

RELEVANCE OF EVIDENCES FOR REJECTION OF RIGHTS UNDER FOREST RIGHTS ACT, 2006 IN SONBHADRA DISTRICT OF UTTAR PRADESH

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Abstract

Implementation of The Scheduled tribes and other traditional forest dwellers (Recognition of forest Rights) Act, 2006 in Sonbhadra started in 2009. In the district, out of a total of 65,540 Claims, approximately eighty two percent claims got rejected. The study focuses on understanding the reasons for such high rejection. Paper deals with the importance of evidences in the rights recognition process and enlists the evidences that were presented by the claimants. The paper highlights on how particular evidences are given more weightage than others and also emphasizes on how some claims got rejected solely on the basis of particular evidences. Further, the study indicates that approximately twenty six percent of claims were rejected even after producing correct evidences. Study reveals the very high percentage of individual claims filed as compared to community claims (one percent of total claims).

Keywords:Forest dwellers;Scheduled Tribes;Evidences;Rejected claims;Forest Rights Act.

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1. Introduction

For recognizing rights of tribals, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Bill, 2005 was introduced by MoTA in Parliament on 13th December, 2005. The bill was referred to Joint Parliamentary committee which addressed the scope of the legislation to non-tribals (Bhullar, 2008; Bose, 2010; Sarin *et al.*, 2010). Thereafter, The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, came into force on 31st December, 2007. The rules were notified on 1st January, 2008 for implementing the Act in the spirit of its preamble. As per the preamble of the Act “*It is an act to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and Other Traditional Forest dwellers who have been primarily residing in these forests for generations and who depend on forests or forests land for bona fide livelihood needs but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land*”. The Act, for the first time addressed the habitation, tenurial and traditional Rights of the forest dwelling scheduled tribes and other traditional forest dwellers (Samarthan, 2012; Jain *et al.*, 2015; AITPN, 2006; MoEFCC, 2006; MoEFCC, 2007).

The study focuses on the implementation of Forest Rights Act, 2006 in Sonbhadra District of Uttar Pradesh. The main objective of the study is to analyze the relevance of evidences presented by the claimants for claiming their forest Rights. The Forest dwelling scheduled tribes and other traditional forest dwellers have filed claims under FRA. However, they have to prove the authenticity of their claims by supporting their claims with evidences (Upadhyay *et al.*, 2012). Several evidences were provided by the claimant to support their claims. These evidences were examined at all the levels of the recognition process by all committees i.e., Gram Sabha, Sub Division Level Committee (SDLC) and the District Level Committee (DLC). Further, the process is monitored by the State Level Monitoring Committee.

As per the status report on implementation status of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for the period ending 31st April, 2016 a total of 44,23,464 claims have been filed. Out of which 43, 07,154 claims are individual claims and only 1, 16,310 claims are community claims (2.62% of the total claims) (MoTA, 2015). 17,

44,274 titles have been distributed (17, 00,786 individual and 43,488 community claims). A total of 38, 57,379 claims have been disposed off which is 87.20% of the total claims. The maximum number of claims was received from Chhattisgarh (8, 60,364) (MoTA, 2015).

In Uttar Pradesh the total number of claims received are 93,644 (92,520 Individual and 1,124 community claims) and only 18,555 titles have been distributed (17712 individual and 843 community claims) with a very high rejection rate of 80.2% (MoTA, 2015). The high rate of rejection in the state emphasizes on the need to carry out in-depth study of FRA implementation process in the region.

