

Transitional Justice, Shari'a and Customary Law: Preliminary Thoughts on Assessing the Heritage of Violence in Somalia

Markus V. Hoehne¹

¹Max Planck Institute for Social Anthropology, Halle, Germany

mhoehne@eth.mpg.de

Somalis in Somalia have been involved in and suffering from multiple and protracted violent conflicts over the past three decades. Various kinds of mass violence and gross human rights violations have been committed with impunity by Somali state officials, guerrilla factions and militias, as well as by external forces. No official steps have been taken so far to deal with this legacy of violence. The Somali setting is characterized by legal pluralism comprising *shari'a*, customary law, state law and international law. While *shari'a* traditionally regulated matters of family and inheritance among Somalis, Islam has gained prominence in Somalia since the late 1980s. Besides Islamic norms, Somali customary law called *xeer* (pronounced: heer) shapes social relations and guides conflict settlement among local clan groups. Recurrent droughts and civil strife in Somalia have brought about international 'humanitarian' interventions by UN organizations, international NGOs and external state actors on various levels. These interventions created their local 'counterparts' in the form of local NGOs, which have mushroomed in Somalia and the Somali-inhabited Horn of Africa since the 1980s. As a result Somalis have come into contact with international and human rights law. This paper outlines the situation and discusses various possibilities but also challenges for approaching issues of dealing with the past and transitional justice in Somalia.