**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*” logical basis for the דיןof יהרג ואל יעבור, i.e., one must be killed rather than violate the prohibition against שׁפיכת דמים (murder, i.e., the מצוהof לא תרצח), as follows: The “וחי בהם*-*dispensation”, which generally suspends observance of מצות 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 a* מצוה *will be violated, why should it be acceptable in the eyes of Hashem to violate his* מצוה*?”* The terminology which Rav Moshe describes to formulate רש״י’s reasoning is*:* the“תרתי-נגד-חדא”*–* “*two negative consequences vs. one negative consequence*” argument (Supplement 2, pp. 86-87).

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

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| [רבא or רבה 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?” | כלומר מאי דעתיך למשרי מילתא? משום וחי בהם ולא שימות בהם ?  |
| [Your premise is untrue because] the reason [for the “וחי בהם-dispensation”] is that Jewish lives are more precious to Hashemthan the מצות. Therefore, the Holy One, blessed be He, says, “let the מצוהbe abrogated (i.e., violated) and this person will live.” | טעמו של דבר לפי שחביבה נפשן של ישראל לפני המקום יותר מן המצות, אמר ***הקדושׁ בּרוך הוא*** תבטל המצוה ויחיה זה. |
| But now [if you kill ***β****]*, since a Jew will be killed and the מצוה will be violated, why should it be acceptable in the eyes of Hashem to violate his מצוה (i.e., לא תרצח)? | אבל עכשיו שיש כאן ישראל נהרג והמצוה בטילה, למה ייטב בעיני המקום לעבור על מצותיו?  |
| Why should your (***α****’*s) blood be more precious to Him [i.e., to Hashem] than the blood of your Jewish friend (***β***)? | למה יהיה דמך חביב עליו יותר מדם חבירך ישראל?  |

רש״י יומא, דף פב ע”ב, ד״ה מאי חזית:

1. Rav Moshe comments, *“We can infer [from this* רש״י] *that with regard to this* דין *[of* יהרג ואל יעבור], *his (****α****’s) life and the life of his friend (****β****) are equal”* (Supplement 2, p. 83). Perhaps Rav Moshe’sinference is as follows: The reason for the “וחי בהם*-*dispensation” is that Jewish lives are more dear to Hashem than observance of מצות (Rashi, above). If we accept the premise that all Jewish lives are deemed equal, it logically follows that the intent of the “וחי בהם*-*dispensation” cannot be met if ***α*** kills ***β*** to save himself, since the preservation of ***α****’s* own life will be nullified by the loss of ***β****’s* equally valued life. Therefore, since the “וחי בהם*-*dispensation” is inapplicable, the מצוה of לא תרצח must be observed even at the cost of ***α****‘s* life. According to Rav Moshe’sunderstanding, 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* lifehas a higher value than ***β****’s* life, the inapplicability of the “וחי בהם*-*dispensation” and thus, the דיןof יהרג ואל יעבור, would remain in place.
2. Therefore, according to רש״י, 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 “תרתי-נגד-חדא” reasoning: If ***α*** remains passive, even though both ***α*** and ***β*** will die, this would still be classified as “חדא” *(“one type of negative consequence”),* without transgression of an עבירה. However, if ***α*** kills ***β***, there will be “תרתי” *(“two types of different negative consequences”)*: ***β****’s* deathand a transgression of an עבירה. Therefore, the “וחי בהם*-*dispensation” is inapplicable and the דיןof יהרג ואל יעבורwould apply even if ***β*** will certainly be killed anyway.  Thus, on a fundamental level, since Rashi considers the inapplicability of the “וחי בהם*-*dispensation” as the basis of the “מאי חזית” logic, whenever we have a “תרתי-נגד-חדא” situation, the “מאי חזית” logic, and thus, the דיןof יהרג ואל יעבור, will remain in force.
3. We discussed two approaches to understand the permissibility of handing over (מסירה) the *‘fugitive without escape capability’* (see Appendix A, p. 42, paragraph M)*.*
	1. The *Chasdei Dovid* (Source 12, p. 12) explains since the fugitive will definitely 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 דיןof יהרג ואל יעבורwould not apply and therefore, the townspeople are permitted to hand over the fugitive.
	2. 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.*
4. 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 יהרג ואל יעבור by שׁפיכת דמים.
	1. The (first opinion in the) Talmeidai Rabbeinu Yonah (Source B-2) as explained by Rav Nochum Partzovitz, believes that the “מאי חזית”logic states 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 “*מאי חזית*” logic operates from a perspective of uncertainty (about the relative worth of the two lives):

