
Laws of an Onen

ברכות דף י"ז: - דף י"ח. ושלחן ערוך אורח חיים סימן ע"א סעיפים א'-ו' וסימן תקמ"ח סעיף ה' [עפ"י פסקי מ"ב]
ויורה דעה סימן שמ"א [עפ"י פסקי ערוך השלחן]

What is an אונן?

If a person loses one of the 7 close relatives, he becomes an אונן until the burial. [There is discussion as to whether the extra 3 relatives added by the רבנן, can make him an אונן.] מדאורייתא, an אונן may not eat קדשים or מעשר שני, even after the burial, until the end of the day of death. Subsequently, the רבנן added an exemption from all positive commandments; transgression of מצות לא תעשה, even a דרבנן, is off-limits, however. This פטור only continues, though, until they begin to cover the coffin with the earth. Even if this is just a temporary move and they are planning to reinter the body elsewhere, though it is possible that they will not start the שבעה until the second burial, they immediately lose the דין of אוננים, as soon as the first קבורה has been done.

For example, if he wishes to eat, he does not make any ברכות, not before and not after. However, he must wash, of course without a ברכה, before eating bread.

He may also not eat meat or wine and must not dine at a table whilst reclining. [The רמ"א cites a יש אומרים, the הגהות אשר"י, who writes that a תלמיד should not eat wine or drink wine, whilst his רב is waiting there to be buried. The ערוך השלחן notes that this is not the current מנהג.] The מנהג adds that he should limit the amount he eats; however, other than a note in the ט"ז, this is not mentioned in the early פוסקים. Nonetheless, the ערוך השלחן writes that he should not indulge in extras, because, only what is absolutely necessary should be eaten. On the other hand, he writes, only meat itself is a problem; a meaty תבשיל is fine. Similarly, only wine, seen as a תענוג, is forbidden; to have a shot of whiskey or a little beer, to ease his pain, however, is perfectly in order.

The אונן should endeavour to find another house, or at least a different room in which to eat his meal. If that is not possible, he may set up a kosher מחיצה [i.e. a sheet 10 טפחים high, tied at the bottom to stop it flapping, is fine]. If even this is not possible, then he may eat in the vicinity of the body, but should at least turn his face the other way; otherwise, it appears like he is ignoring his duty towards, and is mocking, the נפטר. The ערוך השלחן maintains if he just wishes to have a small drink or snack, even לכתחילה, he may turn his face away.

The מחבר clearly rules like the רמב"ם, in that no אבילות דינים [obviously, other than תשמיש] apply during the time he is an אונן. The only restriction is that he may not sit or lie on a bed, even when turned up the wrong way. The רמ"א does quote a יש אומרים, the opinion of the רמב"ן, who argues

that, actually, almost all restrictions of אבילות apply; this includes washing, anointing, שמחה, greeting, haircutting and work. חז"ל did not forbid shoes and leaving the house, for, on the contrary, they urge the אונן to arrange the קבורה.

If the אונן wants to perform a מצוה, may he do so?

רש"י and the רמב"ם, who understand the reason for the exemption to be similar to that of the חתן [i.e. a preoccupied state of mind], both stipulate that if he so wishes, the אונן may do the מצוה. However, תוספות and other ראשונים cite the ירושלמי, which explains the rationale to be based on either the honour, or the needs, of the deceased. As such, the choice does not lie with the אונן.

According to the ראבי"ה, since the ירושלמי does not provide a conclusive decision as to whether the issue is the כבוד of the מת, or his needs for קבורה, one may be lenient and, as long as he has others to see to the burial details, he may perform the מצוה. Although the אורח חיים in שלחן ערוך cites the ראבי"ה, saying that one need not object to one who wishes to follow the ראבי"ה [especially since according to רש"י and the רמב"ם, in all cases, he may be מחמיר, if he wants to], still, the מהרש"ל writes that this is not the prevalent מנהג. So too, in יורה דעה, there is no mention of this קולא and, the אחרונים concur, so is the הלכה.

