

**STATEMENT FROM KENYANS TO THE GRAND COALITION GOVERNMENT: RESPECT THE  
CONSTITUTION AND THE MEDIATION PROCESS**

**Nairobi, Monday, December 15, 2008**

The events of the past three days compel us to evaluate the state of fundamental freedoms in Kenya, and the verdict is singularly unfavourable.

On December 12, 2008, as Kenya marked its 45<sup>th</sup> Jamhuri Day, the Grand Coalition Government signaled its definitive departure not just from the ideals of independence. It also departs from agreements reached under Agenda Item One of the mediation process, which sought to restore full fundamental rights and freedoms, including the right to assembly and peaceful protest.

**The President and the Prime Minister watched without comment as police forcibly detained — in one case with unnecessary violence — Kenyans seeking to protest, through the delivery of a letter and the wearing of T-shirts, at the rise in basic food and fuel prices and the refusal of parliamentarians to subject their allowances to taxation.** And this in front of the crowds gathered at Nyayo Stadium and the media from Kenya and elsewhere.

By the end of the day, over 100 Kenyans had been detained in around the country. Below is a breakdown:

- Langata Police Station -- 58 people among them Mars Group's Mwalimu Mati, Jayne Mati and Kiss 100 FM's Caroline Mutoko and Larry Asego.
- Nyayo Stadium Police Post -- Bunge la Mwananchi's Fredrick Odhiambo and 10 others
- Industrial Area Police Station – 40 held on a police lorry and another 15 on a police pickup -- later released.
- Garissa – 4 activists, expected to be charged in court today
- Nakuru – 3 activists later released.

The following day— well **past the 24 hours constitutionally allowed for detention without charge before someone has to be produced in court—two Kenyans remained illegally detained at Langata Police Station, one in hospital in Nairobi and four in Garissa.**

The unlawful arrest and detention of citizens and civil rights activists on Jamhuri Day and the subsequent violent break-up of legitimate protests in Langata and Uhuru Park in Nairobi only crown a year of the state abusing the basic freedoms guaranteed every citizen under the Constitution.

As we speak, Mr Fredrick Odhiambo Owuor, who was brutally attacked by the police and detained without access to medical attention for at least 24 hours, is still in custody. Seven civil rights activists who have been illegally detained in police custody for at least 72 hours are expected to be charged in a Garissa court for loudly petitioning government officials during the Jamhuri Day celebrations last week.

Mwalimu Mati and his wife Jayne of the Media Analysis and Research Strategies (MARS) Group have been released without charge – an indication that their arrest was unjustified and probably malicious from the outset.

The heavy-handed state response to legitimate protest and the exercise of citizens' right express themselves, the detention of citizens illegally arrested while attempting to peacefully petition the government on the grave issues of taxation of MPs' allowances, the passage of repressive media laws and the rising cost of living is a shocking trespass on fundamental freedoms.

We are dismayed by the continuing erosion of fundamental freedoms in the country since December 2007. The abrogation and negotiation of fundamental freedoms to assembly, expression and of the press, as well as the freedom to petition the government, have had the net effect of turning Kenya into a police state.

These attacks on fundamental freedoms come at a time when the State appears bent on creating laws that would limit access to information rather than free it. The Kenya Communications (Amendment) Bill takes away the right to receive and disseminate information under the guise of regulating the media and making provisions for security.

**Bearing in mind our Constitution's guarantees of the rights to the freedoms of assembly, association and expression as well as the agreement under Agenda Item Two of the mediation process — that is, the restoration of fundamental rights and freedoms, we demand:**

1. The immediate unconditional release of the remaining four in Garissa without charge;
2. Accountability for the Police Commissioner and the minister for Internal Security for failing to respect the Constitution as well as the agreement reached under Agenda Item Two of the mediation process;
3. Accountability of the President and the Prime Minister for the same.

Kenyans will not accept the continued retreat on gains believed to have been secured in 2002 in the guise of security. Kenyans will not accept that the only way to dialogue with the Grand Coalition Government is through insider strategies — non-violent, peaceful protest is also a

legitimate means of voicing legitimate concerns, in this case about the rising cost of living in the face of apparent Executive and Parliamentary indifference.