From Uttar Pradesh, the maximum claims have been received from Sonbhadra District. 91.22% of the total community claims received in Uttar Pradesh are from Sonbhadra. A total of 65,540 claims have been received from Sonbhadra (64,771 individual and 769 Community claims) (Tribal Welfare Department, Sonbhadra, 2009). But only 18.33% claims have been accepted from the District. The rejection rate is very high here and so there is a need to study the reasons for rejection. The study also highlights the point that even after producing the correct evidences many claimants did not get their Rights. The study also brings out the various gaps in the implementation process. Although several case studies have been conducted that focus on the implementation of FRA in various states of India (Saxena, 2010) like Chhattisgarh, Madhya Pradesh (Samarthan, 2010), Kerala (Sathyapalan *et al.*, 2010), Odisha (Sarap *et al.*, 2013 and Bandi, 2013) but no study has emphasized on the relevance of evidences for implementation of FRA. The study aims to understand in detail the evidences produced and their role in the Rights recognition process.

Description of the study area

Sonbhadra district located in Uttar Pradesh has a geographic area of 6,788 sq. Km and forest area is about 36.05% of the total geographical area (Mishra, 2011). According to population census 2011, the population in the district is 1,862,559 with population density of 270 inhabitants per sq. Km. The district lies between latitude 23 degree 52' and 25 degree 32' North and longitude 82 degree 72' and 83 degree 33' East as shown in (Figure 1. Map of study area). Land area of Sonbhadra is 6,788 km², out of which forest area is 3,782.86 km². Forest in respect of land is

55.73% as per the official website of the District. The literacy rate is 64.03 % (Census 2011). The district has 8 blocks and 1441 villages constituting 16 tribes. There are four forest divisions - Sonbhadra, Obra, Renukoot and Kaimoor Wild Life. Out of the total population, Scheduled tribes population constitutes to 20.67% and Scheduled caste population is 22.64% of the total population of the district (Census 2011). The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is implemented in this region. The Implementation process in many parts of the country began in 2008 after the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of forest Rights) Rules, 2007 were notified. In Sonbhadra however, the actual process of implementation started in 2009.

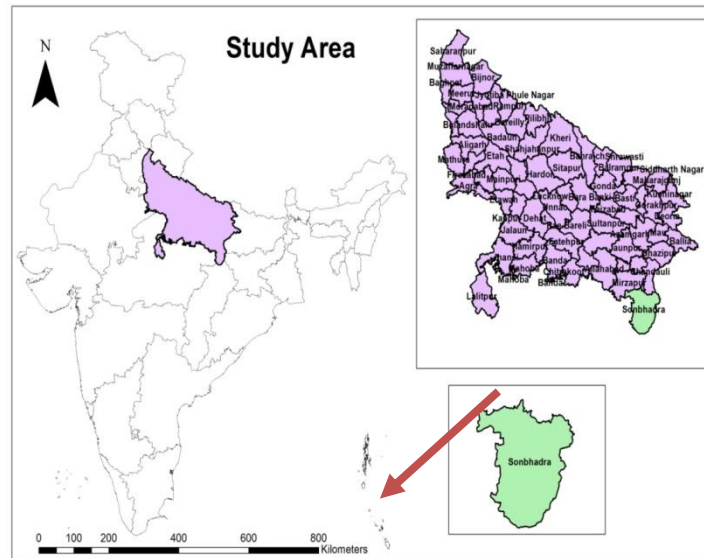


Figure 1. Map of study area

2. Research Method

For the purpose of study, extensive secondary data was collected from various sources. Ministry of Tribal affairs provided the data related to implementation of FRA, 2006 in India. It includes the total number of claims filed in the country and out of those claims, number of accepted claims, rejected claims, disposal rate and titles distributed over the years. This gave an idea about the trend in the number of claims received over the years and how the title distribution process is taking shape over the years. Information regarding the distribution of individual and community rights for all the states was also obtained from Ministry of Tribal Affairs. It gave an idea about

rejection rate in the state of Uttar Pradesh and also the ratio of individual rights to community rights. Information regarding population, number of villages, number of households, literacy rate, and tribal population data for Sonbhadra district was collected from Tribal Welfare Department, August Kranti Bhawan, New Delhi. A field visit was done in the district in order to obtain information regarding the total number of claimants who filed for claims under the Act, number of claimants whose rights were accepted and rejected along with their family details, and the type of claims received. These files were collected from all the Tehsils namely Duddhi, Robertsganj and Ghorawal and meetings were conducted at the tehsil offices. This data was analyzed and based on the analysis, questionnaire was prepared. 10% sampling was done for the study area. Out of a total of 1441 villages, 150 villages were selected, 50 from each tehsil (Stratified sampling). These 50 villages were selected on the basis of random sampling. Sampling design is shown in Figure. 2

