ב.ב episode] based on the Mishna’s statement, נפש מפני נפש דוחין אין – regarding the ‘partially-emerged fetus’? Even without this Mishna, the ב.ב.ב episode is difficult to explain – it is obvious that we cannot kill one person to save another person? Perforce, the ב.ב.ב episode is different [than the “coerced murder” case] because everyone (including ב.ב.ב) would be killed in any event [even if they refused to hand him over]. Accordingly, why was the difficulty [understanding the ב.ב.ב episode] more [problematic for Rashi to reconcile] with the Mishna [than with the “coerced murder” case]?

To understand Rashi’s approach, [at first glance, the ב.ב.ב episode can be understood as follows]: When a person is designated (i.e., “hand him over or else everyone will be killed”), he has the status of a רודף. Although he is considered a complete אונס (victim of circumstance), to which [the Gemara addresses], שמיא קא רדפי להמ – Heaven is pursuing (the townspeople), nonetheless, the fugitive is [legally defined as] a רודף.

(Accordingly, the “coerced murder” case is distinguishable from ב.ב.ב who could be classified as a רודף). However, after the Mishna taught us (based on the Gemara’s explanation) that the דין רודף cannot be applied when we have a משמיא קא רדפי לה situation (i.e., when he is a complete אונס, without volition to harm), the ב.ב.ב episode was difficult [for Rashi to understand why ב.ב.ב was handed over].

This is the question that Rashi answers [by creating a distinction, i.e., the ב.ב.ב episode] is unlike [the Mishna’s case of דין רודף because everyone would be killed if they did not hand ב.ב.ב over to יואב’s army]. Accordingly, the logic did not apply [to ב.ב.ב, as the Gemara said in the name of the רמ”ך (Supplemental Source 8b, p. 56), and therefore it was permissible to hand him over for the sake of the townspeople’s נפש. (However, in the Mishna’s דין רודף case, the logic does not make sense; פיקוח נפש).
4. Thus, according to Rav Shmuel, the דין רודף is inapplicable in any of the fetus and fugitive cases because the “pursuer” lacks volition to harm. The reason for the distinction in Halacha between the ‘partially-emerged fetus’ case (in which we must remain passive) and the ‘fugitive without escape capability’ (who we may actively hand over) is that the logic applies to the former but not to the latter. Furthermore, according to Rav Shmuel’s explanation, the Gemara’s statement, משמיא קא רדפי לך, does not come to elucidate the Mishna’s דין רודף ruling, but rather, משמיא קא רדפי לך is a separate concept. The דין רודף ruling works through the logic (Why do you presume that the mother’s blood is redder than the fetus’ blood?), whereas משמיא קא רדפי לך is the reason why the דין רודף is not applied, i.e., because the fetus lacks volition to harm. Accordingly, Rashi’s question was not by prompted by the Mishna’s דין רודף ruling, but rather, by the Gemara’s משמיא קא רדפי לך statement which precludes applying the דין רודף in cases of unintentional pursuit.

5. However, Rav Moshe understands the משמיא קא רדפי לך concept differently than Rav Shmuel. Rather than saying the דין רודף does not apply to an unintentional רודף, Rav Moshe explains that משמיא קא רדפי לך means that both the ‘partially-emerged fetus’ and his mother are equal participants in an impasse in which each one’s survival is dependent on the other’s demise, thus rendering both of them mutually equal pursuers after each other (Source D-3). Since there is no basis to declare the fetus’ pursuit after his mother greater than her pursuit after him, we cannot apply the דין רודף to kill the ‘partially-emerged fetus’ and consequently, we must remain passive (see Section 1, VI-5 & 6, pp. 16-19).