As such, not only does he not make ברכות on his food, but others should not be מוציא him either and he should not even answer אמן to the ברכות of others; moreover, if he *does* make a ברכה, they should not answer אמן.

However, if there are no other אבלים and he has other people to see to the קבורה arrangements, the פרי מגדים and the דרך החיים both allow him to go to shul to say קדיש, since this will give honour to the deceased. [This follows the ט"ז, later in סקי"ד, who says that if not for the prohibition to perform מצוה, he may say קדיש before the burial. The נקודות הכסף disagrees.]

What is the דין if he is in the middle of a ברכה when he hears the tragic news?

This is subject to a big מחלוקת; the שבות יעקב and the חכמת אדם rule that he should complete the תפלה. Others say he should stop where he is. There are those who compromise, writing that he should just finish the ברכה he is in the middle of. [See the שערי תשובה סקי"ו. Does this have anything to do with the above מחלוקת between רש"י and תוספות? What do you think?]

The best thing is to avoid the issue; namely, do not inform him of the news until after he has finished davening. Moreover, the חמודי דניאל advises that, if he has not yet started davening, unless necessary, let him first put on תפילין and daven.

What if the אונן cannot arrange the קבורה?

Generally speaking, he loses his status of being an אונן. Let us look at a few cases in hand:

1. If the אונן is in prison, making it impossible for him to be involved, he does not gain the status of an אונן. The תם רבינו goes further, saying that if he is in a different town [and, according to תוספות, possibly even if he is in the same town] and there are relatives in the vicinity of the נפטר to see to the organisation, he does not become an אונן. However, the ערוך שלחן ערוך rules like the רא"ש, who argues. The ערוך השלחן writes that this is the הלכה and, as such, if one receives a message that his relative has been נפטר, he should observe אנינות, until, according to his estimation, the time of the קבורה. [However, as we shall soon see בעזהשי"ת, it would seem that according to the ערוך השלחן, himself, if there is a חברה קדישא in the town of the נפטר, this relative never becomes an אונן.]
2. So too, if the מת is being held in prison and is not being released for burial, since the relatives do not know when they will be able to do the קבורה, they do not become אוננים. If it is ransom money that is the issue, then they do not start the שבעה either, since there is still hope that the officials will accept a plea bargain. [If, as in the case of waiting for the registrar, they know exactly when the קבורה will be, the נודע ביהודה rules that they become אוננים immediately, even if the קבורה will not be for a few days.] If, however, it is clear that the body will not be released, then the שבעה and שלשים begin from the moment they give up hope of getting the remains back; likewise, in the case where the body has been lost and they have lost hope of finding the remains.
3. If the town has its own חברה קדישא, then once the נפטר has been handed over to them, even if it has not actually left the house, the אבלים immediately lose their status as אוננים. According to this, nowadays, when, from the word go, the חברה קדישא do almost everything, it would seem that the whole דין of אנינות does not apply. The ערוך השלחן, therefore, is מחדש that the above דין only applies where the נפטר is being buried out of town and the relative is not going with. If, however, it will take place in the town, then even the relatives who remain behind in the house, retain the status of an אונן until after the קבורה. He reports that this was the prevalent custom in his part of the world. However, the משנה ברורה deals with the question differently; namely, as long as there is an issue of כבוד המת, such as deciding the burial spot or the הספדים, they retain the status of an אונן, until after the קבורה. If the מת is being taken to a different town for burial, if it is a couple of days journey [or, at least more than one day, writes the ערוך השלחן], they do not get the דין of an אונן until it reaches the town; if it is nearby, it sets in immediately.

In light of the above, what is the דין of שבת טוב and יום טוב?