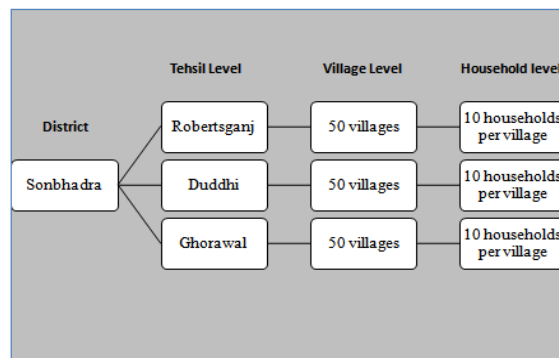


Figure 2: Sample design

A total of 1500 claimants were interviewed who had filed their claims. Each interview took around 20 minutes. The survey took around 4 months. Questions were strictly related to FRA. From this survey, the main findings were related to the level of awareness among the claimants, the evidences that they presented to support their claims, the accessibility of forms for claiming their Rights, the status of the Gram sabha meetings, the status of their claims etc. In addition to the household survey, meetings were also held with the Forest Rights committee members in 50 villages. The lawyers, members of different NGOs in the district or members of NGOs working on that district, social activists and forest department officials were also interviewed to have an

overview of the implementation process and to identify the gaps in the Rights recognition process under FRA, 2006.

The data was analyzed, the evidences presented by the claimants were enlisted and the evidences were categorized as: Government authorized documents, Public Documents and Physical structures. The data collected was then validated with the data already available from the Tehsils and other government offices (Secondary data).

3. Results and Analysis

The actual process of implementation in Sonbhadra started in 2009 with the involvement of Forest Department, Revenue Department and Gram sabha. Thousands of claims were filed by members of both forest dwelling Scheduled tribes and other traditional forest dwellers. The process of filing claims stopped in 2011 and there were no claims received after that.

3.1 Implementation status of FRA in Sonbhadra

3.1.1 Individual claims

In case of individual claims the total number of claims filed in the district was 64771 out of which 11251 claims were accepted and rest 53520 claims got rejected showing a very high rejection rate of 82.62%. Of the three tehsils in Sonbhadra namely Robertsganj, Duddhi and Ghorawal, maximum number of claims were received from Duddhi (Figure 3). The distributed land area is 4,910.54 Hectares.

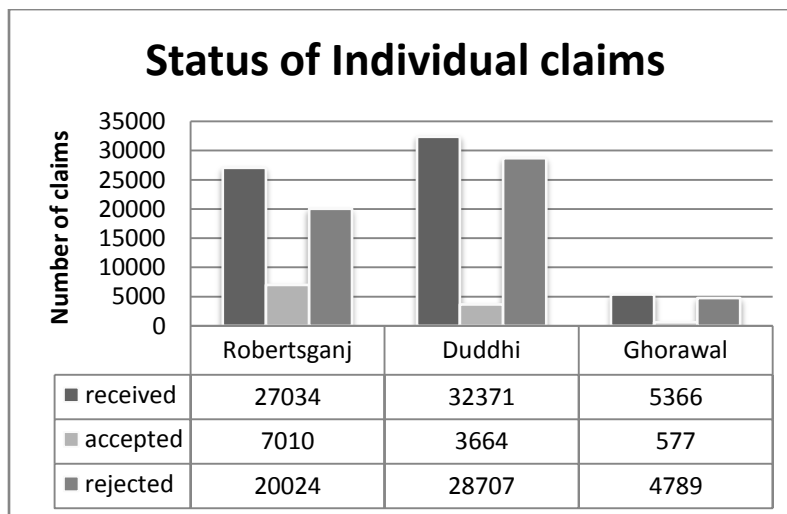


Figure 3: Status of Individual claims in Sonbhadra.