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| תלמידי רבינו יונה, עבודה זרה דף כח ע”ב, ד״ה דילמא דמא דחברך סומק טפי: פירוש וכיון שדמו יותר אדום יחיה יותר ויקיים מצוות ויעשה רצונו של הקב״ה יותר על ידי החיים. וא״ת כיון שהדבר ספק יהרוג אותו ואל יהרג הוא? י״ל שב ואל תעשה שאני, שהאדם יש לו למנוע מלעשות שום עבירה בידים.מעתה נפרש הדבר איך הוא, אם יאמר לו הגוי לך והרוג את פלוני, ואם לאו אותך נהרוג, אף על פי שיש כח ביד הגוי להרגו, יש לו להניח עצמו ליהרג ואל יהרגנו דדילמא דמא דחבריה סומק טפי, ויחיה יותר ויקיים מצוותיו של הקב״ה. זה דוקא כשאומר לו לך והרגנו ואם לאו אותך הרגתי ואותו החייתי, אז ודאי אין לו להרגו. אבל אם אומר הרוג אותו ואם לאו אותו ואותך הרגתי, כיון שהוא מוכתב למלכות וא״י שינצל, יהרגנו ואל יהרג כדאמרינן בתוספתא.  | The explanation is since his (your friend, ***β****’*s)bloodis redder, he should continue to live and perform מצות. By living, he (***β****)* will continue to fulfill the will ofהקב״ה . 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 of יהרג 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 מצות ofהקב״ה . 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 (along with ***β****)* as stated in the תוספתא. |

* 1. 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 שׁפיכת דמים. When the Gemara used the words “מאי חזית”, it never meant to suggest that theדין of יהרג 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* עם הארץ *(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, theדין of יהרג ואל יעבור, cannot be undermined even if theoretically, one could determine that one life is more valuable than the other.
1. 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:
	1. 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 theדיןof יהרג ואל יעבור is based on the “מאי חזית” 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.
	2. 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 theדיןof יהרג ואל יעבור is not based on any uncertainty about the relative worth of the respective lives, but rather, on the inapplicability of the “וחי בהם*-*dispensation” to שׁפיכת דמים due to the “תרתי-נגד-חדא” argument. Therefore, even though the *‘fugitive without escape capability’* will certainly be killed if the townspeople remain passive, the “תרתי-נגד-חדא” argument and thus, the inapplicability of the “וחי בהם*-*dispensation”, will still remain true, as discussed above in paragraph 3 (p. 44). Therefore, the universal דיןof יהרג ואל יעבורwould apply to prohibit 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’* isthe דין רודף*.*