6. According to Rav Moshe, if he is considered the “definitive רודף”, as opposed to a situation where the two parties are equal bidirectional pursuers. If there is equal bidirectional pursuit, e.g., in the ‘partially-emerged fetus’ and the ‘fugitive with escape capability’ cases, the concept dictates that the דין רודף cannot be applied since there is no discernable “definitive רודף”. However, in the ‘non-emerged fetus’ and ‘fugitive without escape capability’ cases, the bidirectional pursuit is not equal; the fetus and fugitive are each deemed the “definitive רודף” (or, the greater רודף) in their respective cases. The ‘non-emerged fetus’ pursues after his mother’s complete נפש, while she only pursues after his incomplete נפש. Similarly, the ‘fugitive without escape capability’ pursues after the townspeople’s חיי עולם, while they only pursue after his ‘חיי שעה. Therefore, the דין רודף will permit feticide and מסירה in the ‘non-emerged fetus’ and ‘fugitive without escape capability’ cases, respectively (see Section 1, VI-8A & 8B, pp. 20-21). Based on Rav’s Moshe’s explanation, the following two observations may be made:

A. The Mishna’s דין רודף principle is not a separate concept from the Gemara’s statement, משמיא קא רדפי לך. Rather, משמיא קא רדפי לך provides the reason we must remain passive, i.e., because both the ‘partially-emerged fetus’ and his mother have an identical “نفس level”. The Gemara’s statement, משמיא קא רדפי לך provides further explanation of the Mishna’s דין רודף ruling, i.e., the fact that the emerging fetus and his mother have an identical نفس level, in turn, determines that their mutual pursuit is (bidirectionally) equal and thus, the דין רודף cannot be applied (i.e., there is no “definitive רודף”). (See Source D-3 to see how Rav Moshe understands משמיא קא רדפי לך denotes that the mutual pursuit is equal). Accordingly, Rashi’s question was indeed prompted by the Mishna’s דין רודף principle which is
the operative ruling that precludes applying דין רודף in cases of equal bidirectional pursuit, and דוחין נפשׁ截图 is merely an elucidation of this concept.

B. The rule of דוחין נפשׁ works outside the purview of the standard logic which dictates the דין רודף in the “coerced murder” case. The logic alone would not have prevented us from killing the fetus to save his mother since the נפשׁ mother had a definitive רודף to save the fetus. The only reason we rule דוחין נפשׁ in the ‘partially-emerged fetus’ case is because both parties are mutually equal pursuers due to their identical “نفس level”, and therefore, the דין רודף cannot be applied. Consequently, Rav Moshe would not agree with Rav Shmuel’s explanation of Rashi’s question. According to Rav Shmuel, we infer from דוחין נפשׁ that the דין רודף does not apply to an unintentional רודף, and therefore, Rashi questioned why the ש.ב.ב episode was treated differently than the ‘partially-emerged fetus’ case. However, according to Rav Moshe, דוחין נפשׁ merely limited the applicability of the דין רודף to cases of unequal pursuit (i.e. where there is a “definitive רודף”), but certainly the Mishna does not preclude applying the דין רודף to unintentional pursuit in general.

7. It would appear that Rav Shmuel’s difficulty with Rashi’s question about the ב.ב.ב episode, would not present the same difficulty to Rav Moshe. Since the דין רודף can apply to an unintentional רודף (according to Rav Moshe), Rashi certainly understood that the handover of ב.ב.ב was sanctioned because of his status as a רודף. Therefore, the logic would not prevent handing over ב.ב.ב just as the logic never prevents us from killing a רודף. Thus, Rashi could not have invoked the logic to question the townspeople’s decision to hand over ב.ב.ב. Only after the Mishna qualified the דין רודף, i.e., it is inapplicable to the ‘partially-emerged fetus’ case because it is a case of equal bidirectional pursuit, Rashi then questioned why the ב.ב.ב episode was treated differently since it also appears to be a case of equal bidirectional pursuit. Rashi’s first answer, which is the position of רבי יהודה in the Tosefta, explains that ב.ב.ב was a ‘fugitive without escape capability’ and therefore, the bidirectional pursuit was not equal, thus, distinguishing the ב.ב.ב episode from the ‘partially-emerged fetus’ case.

