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Seafish Insight: Background briefing on fishery observers

Source: Literature review

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Introduction

Observers play a vital role ensuring the monitoring, compliance and surveillance of commercial fishing activities. Mandated by fishery management organisations, their work focuses on collecting data to enable effective regulation of marine activity.

There are an estimated 2,500* observers worldwide (an estimate that includes national and high seas fisheries) and they typically work alone and live among the crew on the vessel for as little as one day up to several months at sea.

However, according to the Association of Professional Observers, the isolated and sometimes contentious nature of their jobs can lead to attempts at bribery, intimidation and violence. In addition there is no standard operating procedure for investigating an observer death, and jurisdictional responsibilities are murky. There is no international protocol for investigating the death of an observer. There is also added complexity through the agencies themselves who are charged with mandating the presence of fishery observers. With no standard operating procedures over reporting deaths and how submitted complaints/witness violations are dealt with, the apparent lack of support and transparency can lead to increase observer vulnerability.

In July 2020 the Marine Stewardship Council (MSC) announced new research funding to improve fishery observer safety. This action comes as there is a growing focus on this area, including campaigns on observer safety by Greenpeace and the Association of Professional Observers, as well as the publication of a recent report by the organisation Human Rights at Sea.

This literature review looks at the role of a fishery observer and the rules governing fisheries observer programmes; the issues being raised; the most recent prominent cases; the repeated calls for reform; and the current situation in 2020 and the impact of COVID-19.

*<https://www.sciencedaily.com/releases/2020/02/200218124407.htm>

The role of a fishery observer

As defined by the [Association for Professional Observers \(APO\)](#).

- An 'observer' is a person who is authorized by a regulatory authority to collect scientific information to assist in the monitoring, compliance and surveillance (MSC) of commercial exploitation of marine resources. The observer must be financially independent of the industry being monitored. Observers generally do not have enforcement powers but their duties often involve the collection of enforcement related information.
- Observers are tasked with a wide range of duties that are primarily related to commercial fishing, although other industries impacting the ocean environment may be monitored as well. Observers are typically either hired by third party contractual agreements or directly by a government regulatory authority. However, sometimes observers are hired as independent contractors. Regardless of employer, observers generally work independently and unsupervised in an isolated and sometimes contentious environment and a variety of entities may negatively impact their ability to complete their duties.
- [For an insider view. Understanding the role of a fisheries observer. 3 August 2020.](#)

The insight is provided by Martin Purves, who prior to his present role as the Managing Director of the International Pole and Line Foundation, spent years at sea in fisheries management roles, including as a fisheries observer.

Fisheries observer programmes

A fisheries observer program is responsible for providing the training and support necessary for deploying observers on board fishing vessels in order to collect the fisheries-dependent information essential to achieving the management objectives of the programme. Fisheries observer programmes vary according to the management objective. The three main objectives are:

- Scientific: including stock (targeted and / or bycatch species) assessments and predictions of future fisheries exploitation of stocks. Observer duties include collection of catch composition and environmental / ecological information, and biological sampling of catch
- Monitoring control and surveillance (MCS): including assessments of fishing and / or transshipment activities to ensure fisheries management measures are followed. Observer duties include verification of logbooks with fishing and / or transshipment activities and registering compliance with all regulations.
- Fisheries: including the objectives found in both scientific and MCS observer programmes. Observer duties also include the observer duties found in both scientific and MCS observer programmes.

For further information see:

- See the [APO website](#) for a full list of observer programmes and the International Observer Bill of Rights and Codes of Conduct for Responsible Observer Programmes
- [FAO Guidelines for developing an at-sea fishery observer programme](#). 2002.

The issues being raised

The very reason fishery observers are needed – the difficulty of seeing what happens aboard ships in international waters – is also what makes them vulnerable.

