



[Tosefta Horayot 2:5-10](#)

The convert and the freedman – the status of newcomers to Judaism.

Date: 3d CE

Place: Syria Palaestina

Language: Hebrew

Category: Jewish

Literary genre: Legal text

Title of work: Tosefta

Reference: Horayot 2:5-10

Commentary:

These passages from the Tosefta detail an order of prioritization in cases such as saving a life, returning lost property, clothing the naked, and securing release from captivity. These passages prescribe the responsibilities of an individual on his own behalf, for his relatives and his master, as well as communal efforts for endangered members, their property and modesty, and concludes by ranking the priorities for redeeming and saving lives. This list, which is ordered from the highest to lowest position and hereditary status in Jewish society, offers glimpse of the internal hierarchy as defined by the rabbis. The Tosefta primarily focuses on redemption from captivity and highlights the importance of Torah study and the status of the sage. While class within Jewish society was determined by lineage, the Torah is presented here as a venue for enhancing one's position in society. For our purposes, several issues in this text are significant: the redemption of prisoners in Rome; the comparison between facilitating conversion and giving birth; and, the status of new "citizens" – converts and freed slaves – within the Jewish community.

Section Five begins with the order of urgency for redemption if a group is being held captive and their release depends on a monetary exchange. According to the Tosefta, one should first redeem oneself, then one's master (rabbi), and then one's father; however, if one's mother is also in captivity, she should be redeemed first. Interestingly, the Tosefta places one's master before one's father. When discussing the restoration of lost property, Mishnah Bava Metzi'a 2:11 (also cited in Jerusalem Talmud Horayot 3:7, 48b) explains that, with respect to lost property, restoration of a master's possessions takes priority the restoration of one's father's assets since the latter brings a person into this world but a rabbi who teaches wisdom brings that person into the world to come. Putting a Torah master first highlights the Tosefta's tendency to see the status of sages as pre-eminent. The Tosefta then defines the identity of such a master – he is not the teacher of a trade but of Torah – followed by several opinions regarding which teachers of Torah would be considered masters.

Next the Tosefta addresses the order of priority between men and women in the four aforementioned circumstances: saving a life, returning lost property, clothing the naked, and release from captivity. This passage, like its parallel in [Mishnah Horayot 3:7](#), mentions the two cases where a man takes precedence over a woman: saving life and restoring lost property, suggesting that the lives of males and their property are more important than those of a female. However, when a woman lacks appropriate garments it is more urgent to cover her to uphold her modesty and reduce her shame. Similarly, when a woman and a man are in captivity, it is more urgent to release her, probably to protect her from sexual assault. Yet, when both a man and a woman face such disgrace in captivity, the man takes precedence. The Jerusalem Talmud, Horayot 3:7, 48b, explains this position by stating that the rape of a man goes against nature: "For the woman – this is her way, but the man – this is not his way" (????? ???? ???? ???? ???? ????), probably inferring that assaulting a man would violate heteronormative sexual conduct. However, the prioritization of a man's redemption in this case may refer to a societal hierarchy that places greater value on a men's life and honor.

After this general ruling, the Tosefta brings a narrative that describes redemption from captivity (the closing material in Section Five and Section Six). This story, which also appears in Jerusalem Talmud, Horayot 3:7, 48b, recounts a visit to Rome by Rabbi Yehoshua, a second-generation tanna and prominent sage who was active in the late first century. [Sifre Deuteronomy 43](#) also tells of him visiting Rome, but with a group of sages. Upon his arrival, an unspecified speaker informs him of a Jewish boy who is about to be sold into prostitution. The term used in MS Vienna is *leqeles* ("to be mocked"); in MS Erfurt and the Jerusalem Talmud, *leqalon* appears ("to be disgraced"). Described as having beautiful eyes and being good-looking, this child is depicted with the biblical language that



characterizes the boy who would become King David (1 Samuel 16:12). Rabbi Yehoshua goes to check on this boy. When he reaches the location where captives are held, the sage cites the first portion of a biblical verse: “Who gave up Jacob to the spoiler, and Israel to the robbers?” (Isaiah 42:24, NRSV) which the child immediately continues: “Was it not the Lord, against whom we have sinned?” (Isaiah 42:24, NRSV). In the Jerusalem Talmud’s version, the boy responds by completing the verse (with the quotation in the Tosefta plus the following): “Was it not the Lord, against whom we have sinned, in whose ways they would not walk, and whose Torah they would not obey?” (Isaiah 42:24, based on NRSV). The choice of this verse is particularly meaningful in this context. This child’s (presumably) Roman captors are criminals who abduct young children and sell them into prostitution; yet, the biblical material quoted by this Jewish boy attributes Roman power to the sins committed by the people of Israel. Thus, through this exchange, the child, whose beauty is reminiscent of King David, ascribes his fate to Israel’s transgressions, articulating the biblical and rabbinic view that Israel’s enemies only rule over them when Israel incurs punishment. In the talmudic parallel, Rabbi Yehoshua weeps in response to the child’s answer. In both versions, the sage vows to redeem this child with a large sum then send him to the land of Israel. The child’s knowledge of Scripture may have reinforced the sage’s actions on his behalf. The Tosefta (and the Talmud) adds that it was written of this child: “The precious children of Zion, worth their weight in fine gold” (Lamentations 4:2, NRSV). The entire narrative is constructed with biblical verses that explain the power relations between Rome, as represented by captors, and a handsome Israelite child who evokes biblical heroes.

