

INVESTIGATIVE REPORT AND CASE STUDY FISHERIES ABUSES AND RELATED DEATHS AT SEA IN THE PACIFIC REGION HRAS REPORT 1 DECEMBER 2017

www.humanrightsatsea.org

“

(Missing fisheries observers) ... it seems like there have been a lot, there was Charlie Lasisi - he was from Papua New Guinea, Larry Gavin - he's the one who completely disappeared. Wesley Talia - some people were out in a canoe, they say a body was wrapped in cloth the same livery as the ship he was on. And they recognised him.

”



Keith Davis, reported as missing while working as an IATTC Transshipment Observer
© <http://www.apo-observers.org/docs/>



HUMAN RIGHTS AT SEA
Defending Maritime Human Rights

Disclaimer

The content and facts within this investigative report and case study has been freely obtained from voluntarily personal testimony that has been checked, as best as is reasonably possible, by Human Rights at Sea (“the charity”) both at the time of writing, and before publishing. The reporting is ongoing and maybe updated. All quotes, pictures and diagrams have been acknowledged where able and any omissions, or factual inaccuracies may be immediately alerted by writing to: enquiries@humanrightsatsea.org. Any opinions, perspectives and comments are those of the charity. This report may contain graphic images, and which are viewed at the sole discretion of the reader. The charity does not accept any liability, whatsoever, howsoever asserted, in any jurisdiction. The charity always works in good faith as an independent maritime human rights defender, following our founding principle that ‘human rights apply at sea as equally as they do on land’ and based on core values of transparency, clarity and accountability.

Contact: enquiries@humanrightsatsea.org
or VBS | Human Rights at Sea | Langstone Technology Park
Langstone Road | HAVANT | PO9 1SA | United Kingdom.

Human Rights at Sea is a Registered Charity in England and Wales No.1161673

W: www.humanrightsatsea.org E: enquiries@humanrightsatsea.org

Language: English



TABLE OF CONTENTS

INTRODUCTION	3
THE DUTIES OF FISHERIES OBSERVERS	4
ABUSES ON BOARD COMMERCIAL FISHING VESSELS IN THE PACIFIC REGION	5
Physical and Sexual Violence Against Crew Members and Officers	5
Degrading or Inhumane Treatment	5
Mental Health Conditions and Self-Harm	6
Denial of Wages	6
Dangerous Working Conditions	7
Food and Water that is Inadequate, Unsanitary, or Denied Entirely	7
Human Trafficking	7
UNIQUE DANGERS FACING FISHERIES OBSERVERS	8
Case Study - Keith Davis	8/9
Case Study - James Junior Numbaru	10
CONCLUSION	11
ANNEX 1 - The Scale of The Pacific Region Fishing Industry	12
ANNEX 2 - Map of The Pacific Region	13
ANNEX 3 - Estimating the Value of The Pacific Region Fishing Industry	14
RECOMMENDED READING	15
BIBLIOGRAPHY	15/16
KEEP IN CONTACT	17
Keep in Contact	17
Online Dedicated News	17
Engage with Us	17
WHO WE ARE	18

INTRODUCTION

Thanks to Dr Patricia Kailola of the NGO Pacific Dialogue Ltd, Fiji for all her assistance in bringing together evidence contained in this report, alongside other public and private sources.

Fisheries observers play a crucial role in protecting the culture, environment and economies of the 22 Pacific Island Country and Territories (hereafter the 'Pacific Region').¹ However, their ability to perform their role is increasingly hampered by inadequate legal protection and mounting physical danger.

In the Pacific Region, maritime fishing can contribute up to 10% of the states' GDP, and provide employment for up to 60% of the population (see Annex 1 for more information about the scale of the Pacific Region fishing industry).² However, due to the profitability of this sector unsustainable and illegal practices are increasingly threatening this situation.³

The complex international law picture has made it impossible to set legally enforceable minimum standards, putting Fishing Observers and crew members alike at the mercy of potentially unscrupulous corporations.⁴ In addition, the Fishing Observer's dual role as scientist and regulatory enforcer frequently makes their position on-board fishing vessels difficult, or at worst dangerous.⁵

Against this backdrop, it is perhaps unsurprising that accusations of abuse against crew members are becoming concerningly regular. Equally troublingly, in recent years unexplained disappearances of fishing observers have also increased in frequency.

This report documents both of these issues, as well as explaining the economic, cultural and legal backdrop to the abuses and deaths that have occurred.



© Greenpeace

¹ See Annex 1 for a detailed map of the Pacific Island States and Territories.

² James Sloan, 'The Legal Challenges of Improving Working Conditions on Commercial Fishing Vessels', p.306 <<http://www.sas.com.fj/legal-resources/the-challenge-of-improving-working-conditions-on-commercial-fishing-vessels>> [accessed 21 August 2017].

³ See Annex 3 for more information about the value of the Pacific region's fishing industry.

⁴ James Sloan, 'Human Rights Abuses and Fisheries - an International Law Problem' <<http://www.sas.com.fj/legal-resources/human-rights-abuses-and-fisheries-an-international-law-problem>> [accessed 21 August 2017].

⁵ NOAA Observer Program Advert' <http://www.st.nmfs.noaa.gov/Assets/Observer-Program/Pdf/NOPFactSheet_finaldraft.pdf> [Accessed 29 July 2017].



THE DUTIES OF FISHERIES OBSERVERS



Despite the importance of the fishing industry to the Pacific Region, data about the scale and conduct of the industry has proved extremely difficult to collect due to the size of the region and the rural nature of the coastal fisheries. Indeed, the UN's Food and Agricultural Organisation contends that at least half of coastal fishing Pacific Region production estimates are based entirely on estimates.⁶

The creation of national observer programs stemmed an attempt to rectify this problem through an independent and objective method of data collection. While there is no globally standardised practice, in the Pacific Region observers are normally hired directly by a national ministry of fisheries, though they can also be hired via a third-party contractor.⁷ To reflect this role, observers are required to have an educational background in the biological sciences, as a core component of their role is to collect and record biological data on the characteristics of catches.⁸ The data they relay is vital to the mission of scientific and management communities working to protect the long-term sustainability and viability of ocean fisheries, as much of this information would be entirely unverifiable were it not for their contribution.⁹

Today, observers are required to act simultaneously as both scientists and enforcers, collecting vital data on fish catches whilst also reporting on fishing violations.¹⁰ Observers play an important role in ensuring

vessels are compliant with commercial fishing regulations, logging any transgressions that they witness. In order to thwart illegal, unreported, and unregulated (IUU) fishing, it is vital that the entire fishing cycle is observed, from harvesting to tracking the fish as it moves through supply chains.¹¹ Significantly, fisheries observers do not have any law enforcement authority and are employed to act in a purely observatory capacity as documenters of violations, which are then taken forward by fishing management bodies.¹²

In-port transshipment is a good example of an operation that is high-risk for violations, which fisheries observers are subsequently required to monitor. Transshipment is the process by which cargo from one vessel is off-loaded onto another. This process might take place several times during a ship's route to the destination port,¹³ as there is no single shipping line that can cover all global ports on one single service.¹⁴ Fisheries observers oversee transshipment in order to ensure that no violations take place during the process, as smugglers and terrorists are known to use transshipment to disguise the point of origin of their goods from customs officials.¹⁵ This is a vital function of many observer roles and it is now a requirement that all transshipment operations are monitored by observers who verify the details of each interaction, logging the vessels involved and the nature of the products being transferred.¹⁶

⁶ 'Fisheries of the Pacific Islands Report - UN' <<http://www.fao.org/docrep/014/i2092e/i2092e00.pdf>> [accessed 28 July 2017].