- The APO keeps a list of [observer casualties, injuries, and near misses](#) (last updated 1 September 2020). The tally of observer deaths where the cause of death is undetermined, they died under suspicious circumstances, or the death was not reported by agency officials and/or is still being investigated stands at 10 since 2015.
- According to a [Global Fishing Watch](#) blog they mention 13 fisheries observers that have died in the line of duty over the last decade, many under suspicious circumstances or evidence of homicide, nobody has ever been convicted or otherwise held responsible for those deaths.
- [Assaults on fisheries observers more than double in two years with no reported enforcement. June 2016.](#)

Attacks against independent monitors of U.S. fishing fleets more than doubled between 2013 and 2015, according to official figures posted by the Association for Professional Observers (APO) and Public Employees for Environmental Responsibility (PEER). Approximately 700 observers monitor fleets in 47 different fisheries in U.S. waters, logging some 77,000 days at sea each year. The latest figures from NOAA indicate that the number of observer harassment cases more than doubled from 2013 to 2015, from 35 to 84 reported cases. In 2015, NOAA reported no enforcement actions against alleged perpetrators. Most cases (49) remained unresolved, even months after their occurrence.

The most recent cases

- [Disappearances, danger and death: what is happening to fishery observers? 22 May 2020.](#)
This is reportedly the first death of an observer on a vessel fishing for MSC certified catch in the Western Central Pacific. Pacific observer Eritara Aati Kaierua, was found dead in March 2020 aboard the Taiwanese-flagged Win Far No. 636. Kaierua, from Kiribati.
- These two cases were covered by Human Rights at Sea. [Fisheries abuses and related deaths at sea in the Pacific region. 1 December 2017.](#)
 - **June 2017.** [James Junior Numbaru](#) of Papua New Guinea, died while working as an observer on board the purse-seiner Feng Xiang 818, a Chinese-flagged fishing vessel, which was in Nauru waters. Numbaru had six years of professional experience. Nauru police ruled out foul play after a brief investigation, according to Papua New Guinea's Fisheries Forum Agency.
 - **September 2015.** [Keith Davis](#). On 10 September 2015, a Taiwanese fishing vessel conducted a transshipment of tuna to the Panamanian flagged refrigerated vessel M/V Victoria 168, roughly 500 miles off the coast of Peru. The observer onboard documenting the transshipment was Keith Davis, who was employed by MRAG Americas under the IATTC Transshipment Observer Programme. A crewman aboard the Taiwanese fishing vessel witnessed Keith Davis observing the transshipment of tuna at roughly 2:50 PM. Ten minutes later Keith Davis was reported missing. A search was soon conducted by the MV Victoria, which ended unsuccessfully 72 hours later. His body was never found.

There have been repeated calls for reform

- [**UN intervention needed on suspected murder case linked to global tuna trader. 13 July 2020.**](#)
Greenpeace USA and the Association for Professional Observers (APO) have demanded UN intervention to ensure effective and thorough investigation following the suspected murder of an Kiribati fisheries observer in March 2020. The complaint, submitted on behalf of the family of the deceased fisheries observer Eritara Aati Kaierua, and addressed to the newly appointed UN Special Rapporteur on the Situation of Human Rights Defenders, Mary Lawlor, asks to ensure observers are protected and those responsible for the death of Kaierua are held accountable.
- [**Policies and Recommendations to Improve the Safety of Fisheries Observers Deployed in Tuna Fisheries. 4 April 2018.**](#)
Working in collaboration, FishWise, the World Wildlife Fund (WWF), the Sustainable Fisheries Partnership, Greenpeace, the Association for Professional Observers, the Environmental Justice Foundation, the International Seafood Sustainability Foundation, Monterey Bay Aquarium, Pew Charitable Trusts and IPNLF published this report which summarises existing policies that could improve observer safety and security in tuna fisheries. The document also outlines a set of recommendations for the implementation of these policies in tuna fisheries where observers operate. The [**Observer Bill of Rights**](#) was submitted in 2000 and the [**International Observer Bill of Rights**](#) in 2013.
- [**Conservation and Management Measure for the protection of WCPFC Regional Observer Programme. 7 December 2017.**](#)
In 2015, the Western and Central Pacific Fisheries Commission (WCPFC) changed its minimum standards for the regional observer programs, requiring the Personal Locator Beacon, a two-way communication device so that observers don't have to go through vessel captains to communicate with shore-based operators, and Emergency Action Plan for Regional Observer Programmes. The more recent measure (CMM-2017-03) in December 2017 formalised and codified a more comprehensive set of measures designed to address observer safety and security. In addition to the above it also included the responsibilities and requirements of vessel and observer providers, and stipulated stakeholder requirements when an observer gets harassed, injured or dies. Other regional fisheries management organisations (RFMOs) such as the Inter American Tropical Tuna Commission (IATTC) followed suit with their own measures.
- [**WWF calls for reforms after tuna fleet fisheries observer lost at sea. 18 July 2017.**](#)
The non-profit WWF and the Association for Professional Observers are calling for measures to better protect fisheries observers after a Chinese-flagged fishing vessel reported its observer missing on 26 June.
- [**Association for Professional Observers President Liz Mitchell called for similar reforms in an interview with that Australian Broadcasting Corporation. 12 July 2017.**](#)
President of the Association for Professional Observers, Liz Mitchell, tells Bruce Hill the number of deaths of observers on foreign-flagged fishing vessels is suspicious and in the case of American observer Keith Davis - who went missing at sea two years ago – she was convinced it was murder.
- [**Open letter from APO to ocean activists and marine conservation groups. 2016.**](#)
We frequently hear a call for more observer coverage but in order for the coverage to be effective, we must call for more protections to safeguard the observers ability to do their work unhindered by harassment and interference.