The גמרא spells out that, on שבת, he is freed of all דינים of אנינות, and as such, must keep all מצות; the one exception is the מצוה of עונה. We follow the תנא קמא, who, as explained by most ראשונים, hold

that not only is there no חיוב, but it is also strictly forbidden to be involved in such an action, whilst the מת is waiting to be buried. Similarly, the מגן אברהם forbids learning, something which gladdens the heart; the דגול מרבבה and others disagree [although he writes that perhaps on the second night of יום טוב, it would be forbidden. However, the שער הציון writes that even this, is not so clear.] However, the שנים מקרא וגוי and הלכות that an אבל may learn, the ערוך השלחן permits, even according to the מגן אברהם. Also, the ב"ח spells out that even on שבת, he should be observing the דינים of eating his meal in the presence of the מת. However, he may, though not obligatory, eat meat and drink wine; the ברכות, as well as all other תפלה, however, writes the ש"ך, are a must.

As for קדיש, this is dependent on the aforementioned מחלוקת between the ט"ז and ש"ך, as to whether קדיש should be said before the קבורה. Of course, if he has Yartzheit for someone else, the באר היטיב writes that, on שבת, as opposed to during the week, he may say it. If he is the regular שליח ציבור, the ערוך השלחן paskens that, unless there is no one to take his place, he should not daven at the עמוד; likewise, writes the מגן אברהם, he should not be called to the תורה.

Although the ט"ז advises one to rely on the מנהג to read קריאת שמע before nacht, since the מגן אברהם and רבה אלי disagree, the משנה ברורה makes a compromise, advising the אונן-to-be, to read it before שבת, מוצאי שבת, without the ברכות. He should definitely not daven the שמונה עשרה, for, by definition, the weekday שמונה עשרה means that it is חול; in that case, he should not be davening.

As it approaches evening, if one is planning to walk to the edge of the שבת תחום, in order to be ready to travel on מוצאי שבת, then, from the moment he begins to walk, he gains the status of an אונן. The חיי אדם adds that the same would apply in a place where the גבאים sit, after מנחה of שבת, to discuss the קבורה.

On the first day of יום טוב, if he is planning to use gentiles to bury the נפטר and they are available, then he immediately has the דין of an אונן. [This follows the משנה ברורה and שער הציון, as opposed to the פרי מגדים, who seems to say that, as long as the עכו"ם is available, he will become an אונן, even if he doesn't want to use them.] Otherwise, it is as above. On the second day, even if he does not wish to do the קבורה, the מגן אברהם rules that, as long as he *could* do the קבורה, it has the status of חול and he is an אונן for all purposes.

On סדר night, the מהר"ם מלובלין writes, he should listen to the הגדה from someone else. However, if there is no one else present, there is no question that he should recite it, himself. [This is the פסק of the ערוך השלחן. However, the משנה ברורה does not even include the words of מהר"ם מלובלין, since there are those who question the פסק of the מהר"ם. During ספירת העומר, the נודע ביהודה writes that in order not to miss a day, he may just say the day, matter-of-factly; of course, without a ברכה.]

If, however, he *cannot* bury the dead, for example due to a non-Jewish festival, or, adds the חיי אדם, if the גבאים required to help with the קבורה arrangements, will not be available until after davening,

then until the time when things *could* proceed, he does not become an **אונן**. Likewise, at night, even of **יום טוב שני**, since it is not general practice to bury at night, according to most [see **סימן שמ"א** in **ט"ז** and **מגן אברהם** in **תקמ"ח**, as opposed to the **ש"ך**], he may make **קידוש** and continue as normal. [Although there are those who side with the **ש"ך**, since the **מגן אברהם** and most other **אחרונים** agree with the **ט"ז**, the **משנה ברורה** follows his **פסק**. The **ערוך השלחן** adds that if they decide to bury at night, then, obviously, the relatives become **אוננים** immediately.] On weekdays, however, whether by day or by night, whether the **גבאים** are available or not, the **דינים** of **אנינות** totally apply; **חול המועד** is no different to a normal weekday.