⁷ 'ICCAT Regional Observer Programme Manual', 2012 <https://www.iccat.int/Documents/ROP/ICCAT_Observer_Manual.pdf> [accessed 18 August 2017].

⁸ 'Observer Program Operations Manual' <<http://www.fao.org/docrep/003/S8480E/S8480E02.htm>> [accessed 20 August 2017].

⁹ 'ICCAT Regional Observer Programme Manual'.

¹⁰ Porter Fisheries Observer Article_Marine Policy.pdf' <http://dkingweb.cbl.umces.edu/Porter%20Fisheries%20Observer%20Article_Marine%20Policy.pdf> [accessed 20 August 2017].

¹¹ 'ICCAT Regional Observer Programme Manual'.

¹² Observer Program Operations Manual'.

¹³ What Is a Transshipment? | PNG Logistics' <<http://pnglc.com/what-is-a-transshipment/>> [accessed 29 July 2017].

¹⁴ Hariesh Manaadiar, 'What Is Transshipment..??', Shipping and Freight Resource, 2011 <<https://shippingandfreightresource.com/what-is-transshipment/>> [accessed 29 July 2017].

¹⁵ 'What Is Transshipment?' <<http://www.itintl.com/what-is-transshipment.html>> [accessed 29 July 2017]. (ITINL)

¹⁶ ICCAT Regional Observer Programme Manual'.

ABUSES ON BOARD COMMERCIAL FISHING VESSELS IN THE PACIFIC REGION

Commercial Fishing remains one of the most dangerous professions in the world, with incredibly high rates of mortality and injury due to the inherently unsafe working conditions - operating heavy machinery on moving, wet surfaces.¹⁷

Crew safety on board commercial fishing vessels in the Pacific Region is exacerbated by the cross-border nature of maritime fishing, which makes it extremely difficult for Pacific Region legislatures to effectively provide minimum employment standards for commercial fishing crews. Frequently, this allows commercial fishing vessels to use flags of convenience to avoid providing even the most basic of worker's rights, such as a written contract, minimum wage, working for a safe number of hours, or the guarantee of a safe working environment.¹⁸ These factors combine to leave vulnerable workers at the mercy of their ship's Masters, as demonstrated by the frequent reports of abuse from this region.

PHYSICAL AND SEXUAL VIOLENCE AGAINST CREW MEMBERS AND OFFICERS

Physical and sexual violence on board Pacific Region fishing vessels can be both a symptom of wider abuses, and a dangerous form of abuse in its own right. In its most extreme form, systemic violence can be used by particularly vicious ship's Masters to maintain discipline in inhumane working conditions.

Case Study A - 'Ships of Horror'¹⁹

A report published in January 2014 revealed the horrific abuse suffered by crew members working on the South Korean fishing vessel, Oyang 70, which sank in New Zealand waters. Crew were often beaten and punished for little or no known reason and were subjected to belittling and inhumane punishment. For example, they would often be made to stand on deck during extreme and dangerous weather conditions without food or water. Crew were not supplied with adequate safety gear and their general state of fatigue led to increased numbers of accidents and injuries, which were often left not treated and unreported. Crew members revealed that they had suffered sexual harassment, including rape, and that intimidation and threats involving crew members and family were routine.

These revelations came to light after the Oyang 70 capsized and sank in an event that resulted in the deaths of six men; the survivors revealed a number of shocking labour and human rights abuses, suggesting that this issue was widespread and not limited to their vessel.

Case Study B - Pronounced Dead at Arrival²⁰

A 39-year-old man was pronounced dead on arrival at Suva Private Hospital on the 16 November 2012. He arrived complaining of shortness of breath, yet the results of a post-mortem examination show that the deceased died of injuries sustained as a result of an alleged assault.

Investigations revealed that the manager of the fishing company employing the deceased had allegedly assaulted the man, inflicting the injuries that ultimately caused death.

Case Study C - Accidental Death from Beating²¹

Two Fijian men were convicted of murder by the High Court in Tuvalu for beating a Chinese seafarer to death in Tuvalu. The deceased, a Chinese chief engineer, had reportedly upset the men on the day of the attack by swearing at the men in a manner they resented. Over the duration of the men's time on the vessel, the engineer had frequently used foul and insulting language to them, and the Fijian resented their having been given only baitfish for food whereas the Chinese crew members and captain were given better food.

Case Study D - Body Kept in Freezer²²

A body was discovered on a Taiwanese fishing boat. The deceased, a Chinese crewman, had been stabbed in the neck and his body had been kept in a freezer.

DEGRADING OR INHUMANE TREATMENT

Systemic violence against crew members can also amount to torture, violating their human rights. Specifically, the ban on cruel, inhuman or degrading treatment or punishment, as enshrined in Article 5 of the Universal Declaration of Human Rights.²³

Case Study E - Dog used to Control Crew²⁴

An Indonesian crewman revealed to the Marshall Islands Director of Immigration the horrific injuries he sustained at the hand of his Taiwanese vessel's fishing master's dog, lifting his shirt to show the bites and scratches covering his back. The dog was reportedly used to 'control' the crew.

¹⁷ Danger at Sea - Working in the Fishing Sector', 2004 <http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_075579/lang-en/index.htm> [accessed 21 August 2017].
<[http://www.europarl.europa.eu/RegData/etudes/STUD/2016/536490/IPOL_STU\(2016\)536490_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/536490/IPOL_STU(2016)536490_EN.pdf).

¹⁸ James Sloan, 'The Legal Challenges of Improving Working Conditions on Commercial Fishing Vessels' <<http://www.sas.com.fj/legal-resources/the-challenge-of-improving-working-conditions-on-commercial-fishing-vessels/>> [accessed 21 August 2017].

¹⁹ 'Ships of Horror: Pacific Fishermen Raped, Beaten, and Fed Fish Bait - gCaptain' <<http://gcaptain.com/ship-horrors-fishermen-raped/>> [accessed 23 August 2017].

²⁰ 'Fijivillage | Fiji's Latest News and Sports Website' <<http://fijivillage.com/news/Manager-to-appear-in-court-for-alleged-assault-s2r9k5/>> [accessed 23 August 2017].

²¹ 'Tuvalu Court Jails Two Fijians for Killing Chinese Seafarer', Radio New Zealand, 2012 <<http://www.radionz.co.nz/international/pacific-news/204063/tuvalu-court-jails-two-fijians-for-killing-chinese-seafarer>> [accessed 23 August 2017].

²² 'Body Find in Fishing Boat | Fiji Sun' <<http://fijisun.com.fj/2015/08/15/body-find-in-fishing-boat/>> [accessed 23 August 2017].

