



JAMHUURIYADDA FEDERAALKA SOOMAALIYA
Golaha Shacabka

Mogadishu, Somalia,
September 26, 2015

To: Speaker of the Federal Parliament of Somalia = Mogadishu =
Cc: Chief Justice of the Federal Government of Somalia = Mogadishu =
Re: The Decision Dated September 25, 2015 dismissing the Impeachment
Motion against President Hassan Sheikh Mohamud and dated August 12,
2015

Your Excellency, we received with shock and dismay your written statement of today, captioned above, in which you cavalierly dismiss the impeachment motion submitted to your office on August 12, 2012, which motion was signed by 93 members of parliament.

As your Excellency would recall, after we submitted the motion and respectfully requested from you to transmit it to the Chief Justice of the Federal Government of Somalia for determination of the legal validity of the grounds of the motion, you counseled us that it would be imprudent to take the motion to the courts without exhausting dialogue between the concerned parties. We followed your advice trusting that your advice was proffered in good faith.

Subsequently, on September 12th, 2015, you issued a press statement informing the public that you have advised the two parties, the Office of the President and the sponsors of the impeachment motion to enter into earnest dialogue and that if the talks do not produce any positive results within two weeks of the commencement of the talks, you would submit the motion to the competent courts. In this press statement, you also stated that the President has delegated the Prime Minister to represent him in the talks. Attached please find a copy of your statement. On September 14th, 2015, we also followed your statement with a complimentary statement of our own, welcoming the dialogue and emphatically stated that we will enter into the talks in good faith, with the caveat that we will not enter into dialogue with the Prime Minister since the allegations contained in the motion were serious and personal in nature to the President. Attached please find a copy of the said statement.

On September 20th, 2015, you called a group of us to your office for a strategy meeting on possible options on the talks and you suggested that we appoint a team that will represents us in the talks. You also advised us that the format of the talks would be: The Speaker and Deputies presiding over the proceedings of

the talks and the two parties sitting on opposite ends of the table, and if possible the Prime Minister sitting as an observer. Moreover, you implored us not to turn the talks into adversarial encounter and we agreed.

On September 16th, 2015, your office sent a letter in an envelope to the house of one of our leaders, and in the letter, you instructed us that since time was of the essence, that we should forthwith prepare our legal brief with corroborating evidence annexed to it, and if possible, present options on remedies on agreed-upon malfeasances, and submit it expeditiously. Attached please find a copy of that letter.

On September 17th, 2015, following your instructions, we submitted personally to your Excellency a detailed legal brief formatted as a matrix, containing allegations, options on presenting evidentiary material, possible remedies and expected outcomes. We attached it with a cover letter, reminding you that time was of the essence and as such it was important that you alert the other party. Attached please find a copy of the letter.

Your Excellency, you would agree that all the meetings and correspondence mentioned above between Your Excellency and our committee during the course of the last one and half month would clearly and unmistakably indicate that we had a meeting of minds between Your Excellency and our committee: That the parties would earnestly enter into a good-faith dialogue, failing which you would send the matter to the competent Court.

Your Excellency, more precisely, your initial statement containing your legal understanding of the process dated September 12th, 2015 forcefully indicated that you did not have issues with substantive matters of the motion but that you only had concerns with the complexities of constituting a competent court. In the letter, you quite rightly arrive at a legally sound formula for standing up a competent court that can hear the motion. Our legal counsel also agreed with you that your formula for completing the Supreme Court so that it can act as a Constitutional Court was founded on sound legal and constitutional principles. This letter of Your Excellency's, which was widely distributed publicly and widely never casted any iota of a doubt on the legal grounds of the impeachment motion, but only raised concerns regarding how to best stand up and complete the court, a concern you ultimately found a sound remedy.

It is therefore, with shock and dismay that we read your letter of today, which appears to be informed by narrow political imperatives, but we must remind you that your decision of today would have profound legal, constitutional and political ramifications which may consequently have grave impact on the place of Rule of Law in Somalia and the efficacy of Constitutionalism, impunity and the very viability of governance of the Somali state.

Your statement of today dismisses the motion but also makes a call for dialogue, a very curious strategy indeed. Yes, Your Excellency, before your statement of today, we were in dialogue mode, but as a result of your egregious, unilateral and capricious decision, we no longer believe that dialogue is an option any longer.

In your statement, you raise the following reasons for your dismissal of the Impeachment motion against the President:

First, you assert that your reading of Article 184 leads you to a conclusion that the allegations contained in the motion do not rise to the level of treason, and therefore there are no impeachable offences. To start with, we never cited Article 184 of Somalia's Penalty Code in our impeachment motion. Instead, we must advise Your Excellency that the motion is anchored on Article 92 of the Constitution, and this Article does not cite treason as the only grounds for impeachment but also cites constitutional transgressions and breach of other national laws. Even if Your interpretation of the law is correct, the Constitution does not provide you with any powers of the determination of the validity of the legal grounds of an impeachment; That power, Your Excellency, is solely reserved for the competent courts, and unfortunately, you have arrogated to yourself powers not assigned to you under the provisional constitution.

Moreover, you conclude that the bulk of the allegations contained in the motion are either unfounded, and that even if they exist are mistakes of omissions rather than commissions. Your Excellency, here you have again over-stepped your role as a Speaker of parliament and have taken the role of the Supreme Court of Somalia which is empowered to make determinations of facts and law on impeachment motions.

Second, you state that some signatories of the motion have approached you and informed you that they are no longer a party to the motion. This is very disingenuous, coming from the Speaker of the House; Your Excellency, the Rules of Procedure of the Parliament that you preside over clearly and unequivocally do not permit signatories of House motions to change their minds before the motion is put to a vote inside the House.

It is our considered opinion that powerful members of the international community working in Somalia and a President accused of corruptions and constitutional violations, among other charges, may have exerted a great deal of pressure on you and ordered you to dismiss the motion because it would interfere with their contrived good-feel message planned to be delivered in New York during the United Nations General Assembly on the last days of September 2015. It would be very awkward indeed for them to be projecting in New York feel-good images -progress, peace, milestones achieved, advances on public financial management - when the poster boy of these remarkable achievements is saddled with an impeachment motion whose grounds are criminality and corruption.

Your Excellency we impress upon you that you are the duly elected Speaker of a Parliament of a sovereign country and you have a solemn duty to serve Somalia and not some international community project managers who are so much driven by an obsession with ticking right boxes than anything else and a President who is facing serious constitutional and other illegal charges.

Mr. Speaker, we respectfully request that you turn your mind to your constitutional role as a speaker because if you do, you would come to understand that the only motions you can legally dismiss are confidence motions against the Council of Ministers and not Impeachment motions against a sitting Presidents.

Finally, bearing in mind that you are bound to operate within the confines of the constitution, we ask you to reconsider your decision. In the meantime, our Lawyers will contact your office regarding other legal avenues we may pursue.

Thank you.

SPONSORING COMMITTEE OF THE IMPEACHMENT MOTION (SCIM)