Source D-3: Rav Moshe explains the Gemara’s המשיא קא רדפי לד statement and Rashi’s understanding of דוחין נפשׁ: (See Supplement 2, pp. 65-66, for more extensive excerpts).
Therefore, Rav Moshe Feinstein’s Explanation of Rashi

Appendix D: Rav Moshe Feinstein's Explanation of Rashi

Therefore, only wrote that the ‘non-emerged fetus’ is not a [but did not write, “and consequently, feticide is a lesser prohibition (less severe than murder), which may which may be pushed aside for the mother’s care.”] [The reason stated the ‘non-emerged fetus’ is not a [but was to contrast this case with the ‘partially-emerged fetus’]. Since the Mishna’s sole basis to prohibit killing the ‘partially-emerged fetus’ to save his mother is because of דוחין, this implies that one could have rationalized a דין רודף due to his status as דוחין [after his mother]. However, this logic would also apply for the mother, i.e., she is considered a דין רודף after the fetus, because this pursuit situation is a result of Heaven arranging that both parties cannot survive (i.e., their respective survivals are mutually exclusive). Accordingly, his pursuit [after her, which is manifested by the fact that] if the fetus will emerge alive, his mother will not live, cannot serve as a basis to choose that she should live and he should be killed, because they are both equally [engaged in] pursuit. Accordingly, prior to the emergence of the fetus’ head, since he is not yet a [complete], we push aside his life because their respective pursuits are not equal, i.e., the fetus alone pursues after the mother’s advantage (i.e., the ‘non-differential’) that she is a [complete] while he is not. This is the reason it is permitted to kill the ‘non-emerged fetus’ to save his mother ... It follows that Rav Shmuel also believes [the דין רודף is the basis for killing the ‘non-emerged fetus’].

Therefore, Rav Moshe Feinstein’s Explanation of Rashi

Therefore, only wrote that the ‘non-emerged fetus’ is not a [but did not write, “and consequently, feticide is a lesser prohibition (less severe than murder), which may which may be pushed aside for the mother’s care.”] [The reason stated the ‘non-emerged fetus’ is not a [but was to contrast this case with the ‘partially-emerged fetus’]. Since the Mishna’s sole basis to prohibit killing the ‘partially-emerged fetus’ to save his mother is because of דוחין, this implies that one could have rationalized a דין רודף due to his status as דוחין [after his mother]. However, this logic would also apply for the mother, i.e., she is considered a דין רודף after the fetus, because this pursuit situation is a result of Heaven arranging that both parties cannot survive (i.e., their respective survivals are mutually exclusive). Accordingly, his pursuit [after her, which is manifested by the fact that] if the fetus will emerge alive, his mother will not live, cannot serve as a basis to choose that she should live and he should be killed, because they are both equally [engaged in] pursuit. Accordingly, prior to the emergence of the fetus’ head, since he is not yet a [complete], we push aside his life because their respective pursuits are not equal, i.e., the fetus alone pursues after the mother’s advantage (i.e., the ‘non-differential’) that she is a [complete] while he is not. This is the reason it is permitted to kill the ‘non-emerged fetus’ to save his mother ... It follows that Rav Shmuel also believes [the דין רודף is the basis for killing the ‘non-emerged fetus’].

8. Rashi’s question about the ב.ב.ש episode is in the paragraph with the (heading) of (Source D-1).

The of paragraph of Rashi that follows immediately afterward is נפשׁי וְאֵין דוחין. In the first paragraph, רָשִׁי הָדָע, Rashi raised the question about the ב.ב.ש episode immediately after discussing the דוחין principle in the ‘partially-emerged fetus’ case. It would, therefore, appear that Rashi’s question was prompted by the דין רודף ruling. According to Rav Shmuel, the Mishna’s דין רודף ruling posed no difficulty to Rashi. Rather, Rashi’s question was only prompted after the Gemara’s statement, שמיא קא רדפי לה, which disallows the דין רודף in cases of unintentional pursuit. Rav Shmuel’s approach appears difficult to fit into the order of Rashi’s presentation. However, according to Rav Moshe’s approach, the logical flow in Rashi appears more cogent since Rashi’s question was prompted by the דוחין rule which disallows the דין רודף in cases of equal pursuit andayment אנד קא רדפי له is merely an elucidation of that rule.

