



Obligations of the State

Section 7(2) of the Constitution puts four different types of obligations on the State. This section says that the State must respect, protect, promote and fulfil the rights in the Bill of Rights.

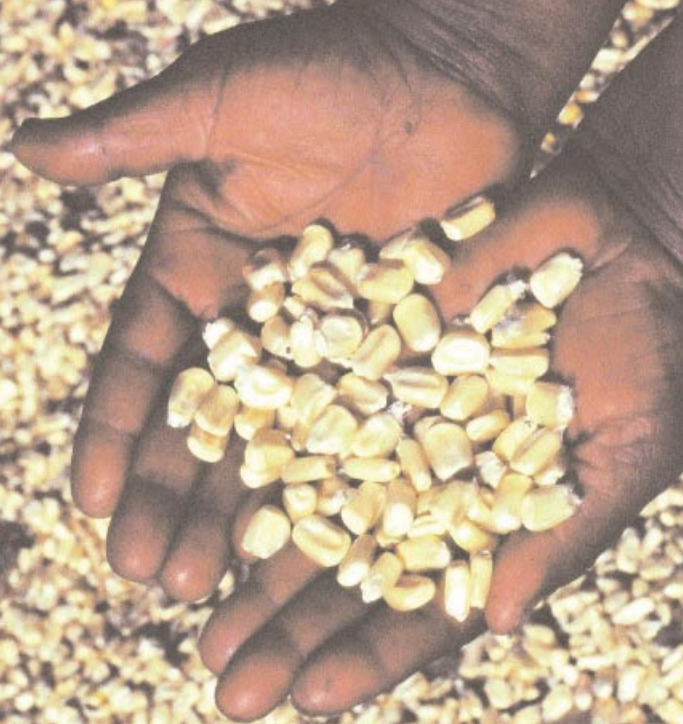
An obligation to *respect* requires the State to refrain from interfering with the enjoyment of rights. This means that if there is already an enjoyment of a human right, the State must not take any measures that will result in preventing such enjoyment. For example, on the right to housing, the State must not engage on unfair forced evictions.

An obligation to *protect* requires the State to prevent violations of such rights by third parties.

An obligation to *promote* requires the State to inform people of their rights and explain how they can enjoy these rights. This includes activities such as workshops, seminars, and publications in the written media and other media such as radio and television.

An obligation to *fulfil* requires the State to take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realisation of such rights.

In [sections 27\(2\), 26\(2\), 29\(1\)\(b\), 25\(5\)](#) of the Constitution the State is obliged to take reasonable legislative and other measures, within its available resources, to achieve progressive realisation of these rights.



Progressive realisation of social and economic rights means that:

- The State must move as soon as possible towards the realisation of the rights
- The State does not, under any circumstances have the right to suspend indefinitely, efforts to ensure the full realisation of the rights
- The State has an obligation to begin immediately to take steps to fulfil its obligations to realise the rights
- The realisation of the rights requires an effective utilisation of available resources and such realisation is not dependent on the increase in resources

Obligations of the State to respect, protect and promote should not be progressively realised based on the available resources.

For example, an obligation to respect requires the State to immediately refrain from interfering enjoyment of rights. An obligation to protect requires the State to immediately take positive measures that prevent third parties from interfering with enjoyment of rights. These should not depend on whether the State has adequate resources or not.

An obligation to fulfil requires the State to adopt appropriate measures towards the full realisation of rights. Therefore, they may not be fulfilled immediately without the availability of resources.