Source: District Tribal welfare Department, Sonbhadra

All the claims that were accepted were made by the members of forest dwelling scheduled tribes. Not even a single claim filed by any individual who falls in the category of other traditional forest dwellers was accepted in Sonbhadra (Table 1).

Table 1: Individual Claims filed by FDSTs and OTFDs

	Claims Filed	Titles distributed	Rejected claims	Claims Pending
Scheduled Tribes	32417	11251	21166	00
OTFDs	32340	00	32340	00

Source: Tribal welfare department ; Vikas Bhawan , Robertsganj.

3.1.2 Community claims

As compared to the individual claims, the community claims filed are very less. In the whole district a total of mere 769 community claims has been filed. No claims were received from Ghorawal tehsil (Figure 4). All the 769 community claims filed by the forest dwellers were approved by District Level committee with an acceptance rate of 100%. But not even a single community claim was filed by other traditional forest dwellers (Table 2).

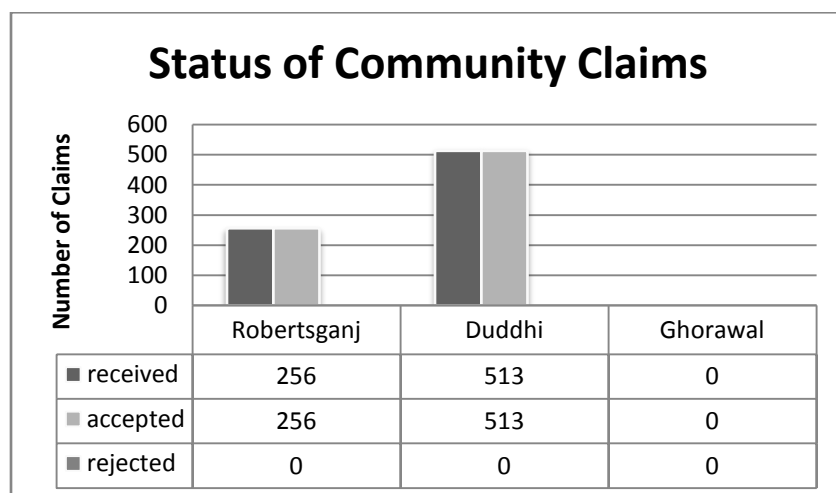


Figure 4: Status of community claims filed in Sonbhadra.

Source: District Tribal welfare Department, Sonbhadra

Table 2: Community Claims filed by FDSTs and OTFDs

	<i>Claims Filed</i>	<i>Titles distributed</i>	<i>Claims Pending</i>
<i>Scheduled Tribes</i>	769	769	00
<i>OTFDs</i>	00	00	00

Source: Tribal welfare department; Vikas Bhawan, Robertsganj

3.2 Relevance of evidences in the rights recognition process under FRA in Sonbhadra

To support the claims a minimum of two evidences has to be presented by the claimants. Broadly the evidences are categorized as – Public documents, Government authorized documents, Physical attributes and traditional structures and statement of elders. After the survey, evidences presented by the claimants whose rights got accepted and whose rights got rejected were categorized separately. Out of a total of 1500 claimants surveyed in Sonbhadra from all the three tehsils, 403 claimants were found whose rights got approved by DLC. Focusing on the evidences produced by these claimants it came out that out of these 403 people maximum people supported their claims with public documents like maps, working plans, forest enquiry reports, government orders and circulars. Maps and Forest enquiry reports were presented by maximum claimants – 379 and 355 respectively. The graph below shows the percentage wise distribution of the evidences presented by these claimants whose rights got approved (Figure 5).