- [Joint NGO letter regarding the level of transparency in the Western and Central Pacific Fisheries Commission \(WCPFC\). 6 November 2013.](#)
This highlighted a disturbing trend regarding the level of transparency and openness in WCPFC meetings and information sharing.
- [WWF and the Association of Professional Observers call for measures against IUU fishing. 25 September 2013.](#)
WWF and the Association of Professional Observers (APO) are calling on the Western and Central Pacific Fisheries Commission (WCPFC), for urgent measures to protect the health, safety, and welfare as well as promote the professionalism of at-sea observers assigned to fishing vessels as a way to reduce illegal, unregulated, and unreported (IUU) fishing.

Current situation – reports and activities in 2020

- [Survey to understand the working conditions of Western and Central Pacific Ocean Fisheries Observers. 4 September 2020.](#)
Human Rights at Sea in partnership with the University of Nottingham's Rights Lab and supported by the Association for Professional Observers has launched a new survey to create a better understanding of the working conditions of fisheries observers and to identify factors that may help observers in the future in the Western and Central Pacific region.
- [MSC announces new research funding to improve fishery observer safety. 23 July 2020.](#)
New funding to support fishery observer safety and welfare research, has been announced by the Marine Stewardship Council. The MSC does not require fisheries to work with observers as a part of its certification requirements – but in practice many fisheries rely on observers to collect essential evidence needed for sustainable fisheries management - especially in remote parts of the world. The MSC is allocating £100,000 for projects and initiatives aimed at improving observer safety at sea.
- [Global Tuna Alliance \(GTA\) 2020 Regional Fisheries Management Organization \(RFMO\) advocacy. July 2020.](#)
This includes reference to 100% observer coverage and observer safety. 100% observer coverage requirements level the playing field by ensuring all parties are playing by the same rules and without 100% observer coverage on industrial tuna fishing vessels, there are too many unknown risks lurking across tuna supply chains.
- [HRAS report: Fisheries Observer Deaths at Sea, Human Rights and the Role and Responsibilities of Fisheries Organisations. 3 July 2020.](#)
Human Rights at Sea has published an extensive human rights focused report looking into the ongoing issue of Fisheries Observer protections and deaths at sea in the complex and highly-competitive commercial fishing industry supply chains that they work in. The report highlights publicly available facts in the ongoing investigation of the case of the death of Kiribati Fisheries Observer, Eritara Aati Kaierua.

The report highlights 10 key recommendations which, if addressed, could pave the way for significant positive changes for the safety of workers at sea – listed on the next page.

The ten HRAS recommendations (edited) are:

