

**Inclusion and Exclusion in the Israeli Space:
the Right to Property as a Key to Resolving Israel's Geographic
Exclusion Debate**

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In Israel, geographic communities have the power to exclude people applying for membership on the basis of the “unique characteristics” of the community, as well as to prevent the transfer of the rights of a member of a community to one who is not a member. This ability to exclude has stood at the core of the Israel public-legal debate for decades and highlights the tension between the rights of the individual and the interests of the community. The Law for Amendment of Cooperative Societies Ordinance (no.8) 2011, which sought to settle this complex issue in primary legislation, failed to do so, since it gives communities a broad and disproportionate authority to exclude others. This article will offer an innovative solution to the issue of geographically-based exclusions, while calling for a shift in the debate from the public to the private law, with an emphasis on the right to property. Adopting a pluralistic conception of property rights, the article will argue that geographic exclusion should be permitted only as long as the community holds and promotes a perception of the good life that is based on the values of cooperation, solidarity and mutual commitment, and as long as sustaining this perception requires geographic segregation. Positive answers to these questions justify, according to a pluralistic conception of property rights, regarding community members' property rights as subject to duties and privileges aimed at realizing those values. This is why a community member's option to transfer his property rights to another is subject to the duty that this transfer will do minimum damage to the community's ability to continue to promote its perception of the good life. Basing the geographic exclusion debate on the right to property should create a delicate balance between the rights of the individual and community interests. Once adopted, it would significantly reduce the rate of communities that are granted the authority to exclude others, and would thus allow a distinct and proportionate – and, therefore, proper – geographical exclusion policy.