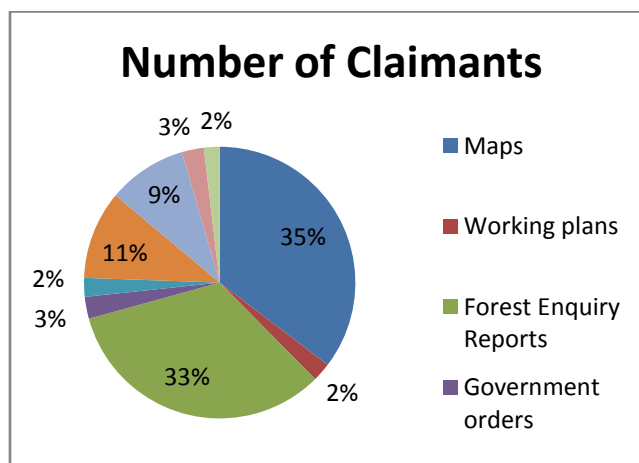


Figure 5: Percentage wise distribution of the evidences presented by these claimants whose rights got approved

Rest 1097 claimants out of 1500 could not get their rights approved by DLC. After analyzing the evidences presented by these claimants it was found out that maximum of these claimants supported their evidences with Government authorized documents, there were 878 claimants who presented Voter Identity cards and Ration cards at the time of claims' verification. More clear distribution of evidence is shown below in the pie chart (Figure 6).

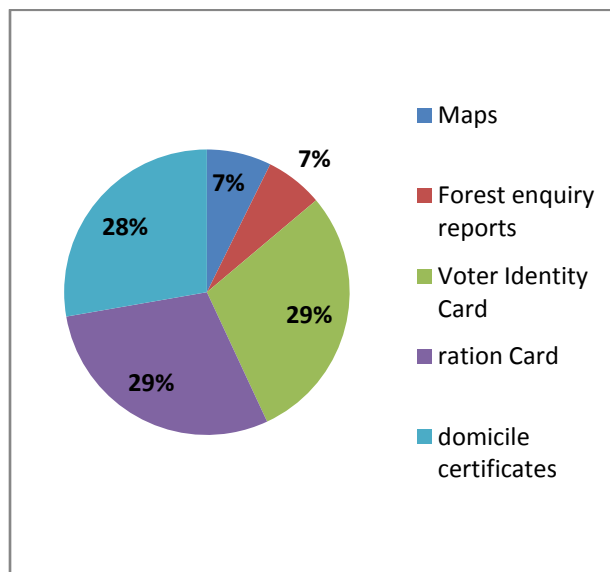


Figure 6: Percentage wise distribution of the evidences presented by these claimants whose rights got rejected.

Out of a total of 1500 claimants surveyed, there were 26.9% claims that got accepted and rest 73.1% claims got rejected. Of the claimants whose Rights were accepted, all of them produced correct evidences. There was not a single case found where wrong evidence was produced.

In case of rejected claims out of 1500 claimants 26.33% produced correct evidences but still their Rights got rejected. 46.8% lacked correct evidences at the time of Rights recognition and thus their claims got rejected. Out of these rejected claims which couldn't be supported with correct evidences there were 5.6% (n=1500) who had correct evidences but did not produce it to support

their claims and rest 41.2% lacked correct evidences altogether. Summary of the results is shown in figure 8.