In Section Seven, the Tosefta further emphasizes high regard for Torah instruction and the sages. This passage compares teaching Torah to giving birth. One who imparts Torah is compared to the Creator, and his teaching is similar to God’s creation of the first man. The Tosefta adds that “whoever brings one being under the wings of the divine presence (the *Shekhinah*) is given credit as if he had created him (that convert), formed his limbs, and brought him into the world.” Rabbinic texts regularly use the idiom: “to bring him under the wings of the *Shekhinah*” in reference to one who facilitates converts in the process of joining the Jewish people (see, for example: Sifre Numbers 80; Sifre Deuteronomy 32; Jerusalem Talmud Sanhedrin 2:4, 20c; Avodah Zarah 1:1, 39c). In this literature, teaching Torah to a Jewish student and guiding the process of conversion to Judaism are both considered analogous to creating a new person (akin to God’s creation) or giving birth. In that context, proselytizing non-Jews is a highly respected endeavor. The Tosefta concludes this passage with two verses which reiterate that the value of Torah is beyond measure: “She (the Torah) is more precious than jewels” (Proverbs 3:15, NRSV); “There is gold, and abundance of costly stones; [but the lips informed by knowledge are a precious jewel]” (Proverbs 20:15, NRSV).

In light of the previous section, it is not surprising that the Tosefta claims (in Section Eight) that a sage is prioritized over a king, explaining that a sage is irreplaceable, whereas any member of Israel could become a successor to its king. This statement is noteworthy for its ascription of nobility to all Israelites; yet, the sage is set at the apex of Jewish society. Whereas rabbinic texts typically confer highest standing to priests on account of their lineage, here the sage and the king, respectively, are ranked highest, followed by the high priest.

In Sections Eight to Ten, the Tosefta explicitly ranks the societal members to be prioritized in situations where saving a life or redeeming a captive are at issue: from the sage, the king, the high priest, the prophet, priests who are ranked according to their positions in the Temple, then the common priest, Levite, Israelite, *mamzer*, *natin*, *ger*, and freed slave. The latter portion of this list is nearly identical to [Mishnah Horayot 3:7-8](#) (see the commentary on that source for explanations of these designations). Let us now compare the hierarchy of those who should be saved or redeemed in these two sources:

Tosefta Horayot 2:8-10

Mishnah Horayot 3:8

A sage

The (Jewish) king

The high priest

A prophet

Several categories of priests: one anointed for war; the chief of the priests; a head of a division for duty of priests (*rosh mishmar*); a head of a division of priests (*rosh beyt* 'av); a Temple trustee (*markal*); a Temple treasurer (*gizbar*)



A common priest	A priest
A Levite	A Levite
An Israelite	An Israelite
A <i>mamzer</i>	A <i>mamzer</i>
A <i>natin</i>	A <i>natin</i>
A <i>ger</i>	A <i>ger</i>
A freed slave	A freed slave

While the categories mentioned in the Mishnah are defined by lineage, the Tosefta also gives consideration to select roles, thus elevating the sage to the highest position. Yet, both sources conclude with a statement that emphasizes Torah study over any inherited status:

“When [does this order apply]? When all of them are equal. But if there were a *mamzer* [who is] a scholar (*talmid ?akham*), he would take precedence over a high priest [who is] uneducated [in Torah] (*‘am ha-aretz*).”

The Tosefta and the Mishnah compare two extremes on the spectrum as determined by heredity: on the one end a high priest and on the other *mamzer* who, according to Mishnah Yevamot 4:13 and Qiddushin 3:12, was born to an adulterous woman or from incestuous sexual relations (most of these prohibitions are listed in Leviticus 18, 20), following Deuteronomy 23:3: “A *mamzer* shall not be admitted to the congregation (*qahal*) of the Lord. Even to the tenth generation, none of their descendants shall be admitted to the assembly of the Lord” (based on v. 2 in NRSV). Yet, according to these sources, if a *mamzer* were a Torah scholar, or even an advanced student, he should be released from captivity or saved before a high priest who lacks knowledge of Torah.

The Tosefta uses two terms: *talmid ?akham*, a disciple of the sages or a sage himself; and, the *‘am ha-aretz*, a description that is extensively discussed in rabbinic discourse on the relationship between sages and other Jews. In some texts, *‘am ha-aretz* denotes a person who did not practice the laws of ritual purity or tithing; in other (often later) texts, this term became synonymous with one who lacks knowledge of Torah. The mishnah that contrasts a *talmid ?akham* with an *‘am ha-aretz* seems to convey the second meaning, especially since Tosefta Horayot 2:10 places this passage in a context that highlights the importance of studying and teaching Torah. Thus, although lineage is significant, this text claims that engagement with Torah is prioritized in cases where choices must be made regarding saving a life, restoring lost property, clothing the naked, and release from captivity. To complete this statement, the Tosefta adds a biblical verse: “She (the Torah) is more precious than jewels” (Proverbs 3:15, NRSV). This verse was already cited in Section Seven after emphasizing the importance of teaching Torah. The repetition of the verse highlights this message.