Should the **אונן daven after the **קבורה**? Should he daven twice at the next **תפלה**?**

If the burial takes place early enough, then, as soon as they begin to throw the earth on the coffin, the **אבלים** should go to the **אהל** to daven. If time allows, he should daven in the correct order. If it is already nearing the end of the third seasonal hour of the day, he should immediately say **שמע** without the **ברכות** and then daven from the beginning. If it is nearing the end of the fourth hour, he should skip whatever is necessary from **פסוקי דזמרה**, according to the order of precedence, in order to ensure that he reaches **שמונה עשרה** within the time. The **דרך החיים** writes that, **קריאת שמע** and their **ברכות**, he should not skip, however, even if he will miss the fourth hour for **שמונה עשרה**.

If the fourth hour has already passed, he may still daven the **שמונה עשרה**, until **חצות**. As for the rest of the **תפלה**, the **מגן אברהם** holds that one may no longer say the majority of **השחר**; **ברכות** except **ברכות התורה** and the **ברכות** of **וגוי**, **שלא עשני וגוי**, all of which may be said the whole day. He reasons that, since he never had an obligation to say them in the morning, there is no reason to say them later on. [The **משנה ברורה** adds that, if he only became an **אונן** after **השחר**, then he did have a **חיוב** to say **ברכות השחר** at some point in the morning, and should, in this case, do so even after the fourth hour.] Although there are those who argue, we apply here the rule of **להקל**. With regard to **ברכות שמע**, the **משנה ברורה** leans towards allowing it, just like the **דין** of **שמונה עשרה**. The **פסוקי דזמרה**, one most definitely can say.

Once **חצות** has passed, he may no longer daven [accept the **ברכות** above mentioned]. As to whether he should make **תשלומין** at **מנחה** time, it depends on whether he ever had a **חיוב** to daven. In other words, if the time of death was after daybreak, the earliest possible time for **שחרית**, then, since there was a time of **חיוב**, the **דגול מרובה**, **יורה דעה**, and others, rule that he should make **תשלומין**. [Although there are those who argue, and so is the ruling of the **ערוך השלחן**, making it dependent on his status at the **סוף זמן**, the **משנה ברורה** shares the above **פסק**.] If, however, the **מיתה** occurred before the onset of the **תפלה**, there is no need for **תשלומין**.

[The דרישה, as explained by the ש"ך, understands that, since he was exempt during the time of שחרית, this is not 'אונסי' but 'פטורי', and, as such, has nothing to do with תשלומין. Subsequently, writes the דרישה, the same would apply to one who is busy with צרכי ציבור, who is therefore exempt from תפלה. However, the ט"ז maintains that this is 'אונסי', for only when the person is free to daven and is held back by the תורה, does it have nothing to do with תשלומין. Here, though, he is *allowed* to pray, just the circumstances are stopping him from doing so. The ערוך השלחן sides with the דרישה.]

The הבודלה took place on שבת. What happens with מיתה?

Since the אונן is exempt on מוצאי שבת, he may eat without הבודלה. After the קבורה, there is a מחלוקת as to whether he should make הבודלה. On the one hand, the מצוה of הבודלה may be performed until Tuesday night [bar the ברכות on the נר and בשמים]. As such, the מהר"ם מרוטונברג argues, that following the קבורה, he should make הבודלה. However, the רא"ש sides with those who understand, that following מוצאי שבת, the ability to make הבודלה, is תשלומין. Hence, here, since he was exempt, there is no תשלומין. The ערוך השלחן rules like the first opinion.

Should the אונן bentsh after the קבורה? What if he has already bentshed?

The ביאור הלכה cites the opinion of the דרך החיים that if he is still satiated, he should bentsh after the burial. Similarly, if he has not yet made אשר יצר, he may do so after the burial; assuming, qualifies the ביאור הלכה, that he does not need to be excused once again. The ערוך השלחן, however, disagrees; he argues that if at the time of eating or being excused, he was not חייב, he does not make the ברכה later.

