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**Must a Right be Claimed? Between Rights Discourse
and Duties Discourse**

According to a well-known distinction, Jewish law is unique in that its language is the language of duties, in contrast to modern western law which is accustomed to a rights-based language. However, in light of the correlativity that exists between right and duties it must be asked whether this distinction has any actual legal importance. In this article I will claim that the choice whether to frame the norms as rights or duties affects the character of the legal system. One of the effects touches upon the question of what the degree of importance is to the act of claiming a right. Is the act of claiming a right a necessary component for implementing the duty on the opposite party? For example, will the defendant be required to compensate the plaintiff even if the plaintiff is unaware of the damage that occurred and does not claim the compensation she or he deserves? Legal systems that are based on a rights-based discourse will tend to condition the existence of the duty on whether or not the right-holder claims his or her right. The right is the point of departure, and without claiming it, the opposite party is not obligated to initiate and realize the duty. By contrast, legal systems that are premised on a duties-based discourse will tend to view the duty as a matter that stands independently, regardless of whether the right-holder claims it. This article is devoted to a discussion of various laws that concretize this difference and to addressing its meanings and implications. The conclusion will suggest that the duties-based discourse has several advantages alongside disadvantages that cannot be ignored, and therefore there is reason to search for a way to combine the two types of legal discourses.