While this tosefta primarily focuses on the importance of Torah and its teachers, this text (and its mishnaic parallel) places the freedman is mentioned together with the *ger* since, in rabbinic texts, a non-Jewish slave holds similar status to a *ger*, for he had to be circumcised to serve within a Jewish household. Servitude in that setting was considered an avenue for non-Jews to join Judaism. Yet, the process of conversion was concluded only after the slave was manumitted (Hezser, *Jewish Slavery*, p. 36-39). This process resembles many Roman practices in which freedmen of Roman citizens themselves received Roman citizenship after their manumission. As Catherine Hezser writes: “Manumission did not automatically lead to Roman citizenship. Only those slaves who were manumitted in a particular way, by *vindicta*, by the census, or by a testament became Roman citizens.” She also adds that “The disqualification of servile origin would at least legally disappear with the second generation: the children born after manumission were considered freeborn and could become magistrates” (*Jewish Slavery*, p. 110-111). However, in this passage from the Tosefta, the freed slave is at the bottom of the list. The Tosefta explicitly critiques ranking a convert over a freed slave, citing Rabbi Shimon ben Eleazar, a fifth-generation tanna who was active in the last third of the second century. He asserted that a convert should take precedence over a freed slave, for the latter is subject to the curse in Genesis 9:25: “Cursed be Canaan; a slave of slaves shall he be to his brothers” (based on NRSV).

Yet, as reflected in MS Erfurt, this sage claims that a freed slave “grew up in holiness,” whereas a *ger* did not. This characterization may refer to prior exposure to Judaism, namely having been raised in a Jewish household. Thus, it



seems that Rabbi Shimon ben Eleazar is speaking of first-generation converts and freed slaves.

Indeed, it is striking that the Tosefta (and Mishnah) Horayot place converts and freed slaves at the bottom of their list, especially when comparing their places to those found in other rabbinic lists that discuss classes, in connection with marriage. For example, [Mishnah Qiddushin 4:1](#) enumerates ten genealogical classes who returned to the land of Israel after the Babylonian exile. While Mishnah Horayot 3:7-8 and [Mishnah Qiddushin 4:1](#) both rank priests, Levites, and Israelites in the highest positions, in Qiddushin, *gerim* and freed slaves hold intermediate placements when considering lineage (they may marry Israelites and Levites but not priests), followed by *mamzerim* and the *netinim* (who cannot marry priests, Levites or Israelites). By contrast, the mishnah from Horayot, assigns converts and freed slaves the lowest status, even below *mamzerim*. Despite this ordering, this mishnah interestingly contrasts the high priest (who was not previously mentioned) with a *mamzer*, not with a freed slave (who appears in the bottom of its hierarchy). In [Tosefta Qiddushin 5:1](#), Rabbi Meir categorizes converts and free slaves together with *mamzerim* and *netinim*, as the classes who cannot marry priests, Levites, and Israelites, but he offers no indication that converts and freed slaves have a subordinate status to *mamzerim* and *netinim*. The difference between [Mishnah Qiddushin 4:1](#) and Mishnah Horayot 3:8 may be explained in two ways: First, these differential rankings may be related to the circumstances that they address, with Qiddushin placing converts and freed slaves in an intermediate position with regard to marriage and Horayot ranking them at the lowest level for community actions to rescue members from peril. Second, it could be proposed that these contrasting orders simply reflect the absence of a consensus in tannaitic literature on the status of these persons within the Jewish community.

This text from the Tosefta highlights the value of Torah study and its effect on status in Jewish society, particularly by comparison to lineage. In that context, the Tosefta presents the issue of captives in Rome both as a discrete subject and as a catalyst for considering its religious explanation for Roman authority over Israel. The topic of conversion also has a significant place in this discussion: on the one hand, a convert is at the lowest rung when saving a life and release from captivity are at stake; on the other hand, if ushering someone “under the wings of the divine presence” refers to having an instrumental role in conversions to Judaism, this pursuit is portrayed as meritorious indeed.

Keywords in the original language:

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Thematic keywords in English:

- [captivity](#)
- [class](#)
- [conversion](#)
- [convert](#)
- [Divine Presence](#)
- [divine punishment](#)
- [father](#)
- [freedman](#)
- [high priest](#)
- [holiness](#)
- [king](#)
- [Levites](#)
- [lineage](#)
- [lost property](#)
- [mamzer](#)
- [manumission](#)
- [master](#)
- [mother](#)
- [natin](#)
- [priest](#)
- [prophet](#)
- [prostitution](#)
- [Rabbi Yehoshua](#)
- [Roman citizenship](#)
- [Roman power](#)
- [Rome \(city\)](#)
- [sage](#)
- [saving life](#)
- [sexual assault](#)
- [Temple \(Jerusalem\)](#)



- [Torah](#)
- [Torah study](#)

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