**Source B-3:** The ב״ח’s answer of the כסף משׁנה’s question about the prohibition to hand over the fugitive:

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| שו"ת בית חדש (ב״ח) (ישנות) סימן מג:ולא קשיא, טעמא מאי דהלא עיקר הטעם במאי דקאמר מאי חזית דדמך סומק טפי וכו' אינו אלא כדפירש רש״י ... כיון שיש כאן ישראל נהרג והמצוה בטלה למה ייטב בעיני המקום שתעבור על המצוה, למה יהא דמך חביב עליו יותר מדמו של זה, ועל כן כולם יהיו נהרגין ולא תתבטל המצוה . אבל היכא דמחויב מיתה דאיהו גרם לנפשיה, דמו בראשו ואין אנו נתפסין בדמיו ומותר למסרו, ואין אני קורא בזה דלא תתבטל המצוה דאיהו גופיה קא בטיל ליה מצוה זו על ידי מעשיו שגרם מיתה לעצמו. | [The ב״ח addresses the question of the כסף משׁנה *(see Supplement 1, p. 56),* who asks: Why does רישׁ לקישׁ prohibit handing over a fugitive who is not חייב מיתה, if he has no escape capability: *“The logic of* ‘מאי חזית’ *does not apply since the designated fugitive will be killed along with everyone else if they do not give him over?”*  The ב״ח answers this question, as follows]: This is not a difficulty since the primary reason for the “*מאי חזית*” logic is as רש״י (Source B-1, p. 43) explains: *“[If* ***α*** *would kill* ***β*** *to save himself], since a Jew (****β****) will be killed and the* מצוה *(i.e.,* לא תרצח) *will be violated, why should it be acceptable in the eyes of Hashem that you (****α****) should violate the* מצוה*? Why should your (****α****) blood be more precious to Him than the blood of this person (****β****)?”* Therefore, [if the fugitive is not חייב מיתה], all of [the townspeople] should be killed so that the מצוה will not be abrogated. However, if he is חייב 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 theדיןof יהרג ואל יעבור by שׁפיכת דמים (murder) and its relevance to permit handing over the *‘fugitive without escape capability’*

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| **Basis for** יהרג ואל יעבור **by** שׁפיכת דמים | ***‘fugitive without escape capability’*** |
| **Proponent** | Meaning of the “מאי חזית”logic | Is the “מאי חזית”logic irrelevant? | Why *“yes”* or *“no”* ? | Reason to permit מסירה (hand-over) |
| 1st opinion in the Talmeidai Rabbeinu Yonah\* | Uncertainty about whose life *(****α*** *vs.* ***β****)* is more valuable | **Yes***(Chasdei Dovid)* | The redness of the fugitive’s blood is irrelevant since he is certain to die. | The “מאי חזית” logic does not apply |
| 2nd opinion in the Talmeidai Rabbeinu Yonah: Rashi | שׁפיכת דמים is excluded from the “וחי בהם*-*dispensation” because of the “תרתי-נגד-חדא“ argument | **No***(Rav Moshe)* | “מאי חזית” is unrelated to the relative worth of the lives, but rather, on the “תרתי-נגד-חדא“ argument which still applies. | The דין רודף*:*  The fugitive is considered a רודף after the townspeople |

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

1. With this same reasoning, Rav Moshe would maintain that, even if by some *Halachic* “gauge”, one could assess that ***β****’s* level oflife is definitively lower than ***α****’s* level of life, the דיןof יהרג ואל יעבור would remain in force since the “תרתי-נגד-חדא”reasoning, and thus, the inapplicability of the “וחי בהם*-*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 דיןof יהרג ואל יעבור, does not apply. Killing an unborn fetus or aטריפה (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 דיןof יהרג ואל יעבור is based on the uncertainty about whose life is more valuable, if ***β*** is an unborn fetus or aטריפה and the hooligan threatens ***α*** to either kill ***β*** or be killed, perhaps ***α*** would be permitted to kill ***β*** to save his own life since here it is known that ***α****’s* life is “more valuable”. However, if the דיןof יהרג ואל יעבור is based on the inapplicability of the “וחי 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.
	1. The *Minchat Chinuch* states that in the fugitive case, if aטריפה 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).
	2. By contrast, we have seen that 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 rationalize that feticide is permissible because the “*מאי חזית*” logic does not apply*.*  If not for theדין רודף , the דיןof יהרג ואל יעבור would have prohibited killing even the *‘non-emerged fetus’,* 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 feticide is included under the* רציחה איסור (prohibition against murder), *both the fetus and mother are equal with regard to the* רציחה איסור *and thus, the* סברא (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 theדין רודף , which aligns with Rav Moshe’s understanding.
	3. Moreover, Rav Moshe states, *“it is obvious that we would apply the* דין *of* יהרג ואל יעבור *if hooligans attempt to coerce a* שלם *to kill a*טריפה ,” even though murdering a healthy person is punishable by the death penalty while murdering aטריפה is not (ibid). The *Nodeh B’Yehuda* takes the same position (Reference 2). Thus, Rav Moshe’s position is consistent that theדיןof יהרג ואל יעבור is fundamentally unrelated to the relative worth of the respective lives, but rather, on the inapplicability of the “וחי בהם*-*dispensation”, in accordance with Rashi’s understanding.
2. 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 ***פיקוח נפש*** imperative) cannot permit the transgression of לא תרצח (i.e., the “וחי בהם*-*dispensation” does not exist in this case). This is because the entire purpose of the “וחי בהם*-*dispensation” is to save Jewish lives and here, a Jewish life (***β***) will be lost through the very transgression (see Source B-5).