²³ 'Universal Declaration of Human Rights', 2015 <<http://www.un.org/en/universal-declaration-human-rights/>> [accessed 23 August 2017].



ABUSES ON BOARD COMMERCIAL FISHING VESSELS IN THE PACIFIC REGION cont/d

MENTAL HEALTH CONDITIONS AND SELF-HARM

The long hours and demanding nature of working on a maritime fishing vessel can put a strain on the mental health of crew members, even in the most supportive of working environments. However, this affect can be severely amplified by poor working conditions, lack of contact with home, and indeterminate contracts; this has potentially life threatening consequences.

Case Study F - 'A Typical Death in Those Circumstances'²⁴

In 2013, the body of a 33-year-old Indonesian was discovered on board the fishing vessel Chokyu Maru (fishing in Tahiti waters at the time), of which he was a crew member. The man was said to have been acting violently and threateningly towards other crew members during a fishing expedition and was subsequently locked in a guarded isolation shower room, where he eventually died. The writer of an FBC news report concerning the death was told by an 'experienced observer' that 'the man had been almost two years at sea without any contact with his family – "a typical death in those circumstances"'.²⁴

Case Study G - 'A Lonely Death... as close as he could get to home'²⁵

In a letter to the editor, published in the Fiji Times, a reader laments the reported suicide of Fijian man on a Chinese fishing vessel out in Tahitian waters. Poignantly he reflects on the harsh realities of life on fishing vessels in the Pacific, highlighting in particular the mental strain of the job:

“ He was young - just 19 years old. A lonely death, on the bow of the boat, maybe as close as he could get to home ... So very sad.

Life on tuna fishing vessels in the Pacific Islands region is rough: hard and unrelenting; only the strongest men, mentally, see their contract term through.



DENIAL OF WAGES

There have been a number of reported cases where crew members have been denied wages for prolonged periods of time. At the most extreme, employers have exploited their crews' inability to bring a case against them to repeatedly deny wages to successive crews.

Case Study H - Rosalina Reg Vessel

The vessel left Suva on the 28 June 2012, fishing for a month before making it's first call in Noro Port on 1 August 2012. Once they had disembarked, crew members started to complain that their wages had not been paid and that there had been food shortages during their voyage. The entire crew was then signed off in Honiara and repatriated back to Fiji with new crews being flown in to replace everyone except for the Ref Engineer and captain/Engineer.

The new crew complained of the same treatment a few months later upon their arrival in Noro, (October 2012), and they were also then repatriated to Fiji, enduring identical treatment to the crew they had replaced.

Case Study I - Promised Salaries Not Paid to Fishermen or Their Families

In October 2015, eight Asian men went to the Indonesian Embassy in Fiji after disembarking from a tuna-long liner after they had aborted their contracts, complaining that their wages had not been paid during the twelve months they had been at sea. To the best of their knowledge, these wages had not been paid to their families either.

Case Study J - 'No legal Standing on US Soil' - The Men at the Mercy of Their American Captains²⁶

A federal loophole has led to hundreds of undocumented men being employed in a unique US longline fishing fleet, who are able to gain employment at the expense of being afforded basic labour protections. These men, many of whom come from impoverished Southeast Asian and Pacific nations, take the more dangerous jobs on the vessel, and are paid a rate as low as 70 cents an hour.

Conditions were found to be squalid, with the men suffering from running sores as a result of bed bugs and being forced to use buckets instead of toilets. An investigation confirmed a number of cases of exploitation involving underpayment, disgraceful hygiene and safety conditions, and the seizure of identification documents.

Given their undocumented status, the men had no protection or recourse to help from the US and were therefore at the mercy of their captains, unable to even set foot on shore.

²⁴ FBC News' <<http://www.fbc.com.fj/fiji/13233/police-investigate-death-on-foreign-fishing-vessel>> [accessed 23 August 2017].

²⁵ 'A Death far from Home - Fiji Times Online' <<http://www.fijitimes.com/story.aspx?ref=archive&id=337988>> [accessed 23 August 2017].

²⁶ 'Hawaiian Seafood Caught by Foreign Crews Confined on Boats', AP News <<https://apnews.com/39ae05f117c64a929f0f8fab091c4ee1/hawaiian-seafood-caught-foreign-crews-confined-boats>> [accessed 23 August 2017].

ABUSES ON BOARD COMMERCIAL FISHING VESSELS IN THE PACIFIC REGION cont/d



DANGEROUS WORKING CONDITIONS

While maritime fishing is an inherently dangerous environment, the risks for crew members can be exacerbated to unreasonable levels by the actions of unscrupulous, negligent, or malicious captains.

Case Study K - 'He didn't make it' - Man made to Swim to Another Vessel

A body washed up at Majuro in 2016, later identified as a Kiribati crewman. A witness said that the man had been forced to swim from his vessel to a second vessel - i.e. to transship - but had not been provided a dinghy nor 'flying fox' for the action. He did not make it.

FOOD AND WATER THAT IS INADEQUATE, UNSANITARY, OR DENIED ENTIRELY

As with physical abuse, the quality of food and water on-board can either point towards wider abuses and negligence on the part of the vessel owners, or constitute a form of abuse in its own right.

Case Study L - 'forced to drink from air conditioning machines', the daily life of Indonesian nationals on tuna fishing vessels

The Embassy in Fiji regularly receives complaints from Indonesian nationals engaged as crew on Pacific-based tuna vessels of the substandard conditions they had to endure. During 2015, the Embassy had to render assistance to 100 men, in 85 incidents, over matters including stranded Indonesian seafarers, fighting between crews, beatings and mistreatment, unpaid salary, sickness and injury, men's contract conditions and legal issues. During that time the Embassy also assisted the repatriation of seven dead crewmen.

“ Conditions on board their vessel is far from satisfactory ... too old with bad conditions and neglecting the security procedures; vessel also had poor sanitation, limited first aid kit and limited medications. Because of poor sanitation, sometimes the Indonesian crews drink the water from the air conditioning machine. ”

HUMAN TRAFFICKING

Human trafficking in fisheries can occur either when vulnerable individuals are taken on by unscrupulous employers, due to their inability to seek legal recourse in the case of abuse, or when desperate individuals attempt to use transshipment to avoid international borders.

Case Study M - Transshipped

A Pacific Islands crewman boarded a Chinese fishing vessel in Cape Town before being transshipped twice - once in Mauritius and again in Tahiti, before embarking in Ecuador. He had no papers.

Case Study N - Rescued from 'Enslaved' Conditions²⁷

In 2015, authorities from Papua New Guinea intercepted a shipping boat allegedly carrying human trafficking victims from Cambodia and Myanmar. PNG Prime Minister Peter O'Neill later confirmed that eight people had been rescued from 'enslaved' conditions alongside 19 crew members, who may also have been victims.

²⁷ PNG PM Looks to Combat Human Trafficking', Radio New Zealand, 2015 <<http://www.radionz.co.nz/international/pacific-news/280386/png-pm-looks-to-combat-human-trafficking>> [accessed 23 August 2017].

