

ONE DAY INTERACTIVE SESSION WITH THE FOREST STAFF AT MANAS NATIONAL PARK, ASSAM ON 29.12.2009

The Forest Department through its Field Director Mr.Anindya, requested for a one day session for his staff on 29th December, 2009. This session Chaired by Mr.Anindya and Mr.K.Patgiri, Forest Ranger. There were other participants from local NGO as well. The total numbers of people present were 25.

Manas National Park has been under insurgency for a long time and has been a heaven for the insurgents claiming a separate State. As a result thereof, though a very beautiful park, fell prey to the destruction of wildlife during this period. It is stated that there was a huge population of rhinos, tigers, tuskers, elephants, but the insurgents killed them in a rampant manner. The Council of Bodo Land took this area few years ago and appointed Field Director to take care of the National Park. We could see number of activities in the Park being conducted by various NGOs and ATREE being one of them. Hence, we joined hands to carry out this session.

The trainees were exposed to the wildlife crime programme but had several doubts with regard to investigation and detection of crime. The crime related to felling of tree, illegal grazing and poaching of smaller animals. It was interesting to note that young people have been recruited by the Forest Department to work as volunteers and informers. The forest staff was consisting of Forest Guards, Foresters and only and the senior most officer being the Forest Ranger.

The level of training for this staff had to be on a different footing and not too technical as there were number of non-foresters also invited to be made aware of the legal action.

We distributed the normal kit of Wildlife Protection Act, 1972, Indian Evidence Act, Criminal Procedure Code and the legal guide for successful prosecution of wildlife crimes. The session was chaired by Ms.Anjana Gosain as a resource person.

The participants were informed about the history of conservation laws beginning from 1912 to 1972 in a simple form to say that hunting was prohibited for the first time in a legal manner under the Wildlife Protection Act, 1972. The fundamental duty for protecting the flora and fauna and the wildlife is essentially provided in the Constitution of India itself. Hence, it is their duty to protect and detect the crime being a part of their job but also an essential duty as a citizen.

The following aspects were also explained in a situation where there is hardly any wildlife left but due to a national highway crossing the park and going into Bhutan, a neighbouring country, there are enough cases of illegal trafficking of timber and other forest produce. There is a treaty between the two countries to allow the passage, which is in the middle of the park. In such an event, the question were if a truck or a vehicle is found to carry any of the timber belonging to the Manas National Park which spreads in Bhutan as well, then what are the steps which are to be taken under the Wildlife Protection Act, 1972.

It was explained that if the forest produce belongs to Manas National Park, Assam, the same cannot be transported into Bhutan but once the offender crosses the border then the process has to be of extradition through the concerned Ministry. But if the forest produce is caught at the entry point of the Indian border, then the case can be registered and tried under the Wildlife Protection Act, 1972. It is very interesting to note that the poaching cases are happening more in the border areas like U.P-Nepal Border, Assam-Bhutan Border, and Assam-Bangladesh Border. So far these bordering countries are concerned, although Government of India is having extradition treaty with them unless the accused is identified, it is difficult to identify them for seeking these proceedings. Hence, it is very important to check the entry and exit points and the vehicles in order to avoid such situations.

They were also given detailed explanation on the powers of Forest Officers under the Wildlife Protection Act, 1972. The basic questions were with regard to the powers of Forest Guards and the role in these proceedings. It was explained that the Investigation Officer cannot be below the rank of sub-Inspector but a forest guard is fully empowered to not only informed but also can be made a witness in the proceedings in case there is any detection of crime. There is no distinction in the Act but under Section 50 of the Wildlife Protection Act, 1972, the power for investigation, entry, search, arrest and detention is only given to any authorized officer by the Chief Wildlife Warden or the Director but is not available to the Forest Guard. Hence, their role is about detecting the crime by being on duty and if any suspicious situation is found, he can inform his superior officer but he does not have the power to do the specific mention activities under Section 50 of the Act. However, the forester can be involved in the proceedings and has a relevant role to play. It was clarified with the judgment of Kishan Lal vs State wherein it has been held that the Foresters and Forest Guards are not Forest Officers and they do not have the power to enter the house and seize forest produce.

The forest staff wanted to know that they have been given guns and how they can be used without getting prosecuted in case it is used as in number of cases, counter criminal cases were registered against them.

In the judgment of Tilak Bahadur Rai vs State of Arunachal Pradesh it was held that to decide whether in shooting to kill the accused acted in self defence or not, the nature and ferocity of animal will be relevant. Hence, when such a situation is there, even if there is an attack by the poacher, the same principle will apply. Hence, it all depends on the facts and the Forest Guard is equally free to use the arm not only to protect the animal but in his self-defence as well and cannot be convicted and it has to be pleaded accordingly. It was explained that it depends on the State the kind of arms policy it has decided and to what extent they have to be used. It seems Assam Forest Department has requisite permission to use the arms in comparison to other States where guns are not provided.

There were other questions relating to confession to be made by accused and it was explained that law is a way of life but there are some practical tips which should be followed for being a witness and also recording of evidence of the accused. The tips are :- the interrogation has to be consistent and to be dealt patiently but it depends upon every officer how he extracts the information/confession. As faculty, it could only be suggest to get as much as information while he is under detention and not in custody since there is a world of difference between the two. In custody, the court is aware and in detention he is under departmental detention and one has to be intelligent enough to make use of it.

The staff was informed when they have to appear as a witness they should go in uniform, well prepared with the case, carry water and food and medicines if so advised. So that during deposition they are not irritated, unwell or forgetfull. It is very important to be consistent in cross examination and they were made aware of the relevant provisions of the Evidence Act under which they could learn not to get confused in the simplest manner.

This workshop was essentially a interactive session to remove their doubts than a technical workshop which took place in Kaziranga. This interactive session lasted from 2.00 pm to 6.00 pm with a vote of thanks by the Field Director and Coordinator from ATREE.