When it comes to שמע, if an אונן read it, רבי עקיבא איגר writes that he must read again. We want to know the דין, not of פסוקים, but repeating ברכות. If an אונן made הבודלה, the ח"י ק"ט rules that he should not repeat it, after the קבורה; this is based on a number of reasons. Amongst them, are:

1. The opinion of רש"י and רמב"ם, that if he wishes, he may perform any מצוה.
2. Even according to תוספות, it is a ספק דרבנן as to what the reason for the איסור is. [See also the above mentioned view of the ראב"י.] With the חב"א קדישא, it is highly questionable whether, nowadays, strictly speaking, the דינים of אונן apply and we should definitely be able to say ספק דרבנן להקל.
3. We have the רא"ש who holds that there is no תשלומין for הבודלה, anyway.

[It would seem that the first two arguments are enough reason to rule that any ברכה דרבנן, at least, if made whilst an אונן, should not be repeated after the קבורה. The question is whether ברכת המזון which can be דאורייתא is different or do we say that that the question of whether he may be

stringent upon himself, whilst an אונן, is definitely only דרבנן? However, together with the additional argument of the ערוך השלחן who maintains that there is no יתשלומין after the קבורה anyway, it would seem that he should not bentch again. If at all possible, he should try to eat more bread, so that he will definitely be able to bentch.]

The אונן is supposed to be entering his son into the אברהם אבינו today; what should he do?

The ט"ז brings a רמ"א in כתב יד who rules that before the burial, he will not be able to make the ברכה and, as such, the קבורה should take place first. If this is impossible, then the ט"ז rules that we follow the ruling of the מהרש"ל and the מילה comes first; in this case, the סנדק should make the ברכה, instead of the father.

A non-relative who is guarding the נפטר, does he have the status of an אונן?

No. However, even on a ship, [like the תנא קמא of our גמרא, who rules that שמירה from mice is necessary even on a ship], even if he is outside of the ד' אמות of the body, he is exempt from, and is not allowed to read שמע and all other מצות, due to the rule of, העוסק במצוה פטור מן המצוה. If there are two people doing שמירה, they should alternate, allowing one another to go read שמע and daven.

Likewise, if he is busy digging a grave, he is exempt from the מצוה of שמע; קריאת שמע; even, adds the ר"ן, when he takes a break, since he is doing so, in order to rest and reserve his כוחות. Again, if there are two digging together and they are not both needed at one time [explains the בית יוסף, such as when digging a catacomb], then one should dig, whilst the other goes to perform the מצוה of שמע; they should then switch.

Mocking the Poor Man

ברכות דף י"ח. ושלחן ערוך אורח חיים סימן כ"ג וסימן מ"ה סעיף א' וסימן ע"א סעיף ז' [עפ"י פסקי מ"ב] ויורה דעה סימן רפ"ב סעיפים ג'-ד' וסימן שס"א סעיף ג' וסימן שס"ז סעיפים ב'-ו' וסימן ת"ג סעיף י' [עפ"י פסקי ערוך השלחן]

רא"ש מסכת ברכות פרק ג סימן ז

ומיהו נראה דאף לספר תורה שפיר דמי מדתני בסיפא כך אמרו בס"ת דלא מיסתבר למימר דמשום שריותא דגנבים ולסטים דוקא נקטיה דהא מילתא דפשיטא היא שינהג בו מנהג בזיון ולא ימסרנו ביד גנבים ולסטים. אלא משום דיוקא דרישא נמי נקטיה דשרי להפשילו לאחוריו וכו'.

רי"ף מסכת ברכות דף יא עמוד א

ת"ר המוליך עצמות ממקום למקום הרי זה לא יתנם בדיסקיא ויניחם על גבי החמור וירכב עליהם מפני שנוהג בהן מנהג בזיון ואם היה מתירא מפני הגנבים או מפני הלסטים מותר וכדרך שאמרו בעצמות כך אמרו בס"ת שאם היה מתירא מפני הגנבים או מפני הלסטים מותר להניחה על גבי החמור שהוא רוכב עליו.

רמב"ם הלכות אבל פרק יד הלכה יד

המוליך עצמות ממקום למקום לא יתנם בדיסקיא ויניחם על גבי חמורו וירכב עליהם, מפני שנוהג בהן מנהג בזיון, ואם היה מתירא מפני הגנבים ומפני הלסטים מותר.

