

# Fair Trials policy concerning participation in coalitions and joint letters and statements

## Issue presented:

Periodically, Fair Trials receives requests to join a coalition or sign a collective letter supporting or opposing some policy or practice. When and under what circumstances should Fair Trials accommodate such requests?

## Objective:

The purpose of this policy is to provide consistent principles that will inform Fair Trials' decision-making and alert the broader community of the criteria Fair Trials utilizes in determining whether and under what circumstances to participate in a coalition or endorse a joint statement. This serves the dual purpose of affording other groups an opportunity to craft their initiative mindful of what will be required to secure Fair Trials' participation and will provide Fair Trials with a principled basis upon which to decline such a request and thereby minimize the risk that a particular entity will feel disrespected by that decision.

## Controlling considerations:

The most important guidepost is to ensure that Fair Trials remains faithful to its core mission and safeguards its reputation as an international arbiter of what constitutes a fair, equal, and just criminal process. This necessarily entails a commitment to fulfil Fair Trials' role as an impartial watchdog prepared to identify and criticize unfair, unequal, or unjust practices, including those that foster discrimination in criminal legal systems. As an NGO with an interest in ensuring that civil society organisations are protected against governmental overreach and abuse, there may be occasions where Fair Trials has an obligation to speak out in support of such organizations, even those whose work is unrelated to criminal law, when they come under attack by government or other entities.

## Baseline requirement:

Notwithstanding other considerations delineated below, the proposed issue to be addressed by the coalition or joint letter must relate to the functioning of a criminal legal system. There must be a clear nexus to the fundamental rights and protections afforded at some phase of the criminal process or the nature and scope of that process. In the absence of such a nexus, Fair Trials risks offering an opinion beyond the scope of its institutional mission and expertise. Thus, if the issue at hand relates to a questionable policy or practice, unless that policy or practice could trigger criminal prosecution, an otherwise problematic application of the criminal justice process, or the imposition of sanctions outside the normal criminal process, Fair Trials should refrain from engagement. Conversely, where a policy or practice implicates the functioning and scope of the criminal process, Fair Trials may engage on the issue. Additionally, as noted above, Fair Trials may engage on an issue in defence of an NGO even if the scope of the NGO's work is unrelated to criminal law and practice.

## **Additional considerations:**

### **Nexus to and consistency with Fair Trials' prior work:**

In determining whether to participate in a coalition or a joint letter, Fair Trials should give highest priority to any issue area on which it has a history of advocacy, or which is otherwise within the organisation's mission and strategic objectives. In such circumstances, however, Fair Trials should ensure that the principles espoused by the coalition or proposed letter are consistent with principles previously articulated by Fair Trials. In circumstances where consistency is lacking, Fair Trials should engage with the proponents to seek necessary modifications to endure consistency with Fair Trials' previous advocacy. In the event of an irreconcilable material divergence, Fair Trials should refrain from participation.

### **Preference for engagement prior to the development of the coalition principles or joint letter:**

To the maximum extent possible, Fair Trials' input should be sought early in the coalition formulation process or the drafting of a joint letter. The obvious rationale for this is to ensure that Fair Trials' expertise is brought to bear in the formulation of an initiative. While early engagement may not always be possible, Fair Trials should make every effort to communicate its preferred language and formulation on the issue in question to the criminal justice advocacy community.

### **Focus on policy and avoidance of factual issues:**

Fair Trials focuses its advocacy on systemic adherence to fundamental rights. Thus, the decision to enter a coalition or join a letter should be undertaken when an indisputable criminal justice or legal principle is at issue.

### **Reservation of right to withdraw**

In the discretion of its CEO acting in the best interests of the charity, Fair Trials reserves the right to subsequently withdraw from a coalition.