UNIQUE DANGERS FACING FISHERIES OBSERVERS

During daily life on-board a vessel, most fisheries observer participate in many similar tasks to other crew members such as helping to load stores, taking part in routine drills, and securing the ship. Similarly, it is common for the observer to assist the crew with general trawl and gear maintenance throughout their voyage.²⁸ As a result, many of the dangers facing observers on-board vessels are identical to those faced by crew members. Particularly those dangers associated with unsafe working conditions.

In addition, there is increasing awareness of the danger created by the enforcement aspect of the fisheries observer role. Reports suggest fishing crews resent their presence on-board, and if any flagrant regulatory infringements are witnessed by the observers, their safety may be threatened by the crew.²⁹ This risk has been brought to the attention of the international community by six recent cases of fisheries observers going missing while on vessels operating in the Pacific, raising serious concerns from other fishery observers about the safety of their role. At least two of these cases are still considered unresolved by the Association for Professional Observers.³⁰

CASE STUDY | KEITH DAVIS³¹

VESSEL INFORMATION

The M/Victoria No. 168, a Chinese operated, Panama-flagged transshipment vessel. The vessel accepts fish from the Taiwanese based Gilontas Ocean Group and also delivers to Rocmar Seafood, S. A., which is located in Panama.

SITUATION

On the 10 September 2015, Keith Davis was declared missing while carrying out his duties on-board an Inter-American Tropical Tuna Commission (IATTC) transshipment vessel.

The investigation into Keith's disappearance was hampered by a number of delays. The initial reporting of the incident took an inadequately long time, with over 24 hours having passed before the US Coastguard was notified; the subsequent search efforts were then delayed due to issues of jurisdiction between various local and national authorities; this is expanded on in the full time line of events.

The US Coast Guard requested information about the Chung Kuo No. 818, one of the vessels Keith came into contact with during his transshipment duties, as the **"reporting source (assumed MRAG) had concern about possible people on board from longliner that could be catching a ride back to shore (these people are not part of the standard crew)."** This vessel was never called in to port or investigated in any way, so there is the possibility that potential suspects may have left the scene.

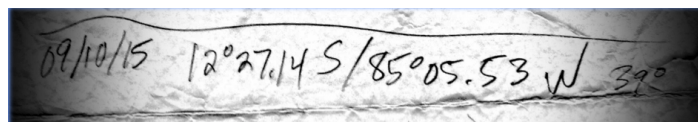
The Victoria No. 168 concluded a 72-hour search for Keith on the 13th September, later making their way to Panama after aborting plans to head for Ecuador, delaying the investigation by four days. Panamanian authorities decided to lead the investigation upon the vessel's arrival, beginning this investigation on the 21st September. The Victoria No. 168 was left unattended overnight.

Despite an on-going investigation into Keith's disappearance by both American and Panamanian authorities, MRAG Americas and IATTC placed a new observer on board the Victoria No. 168 on the 29th November.

Panamanian authorities closed the investigation into Keith's disappearance on the 12th October, but the FBI is continuing to keep the case open.

```
0835 Commenced Transfer work
1130 Lunch Time Was with Capt together Have Lunch
1450 2nd mate Have been see him from # 3 hatch ship side
go back accommodation
1605 Transshipment Finished C/O need he Signature Found Can't
found him.
1615 F/V Ck-818 Cast off
1620 Vsl Every body do all vsl Search again and again could not
found for.
Fm 1620-2225 we are already do 3time all vsl's space cheked also not
found is confirmed which men is not on vsl already.and then master
Execution Expanding square sea searching Till 2230 also not found
which men.and continue Exculte Expanding square sea searching for.
2230 Contact Peru coast Callao MRCC dadio Telephone no body answer.
```

Figure 1: Message from the Victoria No. 168 reporting Keith's final movements and ultimate disappearance



Keith recorded this position on September 10, 2015 - assumed to be his last known position

²⁸ Observer Program Operations Manual.

²⁹ Porter Fisheries Observer Article_Marine Policy.pdf <http://dkingweb.cb.lumces.edu/Porter%20Fisheries%20Observer%20Article_Marine%20Policy.pdf> [accessed 20 August 2017].

³⁰ 'Marianas Variety - Official: Regional Group Aims to Improve Fisheries Observer Safety' <<http://www.mvariety.com/regional-news/96710-%20official-regional-%20group-aims-%20to-improve-%20fisheries-observer-%20safety>> [accessed 22 August 2017].

³¹ The information in this section has been taken from a report by Elizabeth Mitchell, of the Association of Professional Observers, that outlines the events preceding and following Keith Davis's disappearance: Elizabeth Mitchell, 'Timeline and Lingering Questions Regarding the Disappearance of a Transshipment Observer'.

UNIQUE DANGERS FACING FISHERIES OBSERVERS

cont/d



CASE STUDY | KEITH DAVIS³²

RESPONSE AND UNRESOLVED ISSUES

Keith Davis was a prominent figure in the observer community, who chaired the Observer Professionalism Working Group (OPWG), was a former board member of the Association for Professional Observers (APO) and was instrumental in drafting the International Observer Bill of Rights (IOBR) and Codes and Conduct for Responsible Observer Programmes – Health and Safety (CCROP-HS).

Elizabeth Mitchell, of the Association for Professional Observers, described Keith's disappearance as having sent 'trepidations throughout the observer community', which is still being felt keenly two years on. Keith's colleagues continue to fight for improved observer safety, a call that has only grown stronger as more observers have disappeared since 2015.

ISSUES

The manner in which Keith's disappearance was handled raises some

key concerns. Firstly, there is clearly a need for rigorous protocols to be put in place, which can be enacted swiftly if an observer is reported missing, injured, or ill – it took far too long for the appropriate authorities to be informed about Keith's disappearance.

Once the authorities were involved, there were a number of issues with the nature of the investigation. For example, the Chung Kuo No. 18 was never called to port or properly investigated in relation to Keith's disappearance, yet potential suspects could have used this vessel to leave the scene.

The IATTC (the observer organization that Keith worked for) declared in May 2016 that its observer program was 'operating without any major problems', yet it had lost an experienced and very highly respected observer at sea little less than a year before the meeting.³³ Despite on-going investigations into Keith's disappearance by both Panamanian and US authorities, the IATTC placed another observer on the Victoria No. 168 on November 29, 2015.



CONCLUSION

Protecting the Pacific Region's sustainability and workforce poses a number of complex challenges. The sheer scale of the region, accompanied by the large number of different states, territories, and legislatures makes it incredibly difficult to enforce minimum employment standards across the region, let alone collect accurate data about the fishing that does occur. This fragile legal situation has allowed abuses on-board fishing vessels to propagate at the hands of unscrupulous corporations and ship Masters, threatening the Human Rights of the workers involved, and the Pacific Region communities that depend on the fisheries for their employment, income and culture.

The resulting regulatory abuses and inadequate working environments has put the fishing observers and crew members alike at risk. As detailed in this report, six observers have disappeared in recent years, with at least two disappearances occurring in circumstances still considered suspicious by the Association for Professional Observers. However, a combination of the individual nature of the fisheries observers' roles, the logistical challenges facing investigations in this region, and the procedural failures in their individual cases, makes it highly unlikely that justice will be served.

