39.5.4 43b (משנה ג) → 44b (דקים ליה שכלו לו חדשיו)

I משנה ג: Halakhic status of newborns

- a Girls: at one day, can be טמאות נדה, per v. 1; at 10 days (7 for זיבה+3 for זיבה) can be זבות, per v. 2
- b Boys: at one day, can have valid status for זיבה, per v. 3 (דר' יהודה); or v. 4 (per ישמעאל בנו של ריב"ב (ר' ישמעאל בנו של ריב"ב
 - i נקבה infers these from v. 4 (זכי implies any male, נקבה implies any female) נקבה implies any female
 - And: איש איש ואשה is just normal rhetoric
 - ii And: generate ייבום for ייבום (boys only v. 7)
- c Both: are מיטמא בנגעים (v. 5), אהל המת in אהל המת (v. 6), and exempt from ייבום (once born v. 7),
- d *תרומה* allow ישראלית mother (widowed from כהן) to eat תרומה (v. 8)
 - i And: prevent בת כהן -mother (widowed from ישראל husband) from eating תרומה (v. 9)
 - ii Challenge: even a מעוברת (from ישראל who then dies) cannot eat יבמות ז:ג) תרומה
 - 1 Per: כנעוריה (v. 9) must return in "pristine state" as per her youth
 - 2 *Justification*: if we only had הדע אין לה, we would think that she may not eat תרומה because she was originally one person and now she is two (born, separate child), but מעוברת is still one body (as before) eats
 - (a) And if: we only had כנעוריה, we would reason that she may not eat because she was originally svelte and now swelled, but if she already had a child, she is "כנעוריה" → we need וזרע אין לה
 - 3 However: we haven't resolved the משנה (although we've justified the two דרשות)
 - (a) Answer (ששת): our case is a כשרה with 2 wives, one of whom is a גרושה and he only has sons from מתרושה and then he has a 1-day old son with גרושה this invalidates the servants of his household (who are partially owned by this תרושה) from eating תרושה (בן גרושה).
 - (i) *Contra*: יוסי 's opinion that this would apply even to an קמ"ל עובר, only if already born
- e ירושה: inherits and bequeaths
 - i Challenge: he is inheriting from his father to bequeath to his brothers but they could short-circuit him in any case
 - 1 Answer (ד' ששת): he inherits from his mother to bequeath to his paternal brothers
 - (a) But: only if he is already born, but not an עובר
 - (i) Reason: he dies first (before mother) and אין הבן יורש את אמו בקבר to bequeath to his paternal brothers
 - 1. Challenge: there was a case where a child continued spastic movements after mother died
 - 2. Answer: that is similar to a lizard's tail it's already dead, but continues spastic movements
 - 2 Answer (מר בריה דר' יוסף quoted by מר בריה וומר): he cuts into
 - (a) And: if a child is born after father dies, he does not cut into חלק בכורה per v. 10 (וילדו לו)
 - (b) *version*: if a בכור is born after father's death, doesn't get פו*מבדיחא* per v. 11 (יכיר)
 - (c) Note: all of these versions of מר בריה דר' יוסף quoting מר בריה מחלכה are להלכה
- f Death: anyone who murders him is liable per v. 12
 - i And: he is considered a full "חתן" for his parents
 - 1 Meaning: for אבלות (they fully mourn if he dies)
 - 2 Contra: רשב"ג who rules that until 30 days, he is ספק נפל
 - 3 Block: רשב"ג could subscribe to our ruling; if we know that he had full gestation of 9 months (ספק נפל סו