9. Rav Shmuel explained Rashi’s first answer to mean that ב.ב.ש’s inability to escape rendered the דין רודף logic inapplicable. Perhaps the reason Rav Moshe did not explain Rashi’s answer in this way is because Rav Moshe understands that the דין רודף logic is linked to the “תרתי-נגד-חדא” argument of Rashi (which renders the “וחי בהם-dispensation” inapplicable to murder; see Appendix B, #1, p. 43 & #6-b, p. 44). Although ב.ב.ש would be killed even if he was not handed over, the “תרתי-נגד-חדא” argument and thus, the דין רודף logic, will still be applicable regardless of the survivability of the situation.
Appendix D: Rav Moshe Feinstein's Explanation of Rashi

10. Rashi (Source D-1), when discussing the 'non-emerged fetus', states: “As long as the fetus has not emerged into the air of the world, he is not a נפשׁ and it is permitted to kill him to save his mother.” In Section 1, two interpretations of Rashi’s statement were presented:

A. The Sefer Meirat Einayim (ספ”י) and the Minchat Chinuch (section 1, VI-1, p. 11) interpret Rashi’s statement, “he is not a נפשׁ”, to mean that the ‘non-emerged fetus’ is not deemed a life; consequently, feticide is not considered murder (i.e., it is not a transgression of לא תרצח). The ‘partially-emerged fetus’, on the other hand, is deemed a life and therefore, killing him is a transgression of murder. Accordingly, the operative Halachic determinant whether or not to rescue the mother at the fetus’ expense, is: Does the דין fit or not? The דין applies to the transgression of murder; therefore, killing the ‘partially-emerged fetus’ is prohibited even to save the mother, and this is the very intent of the Mishna’s אין דוחין statement. However, since killing the ‘non-emerged fetus’ is not a transgression of murder (according to these opinions), the דין does not apply; consequently, feticide is permitted for the mother’s נפש פיקוח just as nearly all prohibitions are pushed aside for נפש פיקוח. According to this approach, the question that Rav Shmuel raised on Rashi would pose a difficulty. If the effective difference between the ‘non-emerged fetus’ and the ‘partially-emerged fetus’ is whether the דין applies or not, why was Rashi’s question about the ש.ב.ב episode prompted by the Mishna’s ‘partially-emerged fetus’ case; his question would fit more logically in the Sugya (Talmudic discussion) of הרוג ואל יעבור (Sanhedrin 74a-b)?

B. However, Rav Moshe maintains that an unborn fetus is deemed a life (see Supplement 2, pp. 63-66 & p. 71). Consequently, if not for his status as a רודף, הרוג ואל יעבור, it would have been forbidden to kill the ‘non-emerged fetus’ even for his mother’s נפש פיקוח. According to Rav Moshe, the intent of Rashi’s statement, “he is not a נפשׁ”, is to contrast the נפש of the ‘non-emerged fetus’ with the נפש of the ‘partially-emerged fetus’. In the ‘non-emerged fetus’ case, the bidirectional pursuit is not equal because the fetus only has a “incomplete נפש” while his mother has a “complete נפש” (Source D-3). Therefore, the fetus is considered the “definitive רודף” and the דין is applied to kill him. By contrast, in the ‘partially-emerged fetus’ case, both the fetus and his mother have a “complete נפש” level; therefore, there is no “definitive רודף” and the דין is not applied. (Note: The entire focus of the Gemara’s discussion is to explain why the דין is not applied the ‘partially-emerged fetus’ case. The Gemara never discussed the ‘non-emerged fetus’ case. Therefore, based on Rav Moshe’s explanation, I would suggest that Rashi’s purpose for mentioning the ‘non-emerged fetus’ case is to define the “definitive רודף” criterion for applying the דין in cases of bidirectional pursuit, thereby laying the logical foundation why the דין is not applied in the ‘partially-emerged fetus’ case).