While initial attempts by the observer community to improve the protective regulations, particularly through technological innovations, have suffered initial setbacks, change is still possible with the united support of the international community.



⁴¹ Henrike Seidel and Padma Lal, 'Economic Value of the Pacific Ocean to the Pacific Island Countries and Territories' <https://cmsdata.iucn.org/downloads/economic_value_of_the_pacific_ocean_to_the_pacific_island_countries_and_territories_p.pdf> [accessed 18 August 2017].

⁴² 'The Pacific Islands Forum Secretariat, Pacific Regional Indicative Program' <http://www.forumsec.org/resources/uploads/embeds/file/EU_10Jul15_Ltr_EU-PIFS_%20PRIP_2014-2020.pdf> [accessed 12 August 2017].

⁴³ Henrike Seidel and Lal.

⁴⁴ 'Fisheries of the Pacific Islands Report - UN'.

⁴⁵ 'Fisheries of the Pacific Islands Report - UN' pg. iii.

⁴⁶ 'Fisheries of the Pacific Islands Report - UN' <<http://www.fao.org/docrep/014/i2092e/i2092e00.pdf>> [accessed 28 July 2017] pg. iv.

⁴⁷ 'Fisheries of the Pacific Islands Report - UN'.

⁴⁸ 'Fisheries of the Pacific Islands Report - UN'.

⁴⁹ 'Fisheries in the Economies of Pacific Island Countries and Territories' <https://spccfpstore1.blob.core.windows.net/digitallibrary-docs/files/48/487eccc409ac903c5450cd16979454dc.pf?sv=2015-12-11&sr=b&sig=%2F0JnkErWwvf61Whj2gZkdvtSiLRBtDIA4DXZ8t3DQSk%3D&se=2018-02-15T12%3A39%3A01Z&sp=r&rsc=public%2C%20max-age%3D864000%2C%20max-stale%3D86400&rscd=application%2Fpdf&rscd=inline%3B%20filename%3D%22Gillett_16_Benefish.pdf%22> [accessed 19 August 2017].

⁵⁰ 'Pacific Fisheries, Module 5' <<http://www.fao.org/docrep/013/am014e/am014e05.pdf>> [accessed 28 July 2017]. P81 para 3



ANNEX 1

THE SCALE OF THE PACIFIC REGION FISHING INDUSTRY

RESPONSE

The Pacific Fishing industry operates on a vast scale, with a large number of both corporate and national stakeholders. This region is home to 22 Pacific Island Countries and Territories (PICTs)⁴¹ covering an expanse more than twice the size of Europe,⁴² with a combined exclusive economic zone of 20 million km². The Pacific Ocean is integral to the economic, social, and cultural lives of the 10 million Pacific Islanders based in the region, for which fisheries provide the major source of livelihoods and food security.⁴³

Assessing the true scale of activity in the Pacific region's fishing industry is notoriously difficult due to a systemic lack of accurate reporting. Pacific fishing is commonly divided into two main categories - offshore fisheries and coastal fisheries. While offshore fisheries tend to provide more accurate information, supported by the work of International Fishing Observers, the quality of statistics submitted to the Food and Agricultural Organization of the United Nations for coastal fisheries is generally poor. Indeed, the FAO notes that half of coastal fishing PICT production estimates are based largely on guesswork.⁴⁴

Offshore fisheries and coastal fisheries operate on markedly different scales.

Offshore fisheries are dominated by large, industrial scale vessels, of which there are approximately 1500 operating in the exclusive economic zones of Pacific Island countries. The majority of these vessels are foreign based, with current estimates of only 300 PICT owned vessels operating in this area. In order to secure rights to fish in this region, foreign-based vessels are required to pay substantial license fees, which can form a significant source of government income for Pacific Island governments.⁴⁵

Offshore fisheries mostly comprise of purse-seine, longline, and pole-and-line gear operations and are used to catch tuna, a cornerstone of the Pacific fishing industry (see further information about the Pacific tuna fishery in the case study in Annex 3 of this report).⁴⁶

Coastal fisheries are far smaller operations than their offshore counterparts, yet remain very significant to the Pacific region. Coastal fishing production provides the majority of non-imported fish supplies to the region and the majority of catches are taken by Pacific Islanders themselves, as foreign fishing vessels have very little access to these areas.⁴⁷

Coastal fisheries can be further subdivided into three broad categories of activity:

1. Small-scale commercial fishing, supplying domestic markets and producing goods for export;
2. Subsistence fisheries, supporting rural economies and contributing to local food security; and
3. Industrial-scale shrimp fisheries, which are only commonly found in Papua New Guinea.⁴⁸

LONG TERM SUSTAINABILITY

There are increasing pressures on the industry to provide greater hauls to sustain growing domestic populations, as well as increased commercial demand. A steady rise in fishing activity has taken place in the last decade, as the total volume of production increased in the 22 PICTs by 431,354 Megatonnes during the 2007-2014 period, representing a 32% rise over a seven-year period.⁴⁹

From a domestic standpoint, coastal fisheries will be able to meet 2030 demand in only 6 of 22 PICTs, as fish consumption remains the main form of animal protein in these regions, despite the gradual increase of imported food products.⁵⁰

“ I saw local fishermen returning at the end of each day with fewer fish to feed their families. I watched as they unloaded their diminished catches, made up mostly of juvenile fish, and it brought home to me the fact that overfishing is not just a threat to ocean biodiversity. It is as much a humanitarian issue and one with profound implications for food security as demand for seafood grows and the world's population marches towards 9 billion by 2050.