1. Transparent and unimpeded investigations into all cases of human rights violations against Fisheries Observers and crew.
2. Regular engagement of Interpol, alongside flag, port and coastal State authorities, for all violations of individual fundamental human rights of Fisheries Observers and crew.
3. Any Observer death, disappearance, illness or injury must be immediately reported to the Observer programmes, and subsequently there should be forfeiture of confidentiality with full disclosure of any VMS data associated with any voyage where an Observer disappears or dies at sea.
4. A mandated provision of personal communication devices independent of any vessel communications electronic systems for all Observers working at sea, globally.
5. International fisheries certification organisations should mandate all registered vessels, as part of the contractual terms and conditions for use of their scheme.
6. International fisheries certification organisations should maintain centralised, consistent, up-to-date, and publicly available lists of all certified vessels.
7. International fisheries certification organisations should immediately freeze the certificates of all vessels involved in allegations of human rights abuse until investigations are concluded.
8. All fisheries management organisations, fisheries certification organisations and bodies, and fisheries management platforms should have, as a bare minimum, public-facing policies that reflect published business strategies to include fundamental human rights protections and necessary safeguards for all workers in their area of influence, reflecting international legislative and voluntary human rights and labour rights norms.
9. All fisheries management organisations should introduce internal collation and reporting mechanisms for the recording of incidents of human rights and labour rights abuses, for subsequent investigation by the competent authorities.
10. In the circumstances of a death at sea, employers must act expeditiously to compensate families for their loss, while ensuring that, at all times, effective insurance policies are in place.

Responses to the HRAS report:

- [WWF Statement on Human Rights Abuses at Sea. 3 July 2020.](#) WWF, Bloom, the Blue Marine Foundation and the Shark Project welcomes the international recognition of the dangerous nature of these crucial jobs at sea. Yet increasing instances of fisheries observer deaths, as well as violations of fishing crew welfare, have been reported to authorities and NGOs in recent years. WWF is disturbed by this trend and takes these reports very seriously, and calls for more timely and thorough investigations when such reports are made.
- [MSC response to Human Rights at Sea report. July 2020.](#) The MSC has made a preliminary response to the comments and issues (some factual errors) raised in the report and to the ten recommendations.
- [An evaluation of Regional Fisheries Management Organization at-sea compliance monitoring and observer programs. May 2020.](#) There are an estimated 2,500 observers globally, and in recent years many have been subject to human rights and safety violations, including intimidation, assault, and even murder or disappearance under suspicious circumstances. Since 2010 at least seven fisheries observers have disappeared while monitoring fisheries under the authority of Regional Fisheries Management Organizations (RFMOs). Notably, very little information is available regarding the circumstances. This first-ever examination of

observer-related policies for the 17 RFMOs, which are the main institutions in charge of high seas fisheries, uncovered several important gaps and shortcomings:

- No RFMOs include regulations to sufficiently protect fisheries observer rights and safety.
- Only four of 17 RFMOs, which manage high seas fisheries, have a policy in place on what to do if a human observer disappears or dies.
- Only three RFMOs mandate 100-percent observer coverage on fishing vessels under their authority.

To address these shortcomings, the authors advocate for 100% observer coverage achieved using a complementary approach of remote electronic monitoring and human observers. They also call for RFMOs to be publicly transparent about what the monitoring reveals, including violations, and, especially, if observers are harmed or disappear.

The impact of COVID-19

- **27 July 2020.** [Many RFMOs](#) have suspended the placement of observers on-board vessels due to COVID-19 health concerns, which has had the result of scaling back monitoring activities in some of the world's most productive fishing grounds. Due to COVID-19, the requirement that 100% of purse-seine tuna boats carry fisheries observers in the Pacific, has been temporarily suspended since March. That suspension was due to lapse on 31 July 2020, but on 23 July 2020, the WCPFC extended that requirement until 31 October 2020, meaning no coverage is required for purse-seine vessels or at-sea transshipment for purse-seine vessels.
- **[Global Tuna Alliance statement. May 2020.](#)** Several countries/fleets have recently withdrawn from observer programmes due to COVID-19. Furthermore, tuna RFMOs have begun to relax or remove observer coverage requirements for many of their vessels in response to these withdrawal requests. While it is recognised that these decisions need to be made to protect the health of the observers and fishing crew, the GTA is concerned that this opens up the supply chain to potential IUU and reputational harm from an increased risk of IUU. Accordingly, we believe it is essential that measures that address workers' health while ensuring fisheries data submission, monitoring and control are implemented.
- **[Fishing fleets say NOAA observers are too risky amid pandemic. Crowded fishing boats are no place for data-collecting observers during a deadly pandemic, say fleet owners. 10 April 2020.](#)** Several countries/fleets have withdrawn from observer programmes due to COVID-19. Furthermore, tuna RFMOs have begun to relax or remove observer coverage requirements for many of their vessels in response to these withdrawal requests.

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