11. It is noteworthy that the Ritva (Source D-4) explains the concept, “the fetus is not a נפשׁ”, which was written by other Rishonim including the Ramban (on Tractate Niddah 44b), as follows: When we are deliberating whether to refrain from saving the mother’s life because of the אין דוחין principle, we say that the ‘non-emerged fetus’ is not deemed a נפש, and therefore his life is pushed aside to save his mother. Similarly, we say that, “the fetus is not a נפש”, to exempt one who kills him from capital punishment. This explanation is consistent with the approach of Rav Moshe, i.e., the “nephesh-level” of the ‘non-emerged fetus’ is lower than that of his mother, since killing the former does not invoke capital punishment while killing the latter is punishable by death.
Appendix D: Rav Moshe Feinstein's Explanation of Rashi

12. According to Rav Moshe’s approach, Rashi’s question on the ב.ב.ב episode was only prompted by the Mishna’s אין דוחין ruling because this precisely is the source that precludes applying the דין רודף in cases of equal bidirectional pursuit. Rashi, therefore, questioned why the ב.ב.ב episode, which appeared to also be an equal bidirectional pursuit situation, was treated differently than the ‘partially-emerged fetus’ case. Thus, according to Rav Moshe’s understanding, the logical flow of Rashi’s arguments appears more precise than according to the commentators who interpret Rashi to mean that a fetus has no life.

Source D-4: Mishna, Gemara and Ritvah, Niddah 43b-44b

A one-day old baby boy ... inherits and bequeaths and one who kills him is liable (i.e., he incurs capital punishment).

And one kills who him is liable: Because it is written “If a man kills any human being, he shall be put to death” (Vayikra 24: 17) – this teaches us that the murder of any victim, even of a minor, is liable to capital punishment.

The explanation is that even a one-day old child is considered a נפש (i.e., in reference to the verse in Vayikra 24:17, “one who strikes any person, ‘כד נפש’, shall be put to death”). Tosfot ask: From here, it appears that a fetus is not considered a נפש (since there is no capital punishment for killing a fetus, one may deduce that he is not deemed a נפש) ... A similar conclusion may be deduced from [the Mishna] stated in Sanhedrin, “If a woman’s life becomes endangered during childbirth, we cut out the fetus limb by limb. If his head has emerged, we may not touch him because we do not push aside one life one account of another life.” Thus, we see that a ‘non-emerged fetus’ is not a נפש (since his existence does not qualify as “one life on account of another life”). ...

[The Ritva now presents the question that his version of Tosfot raised on the previously cited sources which imply that a fetus is not a נפש]:

If so, why do we say in Erchin (7a-b), “If a woman sat on the birthstool and died on Shabbat, we bring a knife [through the public domain, violating Shabbat] to cut her open and extricate the fetus (i.e., to save his life).” If the fetus is not deemed a נפש, how can we violate the Shabbat for his נפש פיקוח?

Tosfot answer, when we say “the fetus is not a נפש”, this is [intended] so that [we will not] sentence one who kills a fetus [to capital punishment] or [so that we not] protect the fetus’ life at the expense of his mother’s life. However, with regard to [violating] Shabbat to save the fetus’ life, he is legally treated as a נפש. This is because [the Talmudic derivation to permit violating Shabbat for נפש פיקוח], “Violate one Shabbat so that he will observe many Shabbatot” (Yoma 85b), also applies to a fetus. The same also rules in this way.