Dermot O'Gorman
WWF Australia CEO
writing in *The Guardian* Feb. 2016

ANNEX 2

MAP OF THE PACIFIC REGION

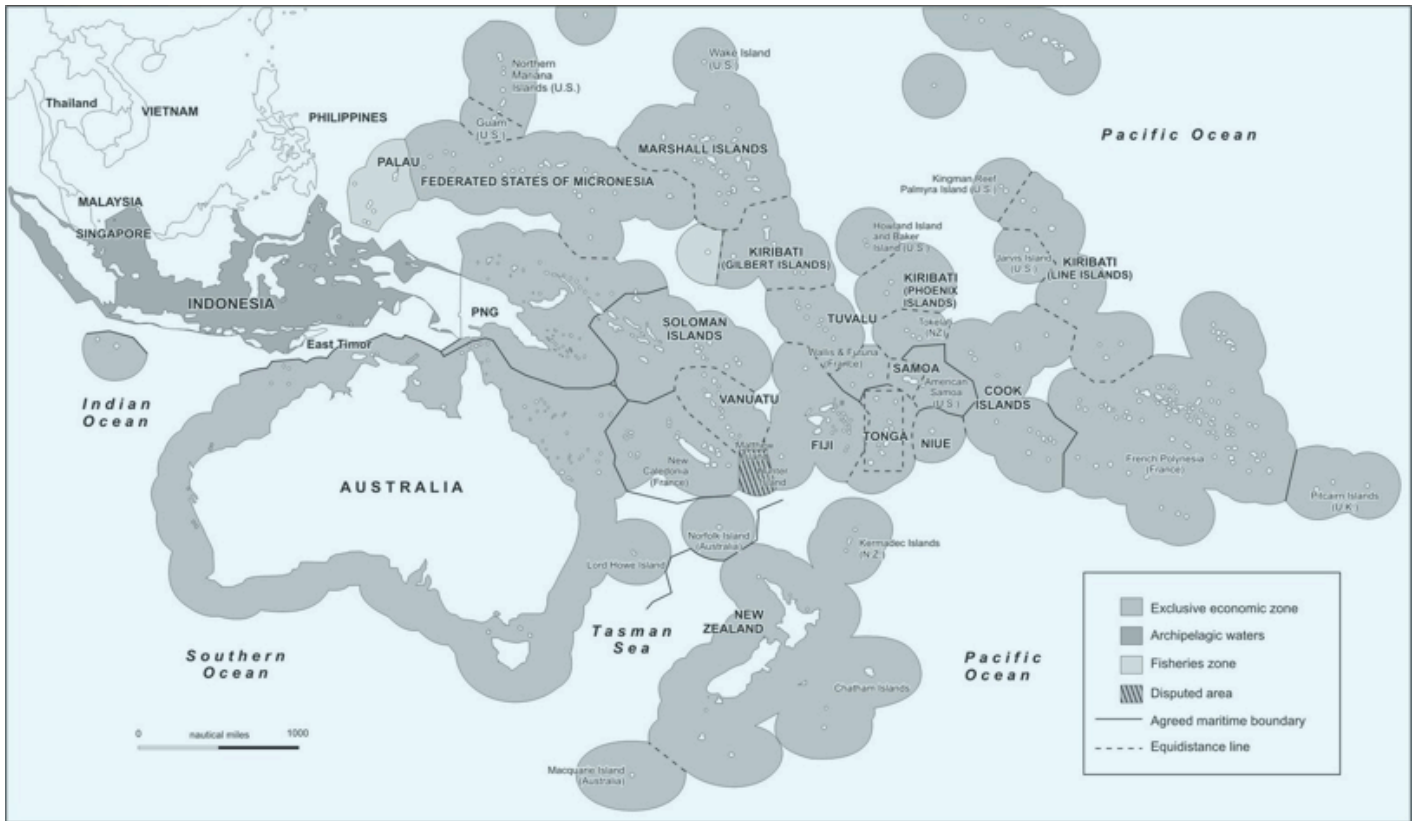


Figure 2 - Map of the Pacific Island Countries and Territories⁵¹

ANNEX 3

ESTIMATING THE VALUE OF THE PACIFIC REGION FISHING INDUSTRY

As discussed in Annex 2, the scale and individual nature of coastal fishing in the Pacific Region makes it incredibly difficult to estimate catch volume, fishing type, or economic value. By contrast, the offshore fishing industry, supported by independent fishing observers, produces a huge quantity of data that can help to provide an insight into the economic clout of the industry. For this purpose Tuna fishing is particularly appropriate example, due to its high level of documentation and importance within the region.

The Pacific Region is the single largest source of tuna in the world, representing 70% of the total global catch in 2013.⁵² A report from 2016, using catch data from 2012 and 2014, estimated that the estimated global value of tuna in 2014 was \$32.9 billion.⁵³

However, due to the profitability of the sector overfishing is rife, with some tuna species at risk of extinction if current practices do not change.⁵⁵ 4A 2016 report by the Pacific Islands Forum Agency revealed that illegal fishing in the Pacific Ocean costs an estimated \$600 million a year, with Greenpeace campaigner Oliver Knowles declaring this 'daylight robbery' perpetrated against the Pacific community.⁵⁵ Unfortunately much of this illegal fishing activity is being committed by legally licensed fishing vessels, hauling fish that is going unreported and unregulated.⁵⁶



ANNEX 3

ESTIMATING THE VALUE OF THE PACIFIC REGION FISHING INDUSTRY

FAO ESTIMATES OF ECONOMIC CONTRIBUTION FROM FISHING SECTOR TO THE PICT ECONOMIES ⁵⁷

ACTIVITY	GROSS VALUE OF PRODUCT (GVP)*	CATCH VOLUME (mt)	EMPLOYMENT (%)
Locally based Tuna Fishing	596,800,000	401,096	0.06%***
Access Fees	78,500,000	-	-
Commercial Inshore Fishery	165,700,000	109,933	n.a
Mariculture	145,000,000	2,984	na.
Subsistence Fishing	200,366,961	44,789	54-63%
Total	1,186,366,961	558,802	-



Source: adapted from Gillett 2009

*GVP in constant US\$ at 2007 market prices

** household participation

*** includes employment from tuna processing plants

⁵¹ 'If We Want to Keep Eating Tuna, the World Needs to Learn How to Share – Pacific Guardians' <<http://pacificguardians.org/blog/2015/08/22/if-we-want-to-keep-eating-tuna-the-world-needs-to-learn-how-to-share/>> [accessed 23 August 2017].

⁵² 'The State of World Fisheries and Agriculture' <<http://www.fao.org/3/a-i5555e.pdf>> [accessed 19 August 2017].

⁵³ Leah Weiser The Pew Charitable Trusts Officer, 'Netting Billions: A Global Valuation of Tuna' <<http://pew.org/1VVZLV>> [accessed 19 August 2017].

⁵⁴ Eleanor Ainge Roy, 'Illegal Fishing Worth \$600m in the Pacific Amounts to "Daylight Robbery"', The Guardian, 15 March 2016, section Environment <<http://www.theguardian.com/environment/2016/mar/15/illegal-fishing-worth-600m-in-the-pacific-amounts-to-daylight-robbery>> [accessed 19 August 2017].

⁵⁵ Roy.

⁵⁶ Roy.

⁵⁷ 'Fisheries in the Economies of Pacific Island Countries and Territories'.

RECOMMENDED READING

For more information on the history, scale, and nature of the Pacific fishing industry look to the work of Robert Gillett, an authority on this area who has been contracted to write many significant reports on the topic by the FAO (**Fisheries of the Pacific Islands Report**) and other major regional stakeholders (**Fisheries in the Economies of Pacific Island Countries and Territories**).

For a more detailed breakdown of the duties undertaken by fisheries observers, please see the **Observer Program Operations Manual** from the FAO and the **ICCAT equivalent**.

To find out more about the observer community, visit the **Association for Professional Observers website**, which includes information about current developments in observer safety and copies of their **Observer Bill of Rights**.