רמב"ם הלכות תפילין ומזוזה וספר תורה פרק י הלכה יא

היה מהלך ממקום למקום וספר תורה עמו לא יניח ספר תורה בתוך השק ויניחנו על גבי החמור וירכב עליו, ואם היה מתפחד מן הגנבים מותר, ואם אין שם פחד מניחו בחיקו כנגד לבו והוא רוכב על הבהמה והולך. כל מי שיושב לפני ספר תורה ישב בכובד ראש באימה ופחד, שהוא העד הנאמן לכל באי עולם שנאמר והיה שם בך לעד, ויכבדהו כפי כחו, אמרו חכמים הראשונים כל המחלל את התורה גופו מחולל על הבריות וכל המכבד את התורה גופו מכובד על הבריות.

שולחן ערוך יורה דעה הלכות ספר תורה סימן רפב סעיף ג

היה הולך ממקום למקום וס"ת עמו, לא יניחנו בשק ויניחנו על גבי חמור וירכב עליו, אלא מניחו בחיקו כנגד לבו והוא רוכב על החמור. ואם היה מפחד מפני הגנבים, מותר.

If a לוי"י is passing, must one join?

The גמרא warns that if one sees a מת, and does not accompany it, at least for 4 אמות, explains the הלכה, he transgresses לרש; לועג לרש; the טור adds that he is deserving of נדוי, banishment. The הלכה cites the לוי"י that if there is not כ"ל צרכו, then, one is obligated to join the לוי"י, all the way to the בית הקברות.

What is considered to be within the vicinity of a מת, for performance of מצות

There are three opinions:

1. The הלכה holds that outside four אמות of a מת, is completely מותר.
2. The הלכה agrees that מעיקר הדין, the הלכה is right. However, out of concern that one may come to, unknowingly, enter the אמות ד', one should not perform any מצות within the area designated for קברות; outside of this, is completely מותר.
3. The הלכה, as interpreted by the השקל and Vilna Gaon, goes along with the הלכה; only, he holds that within the בית הקברות [either the walls of the בית הקברות, or, if there is no wall, the area designated for burial], it is not a חומרא, but the strict letter of the law forbids the

performance of מצות therein, even if it is outside of the ד' אמות of a קבר. [See the ביאור הלכה in מחמיר for the פרי מגדים's interpretation of the מגן אברהם, suggesting that one should be within ד' אמות of the edge of the הקברות, and the problem with it.]

The משנה ברורה concludes that it doesn't seem likely that we should follow the מגן אברהם; especially, in light of the פרי מגדים's question as to how one can ever say קדיש in a בית הקברות. However, within the area where there are actually קברים [i.e. not the land just designated for future קברים], we should be stringent, even outside 4 אמות of any grave. In truth, though, one should not enter within the walls of the בית הקברות, wearing תפילין or ציצית hanging out, for concern that he may unwittingly run into the problematic zone. If there is a מחיצה surrounding the בית הקברות, then, writes the ערוך השולחן, even within ד' אמות of a קבר, is no problem.

What is the rule for תפילין?

As long as nothing is showing, even the רצועות, adds the ט"ז, there is no issue of לועג לרש; mocking the deceased. Therefore, for the יד של, just ensure that the straps around the fingers are covered over. The ראש של should either be removed, or covered.

What is the דין of ציצית?

From the גמרא, it would appear that, as long as the ציצית are not dangling down on the graves, there is no איסור. However, the תלמידי רבינו יונה write that this was only so in past times, when their clothes had four corners and were not made especially for the מצוה. As for us, though, we may not have our ציצית showing. The בית יוסף confirms that, as long as the strings are tucked away and are not showing, there is no need to take the garment off, even if he is wearing it on top; seemingly, even a גדול, despite its חשיבות [unlike the פרי מגדים]. To just tie the strings of two corners together, achieves nothing.