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| [רבה 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 מצוה stands in the way of פיקוח נפש. Therefore, you believe that this [prohibition against murder] should also be pushed aside because of your פיקוח נפש.” | כלומר כלום באתה לישאל על כך, אלא מפני שאתה יודע שאין מצוה עומדת בפני פיקוח נפש וסבור אתה שאף זו תדחה מפני פיקוח נפשך. |
| [However, this premise is untrue because] this [עבירה ofלא תרצח] is unlike other עבירות, since one life will be lost in any event. | אין זו דומה לשאר עבירות ,דמכל מקום יש כאן אבוד נפש.  |
| And the תורה only permitted pushing aside a מצוה [based on the “וחי בהם*-*dispensation”] because of the preciousness of a Jewish life. |  והתורה לא התירה לדחות את המצוה אלא מפני חיבת נפשו של ישראל. |
| But, here [if you kill ***β****]*, an עבירה will be transgressed and a life will be lost. | וכאן עבירה נעשית ונפש אבודה. |
| Who says that your (***α****’*s) life is more precious to Hashem than ***β****’s* life? Maybe ***β****’s* life is more precious to Him? | מי יאמר שנפשך חביבה לפני המקום יותר משל זה? דילמא של זה חביבה טפי עליו?  |
| And consequently, an עבירה will be transgressed and a life will be lost. | ונמצא עבירה נעשית ונפש אבודה. |

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

רש״י פסחים דף כה ע”ב, ד״ה מאי חזית:

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

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| חידושי רבי שמואל על מסכת פסחים, סימן יב׳, בענין יהרג ואל יעבור:דהא דאמרינן מאי חזית דדמא דידך סומק טפי דילמא דמא דחברך סומק טפי, אין פירושו דמשום דחיוב פיקוח נפשו של חבירו שוה לחיוב פיקוח נפשו שלו, על כן צריך להיות בשב ואל תעשה. אלא פירושו דכיון דנפשו של חבירו ונפשו שלו שוין ובכל ענין ימות אחד מהן, שוב אין הצלת נפשו שלו גורמת שום היתר כיון שעל ידי כך ימות חבירו - דכל עיקר ההיתר של פיקוח נפש אינו אלא בשביל שתנצל נפש מישראל. | The “מאי חזית” logic cannot be explained by assuming an equivalence between the ***פיקוח נפש*** imperative [i.e., the imperative of saving the life] of ***α*** and the ***פיקוח נפש*** imperative of ***β****,* and thus, ***α*** must remain passive [so as not to actively push aside ***β****‘*s ***פיקוח נפש*** imperative]. Rather, the explanation [of the “מאי חזית” logic] is: Since ***α****‘*s life and ***β****‘*s life are equaland one of them will die in any event, the imperative of saving ***α****‘*s life cannot generate any dispensation [to transgress לא תרצח]since his friend *(****β****)* will be killed through [the transgression]. This is because the entire reason for the ***פיקוח נפש***-dispensation (i.e., the “וחי בהם-dispensation”) is so that a Jewish life will be saved.  |

References

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