BIBLIOGRAPHY

1. 'Body Find in Fishing Boat | Fiji Sun' <<http://fijisun.com.fj/2015/08/15/body-find-in-fishing-boat/>> [accessed 23 August 2017]
2. 'Danger at Sea - Working in the Fishing Sector', 2004
<http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_075579/lang-en/index.htm> [accessed 21 August 2017]
3. 'FBC News' <<http://www.fbc.com.fj/fiji/13233/police-investigate-death-on-foreign-fishing-vessel>> [accessed 23 August 2017]
4. 'Fijivillage | Fiji's Latest News and Sports Website'
<<http://fijivillage.com/news/Manager-to-appear-in-court-for-alleged-assault-s2r9k5/>> [accessed 23 August 2017]
5. 'Fisheries in the Economies of Pacific Island Countries and Territories' <https://spccfpstore1.blob.core.windows.net/digitalibrary-docs/files/48/487eccc409ac903c5450cd16979454dc.pdf?sv=2015-12-11&sr=b&sig=%2F0JnkErWvwf61Whj2gZkdvtSiLRbtDIA4DXZ8t3DQSk%3D&se=2018-02-15T12%3A39%3A01Z&sp=r&rsc=public%2C%20max-age%3D864000%2C%20max-stale%3D86400&rsc=application%2Fpdf&rscd=inline%3B%20filename%3D%22Gillett_16_Benefish.pdf%22> [accessed 19 August 2017]
6. 'Fisheries Observer Safety Measures "Not Fully Implemented"', 7 December 2017
<<http://www.radionz.co.nz/international/pacific-news/334953/fisheries-observer-safety-measures-not-fully-implemented>>
7. 'Fisheries of the Pacific Islands Report - UN' <<http://www.fao.org/docrep/014/i2092e/i2092e00.pdf>> [accessed 28 July 2017]
8. 'Hawaiian Seafood Caught by Foreign Crews Confined on Boats', AP News <<https://apnews.com/39ae05f117c64a929f0f8fab091c4ee1/hawaiian-seafood-caught-foreign-crews-confined-boats>> [accessed 23 August 2017]
9. Henrike Seidel, and Padma Lal, 'Economic Value of the Pacific Ocean to the Pacific Island Countries and Territories'
<https://cmsdata.iucn.org/downloads/economic_value_of_the_pacific_ocean_to_the_pacific_island_countries_and_territories_p.pdf> [accessed 18 August 2017]
10. 'IATTC-90-06-Transshipment-Program.pdf' <<http://www.iattc.org/Meetings/Meetings2016/June/pdf-files/IATTC-90-06-Transshipment-program.pdf>> [accessed 23 August 2017]
11. 'ICCAT Regional Observer Programme Manual', 2012
<https://www.iccat.int/Documents/ROP/ICCAT_Observer_Manual.pdf> [accessed 18 August 2017]
12. 'If We Want to Keep Eating Tuna, the World Needs to Learn How to Share – Pacific Guardians' <<http://pacificguardians.org/blog/2015/08/22/if-we-want-to-keep-eating-tuna-the-world-needs-to-learn-how-to-share/>> [accessed 23 August 2017]



BIBLIOGRAPHY cont/d

13. Manaadiar, Hariesh, 'What Is Transshipment..??', Shipping and Freight Resource, 2011 <<https://shippingandfreightresource.com/what-is-transshipment/>> [accessed 29 July 2017]
14. 'Marianas Variety - Official: Regional Group Aims to Improve Fisheries Observer Safety' <<http://www.mvariety.com/regional-news/96710-%20official-regional-%20group-aims-%20to-improve-%20fisheries-observer-%20safety>> [accessed 22 August 2017]
15. Mitchell, Elizabeth, 'Timeline and Lingering Questions Regarding the Disappearance of a Transshipment Observer'
16. 'NOAA Observer Program Advert' <http://www.st.nmfs.noaa.gov/Assets/Observer-Program/Pdf/NOPFactSheet_finaldraft.pdf> [Accessed 29 July 2017].'
17. 'Observer Program Operations Manual' <<http://www.fao.org/docrep/003/S8480E/S8480E02.htm>> [accessed 20 August 2017]
18. Officer, Leah Weiser The Pew Charitable Trusts, 'Netting Billions: A Global Valuation of Tuna' <<http://pew.org/1VVZLVj>> [accessed 19 August 2017]
19. 'Pacific Fisheries, Module 5' <<http://www.fao.org/docrep/013/am014e/am014e05.pdf>> [accessed 28 July 2017]
20. PIR Editor, 'After Another Fishing Observer Goes Missing, Calls For Better Protection Renewed', Pacific Islands Report, 7 October 2017 <<http://www.pireport.org/articles/2017/07/10/after-another-fishing-observer-goes-missing-calls-better-protection-renewed>>
21. 'PNG Fisheries Observer Missing off Nauru', The National, 2017 <<http://www.thenational.com.pg/png-fisheries-observer-missing-off-nauru/>> [accessed 17 August 2017]
22. 'PNG Fishing Observer's Disappearance Raises Serious Safety Concerns for Officers at Sea', Pacific Islands Report <<http://www.pireport.org/articles/2017/07/03/sixth-pacific-islands-fisheries-observer-missing-sea>>
23. 'PNG PM Looks to Combat Human Trafficking', Radio New Zealand, 2015 <<http://www.radionz.co.nz/international/pacific-news/280386/png-pm-looks-to-combat-human-trafficking>> [accessed 23 August 2017]
24. 'PNG Seeks to Investigate Purse Seiner after Observer's Death', 7 July 2017 <<http://www.mvariety.com/regional-news/96710-official-regional-group-aims-to-improve-fisheries-observer-safety>>
25. 'Porter Fisheries Observer Article_Marine Policy.pdf' <http://dkingweb.cbl.umces.edu/Porter%20Fisheries%20Observer%20Article_Marine%20Policy.pdf> [accessed 20 August 2017]
26. Roy, Eleanor Ainge, 'Illegal Fishing Worth \$600m in the Pacific Amounts to "Daylight Robbery"', The Guardian, 15 March 2016, section Environment <<http://www.theguardian.com/environment/2016/mar/15/illegal-fishing-worth-600m-in-the-pacific-amounts-to-daylight-robbery>> [accessed 19 August 2017]
27. 'Ships of Horror: Pacific Fishermen Raped, Beaten, and Fed Fish Bait – gCaptain' <<http://gcaptain.com/ship-horrors-fishermen-raped/>> [accessed 23 August 2017]
28. 'Sixth Pacific Islands Fisheries Observer Missing At Sea', Pacific Islands Report, 3 July 2017 <<http://www.pireport.org/articles/2017/07/03/sixth-pacific-islands-fisheries-observer-missing-sea>> [accessed 21 August 2017]
29. Sloan, James, 'Human Rights Abuses and Fisheries - an International Law Problem' <<http://www.sas.com.fj/legal-resources/human-rights-abuses-and-fisheries-an-international-law-problem>> [accessed 21 August 2017]
30. 'The Legal Challenges of Improving Working Conditions on Commercial Fishing Vessels' <<http://www.sas.com.fj/legal-resources/the-challenge-of-improving-working-conditions-on-commercial-fishing-vessels>> [accessed 21 August 2017]
31. 'The Pacific Islands Forum Secretariat, Pacific Regional Indicative Program' <http://www.forumsec.org/resources/uploads/embeds/file/EU_10Jul15_Ltr_EU-PIFS_%20PRIP_2014-2020.pdf> [accessed 12 August 2017]
32. 'The State of World Fisheries and Agriculture' <<http://www.fao.org/3/a-i5555e.pdf>> [accessed 19 August 2017]
33. 'Tuvalu Court Jails Two Fijians for Killing Chinese Seafarer', Radio New Zealand, 2012 <<http://www.radionz.co.nz/international/pacific-news/204063/tuvalu-court-jails-two-fijians-for-killing-chinese-seafarer>> [accessed 23 August 2017]
34. 'Universal Declaration of Human Rights', 2015 <<http://www.un.org/en/universal-declaration-human-rights/>> [accessed 23 August 2017]
35. 'What Is a Transshipment? | PNG Logistics' <<http://pngl.com/what-is-a-transshipment/>> [accessed 29 July 2017]
36. 'What Is Transshipment?' <<http://www.itintl.com/what-is-transshipment.html>> [accessed 29 July 2017]

NOTES



WHO WE ARE

BACKGROUND

Human Rights at Sea was established in April 2014. It was founded as an initiative to explore issues of maritime human rights development, review associated policies and legislation, and to undertake independent investigation of abuses at sea. It rapidly grew beyond all expectations and for reasons of governance it became a registered charity under the UK Charity Commission in 2015.