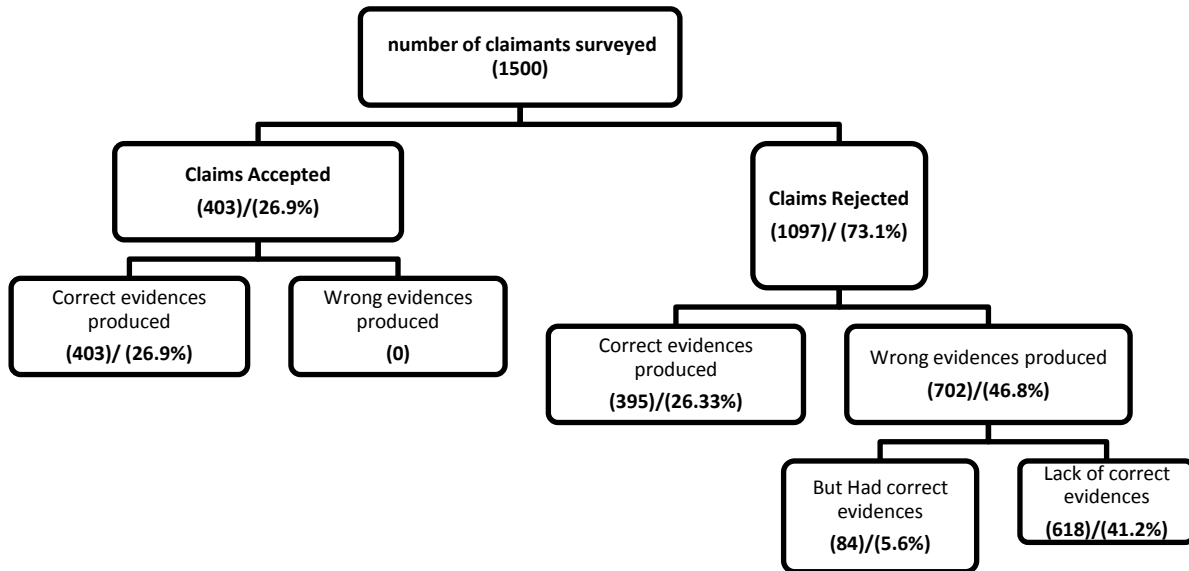


Figure 7: Summary of claims received, accepted, rejected and evidences produced.

4. Conclusion

In Uttar Pradesh, the highest number of claims has been received from Sonbhadra district. But the rejection rate is very high (81.66%). The study shows that no claim filed by anyone other than forest dwelling scheduled tribes has been accepted in Sonbhadra. In case of community claims the number of claims filed is very less as compared to individual claims (Only 1% of the total claims filed). No community claim has been filed by OTFDs. In case of individual claims, no claim by OTFDs has been accepted. The forest dwelling communities clearly lack the knowledge regarding community claims.

Claimants have supported their claims with evidences. In case of rejected and accepted claims, it is very clearly established that particular type of evidences have been given more weightage whereas, as per the provisions of FRA, the implementing agencies cannot reject the claims solely on the basis of lack of particular evidence. But there were cases where claims have been rejected in spite of producing the correct evidences. There were also cases (5.6%) where due to lack of knowledge people produced wrong evidences even though they had correct evidences to support

their claims. These claimants have not been communicated the reasons of rejection. Oral evidence is to be considered as one of the appropriate evidence, but in Sonbhadra oral evidence has not been given any weightage. OTFDs are facing difficulties because they are not able to give the evidence for their occupation of land for 75 years prior to 13/12/2005 as no paper work that dates back to 1930 is available with them.

As per the survey there are 31.93% of the claimants who had correct evidences and still their claims got rejected. As the process of filing claims in the district stopped in 2011, so they should be made aware to file their claims all over again. Many people did not file claims earlier due to lack of awareness and they should file their claims now. The reasons for rejection of claims have not been communicated to the claimants, which is very important so that they can file the claims again with correct evidences. This will certainly help all the eligible claimants get their rights over their lands and implement FRA in true spirit of its preamble. The results show the importance of evidences and give an approximation about the challenges in implementation of FRA for the whole state and in different states of the country with similar socio economic status. A similar study could be conducted at National level to study in detail the various issues faced by the implementing authorities and the claimants, which in turn will help in the effective implementation of FRA and also address the issue of rejection of Rights on arbitrary basis.

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