Although the ערוך השולחן writes that only in places where the מנהג is to remove the ציצית from the בגד of the נפטר, do the undertakers have to cover their ציצית, the consensus of the אחרונים, such as the מגן אברהם and the Vilna Gaon, is like the רא"ש, who writes that, even if the מת has ציצית, there is still a concern of לועג לרש, since he is no longer commanded in the מצוה.

Does this apply to the grave of a woman or קטן?

The מהריט"ץ writes that, since they were not obligated in the above מצות during their lifetime, there can't be לועג לרש. The צ"ח disagrees. The משנה ברורה, cites the אלי רבה and פרי מגדים, who are מחלק; namely, a קטן may have the נשמה of a גדול from a previous גלגול and, as such, there may be a problem of לועג לרש. However, with a woman, there is no concern.

What if one read שמע within ד' אמות of a grave?

It is forbidden to read שמע, say קדיש or any other שבקדשה within ד' אמות of the קבר. However, the דרישה allows צדוק הדין, since this is כבוד המת; he continues that, כל שכן to speak דברי תורה for the כבוד of the מת, is permitted. [See 'Speaking in Proximity of Deceased'.] The ערוך השולחן adds that this

is the reason people say various תחינות and תהילים by a מת or קבר; namely, it is meant for the תיקון of his נשמה and, he concludes, 'it is hard to be מבטל a מנהג'.

If he did read שמע, the רמב"ם rules, that he must repeat it. Although the ראבי"ד challenges this קנס, the אחרונים write that, for שמע, one must be חושש for the שיטה of the רמב"ם. The פרי מגדים is unsure as to whether he should repeat the ברכות of שמע. For all other ברכות or תפלה, one should not repeat them. [However, if he was outside of אמות ד' אמות, it would seem that he should definitely not be חושש for the above mentioned חומרות and would not repeat any ברכות; perhaps, even for קריאת שמע itself, he can rely on the ספק ספיקא; the combination of the aforementioned בי"ח and the ראבי"ד here.]

People, going to daven at קברי צדיקים for reprieve from an עת צרה, want to take a ספר תורה with. May they do this?

The גמרא writes that one must not take a ספר תורה and read within אמות ד' of a קבר. Tosafos points out that, obviously, even without the ספר, it is forbidden to recite פסוקים in the vicinity of the מת. Although the ט"ז holds that the prohibition to bring a ספר תורה, is independent of the reading, the פתחי תשובה, challenges him. He backs up his position with support from the נודע ביהודה. [However, the ערוך השלחן maintains, based on the terminology of the רמב"ם and the שלחן ערוך, that the ט"ז is correct.] In the above case, however, on other grounds, the נודע ביהודה strongly advises against taking the ספר תורה; namely, if it has a פסול, the זוהר הקדוש warns of serious repercussions. How can we be confident of the כשרות of any of our ספרי תורה, he asks?

If one needs to transfer the bones of a מת, may he sit on them, for security?

Generally, he may not just sit on them, for this is a בזיון; rather, he may place them in a bag, over his back. In a wagon, writes the ערוך השלחן, he should place them at his side. However, if it is for the security of the מת, it is permitted to sit on them.

What about a ספר תורה?

It would seem that there is a three-way מחלוקת in the ראשונים:

1. According to תוספות, it is exactly the same as the bones of the מת.
2. The רמב"ם would seem to agree in the case of גנבים. However, where there is no such concern, he must carry it in his lap, opposite his heart; not over his back.
3. The רי"ף agrees with the second part of the רמב"ם. However, in cases of danger, he may not sit on it; he may only place it over his back.

The שלחן ערוך would seem to follow the lines of the רמב"ם. However, the בי"ח is מחמיר like the רי"ף, even with other ספרים. The ש"ך concludes that it is most praiseworthy, where possible, to be מחמיר for כבוד התורה. However, where it proves impossible, one may rely on the רמב"ם and even sit on top of the ספרים. The ערוך השלחן warns how careful a person must be; if he is travelling in a wagon, he should have an ארון in which he can put it. Alternatively, he may place it on a shelf, at least in line with where he is sitting; but חייב to put it on the floor underneath him.