Today, the charity is an established, regulated and independent registered non-profit organisation based on the south coast of the United Kingdom. It undertakes **research, investigation** and **advocacy** specifically for human rights issues in the maritime environment, including contributing to support for the human element that underpins the global maritime and fishing industries.

The charity works internationally with all individuals, commercial and maritime community organisations that have similar objectives as ourselves, including all the principal maritime welfare organisations.

OUR MISSION is to explicitly raise awareness, implementation and accountability of human rights provisions throughout the maritime environment, especially where they are currently absent, ignored or being abused.



KEEP IN CONTACT



We welcome any questions, comments or suggestions. Please send your feedback to:

Human Rights at Sea | Langstone Technology Park | Langstone Road | HAVANT | PO9 1SA | United Kingdom



You can also send an email to:

enquiries@humanrightsatsea.org



www.humanrightsatsea.org



As an independent charity, Human Rights at Sea relies on public donations, commercial philanthropy and grant support to continue delivering its work globally. Was this publication of use to you? Would you have paid a consultant to provide the same information? If so, please consider a donation to us, or engage directly with us.



www.justgiving.com/hras/donate



ONLINE DEDICATED NEWS SITE

www.humanrightsatsea-news.org/



CASE STUDIES

www.humanrightsatsea.org/case-studies/



PUBLICATIONS

www.humanrightsatsea.org/publications/

ENGAGE WITH US



www.facebook.com/humanrightsatsea/



twitter.com/hratsea

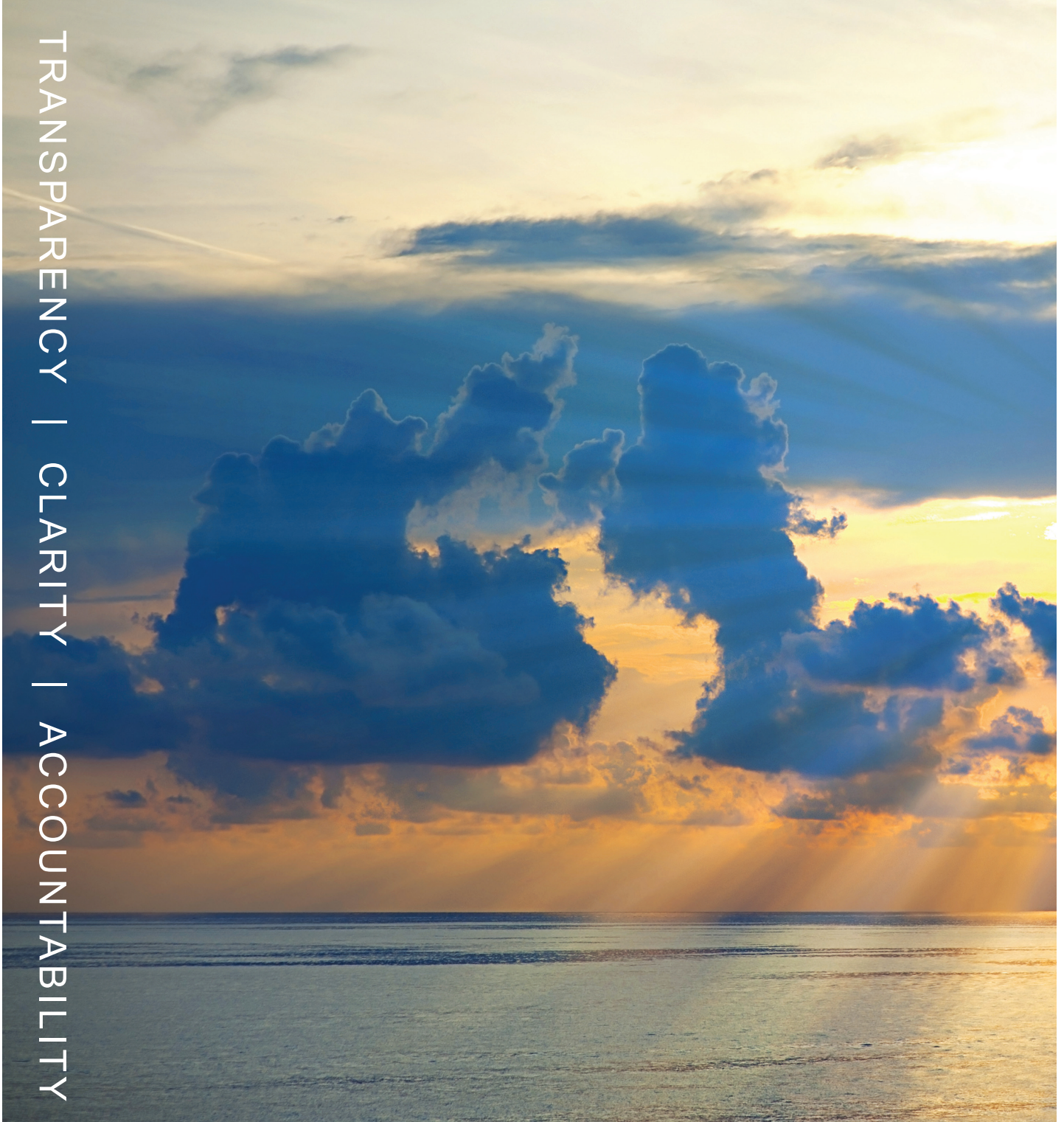


<https://www.linkedin.com/company/human-rights-at-sea>

hras
international
www.hراسi.org
International Maritime
Human Rights Consultancy

OUR CONSULTANCY. INSTRUCT US.

INVESTIGATIVE REPORT AND CASE STUDY
FISHERIES ABUSES AND RELATED DEATHS
AT SEA IN THE PACIFIC REGION
HRAS REPORT 1 DECEMBER 2017



TRANSPARENCY | CLARITY | ACCOUNTABILITY



HUMAN RIGHTS AT SEA
Defending Maritime Human Rights

www.humanrightsatsea.org

VBS | Human Rights at Sea | Langstone Technology Park
Langstone Road | HAVANT | PO9 1SA | United Kingdom

First Edition December 2017 © Human Rights at Sea (HRAS) 2017. All Rights Reserved.