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A Concurrence to Rabbi David Fine's Paper, "On the Sale of Holy Property"

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This paper was submitted as a concurrence to "On the Sale of Holy Property" by Rabbi David J. Fine.

Concurring and dissenting opinions are not official positions of the Committee on Jewish Law and Standards.

I concur with Rabbi David Fine's paper, "On the Sale of Holy Property." Rabbi Fine nicely articulates the central principles governing this issue. These include the understanding that we recognize and respect different levels of holiness, and that we should only sell a holy object in service of a higher degree of holiness. I agree with Rabbi Fine that any object purchased with proceeds from the sale of a holy object must be of an equal or higher level of holiness. I would like to note that sacred activities could be of an even higher degree of holiness than sacred objects, and so proceeds from the sale of holy objects could be used to fund certain holy activities.

Rabbi Joseph Karo, in the *Shulhan Arukh*, discusses the permissibility of an individual selling a Torah scroll that he owns. Karo rules (Y.D. 270:1):

אין רשות למכור . . . ואף אילו למכור ישן כדי לקנות חדש אסור. אבל ללמוד תורה או לשא אשה מותר למכור אם אין לו דבר אחר למכור.

"He is not allowed to sell [a Torah scroll]. . . Even to sell an old scroll to purchase a new one is forbidden. But it is permitted to sell in order to study Torah or to marry a woman, if he has nothing else to sell." Rabbi Moses Isserles adds:

וה"ה לצורך פדיון שבויים מותר למכור.

"Similarly, it is permitted to sell for the purpose of redeeming captives." In his *Aruk Hashulhan* (Y.D. 270:16), Rabbi Yehiel Mikhel Epstein adds that it is permitted to sell a Torah scroll to secure healing from serious illness, and notes that an individual may sell a Torah scroll not only to save himself, but even more clearly in order to save others.

Elsewhere in the *Aruk Hashulhan* (O.H. 153:15), Epstein discusses the reasons why holy activities, in particular the study of Torah, could take precedence over holy objects, even a Torah scroll. He writes:

וכיוון שנתבאר דמוכרין דברים אלו בשבייל קדושה חמורה ממנה כ"ש שמכרין אותם כדי ללמוד תורה ולהספקת תלמידים (לבושים)
ואפיילו ס"ת כי מה תועלת היה בhem ובס"ת אם לא למדות? ויתירה מעלה הלומד ממעלת החורה עצמה (שם) וכל העולם לא
נברא אלא בשבייל לימוד התורה.

"As we have explained, one may sell holy objects for the sake of a higher degree of holiness. All the more so, one may sell them to study Torah and to support students. This is so even for a Torah scroll, for what would be the value of holy books or a Torah scroll if they were not studied. The value of the learner is greater even than the value of the Torah itself. The world was created only for the study of Torah."

In *The Sabbath*, Rabbi Abraham Joshua Heschel observes that in contemporary society, people tend to give priority to the tangible and physical rather than to the intangible and spiritual, to space rather than to time. Judaism, he writes, emphasizes the importance of persons and of time, giving priority to holiness in time even over holiness in space. Jewish law governing the sale of holy property reflects this priority.