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Drafting in Doha: An Assessment of the Darfur Peace Process and Ceasefire Agreements

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MONOPOLY OF FORCE

The Nexus of DDR and SSR

EDITED BY MELANNE A. CIVIC AND MICHAEL MIKLAUCIC



INSTITUTE FOR NATIONAL STRATEGIC STUDIES
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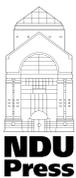
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Edited by Melanne A. Civic and Michael Miklaucic

With a Foreword by
General James N. Mattis, USMC



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Chapter 3

Drafting in Doha: An Assessment of the Darfur Peace Process and Ceasefire Agreements

By Paul R. Williams and Matthew T. Simpson

In the spring of 2010, in Doha, Qatar, the major parties to the Darfur conflict signed a series of framework and ceasefire agreements. The Doha Agreements comprise the Justice and Equality Movement (JEM) Framework, the Liberation and Justice Movement (LJM) Framework, and the LJM Ceasefire Agreements. These accords served two principal purposes. The first and more obvious was to establish a cessation of hostilities and lay the foundation for the negotiation of a comprehensive peace agreement. Critical to each are provisions relating to Security Sector Reform (SSR) and the Disarmament, Demobilization, and Reintegration (DDR) of combatants. Well drafted SSR and DDR provisions, even at the very early stages of a peace process, encourage stabilization in the conflict region and the implementation of the agreement in a sustainable manner. The Doha Agreements, though including occasional language relating to SSR and DDR, largely missed the opportunity to set the framework for mechanisms that would bind the parties to the sustainable deescalation of the conflict.

The second and less obvious purpose was to create momentum. From the perspective of the international community, the hope was for momentum to salvage a faltering peace process. From the perspective of the Darfurians, the hope was for momentum to construct a final negotiated settlement that would heal the humanitarian scars of the conflict and generate a level of power-sharing consistent with that enjoyed by Southern Sudan under the Comprehensive Peace Agreement. For the government of Sudan, the hope was for momentum to gain the upper hand in the April

elections, legitimize the regime of President Omar Al-Bashir, and complete the process of transforming the Darfur conflict into a “humanitarian matter” that would solidify the status quo, in which they held a superior position, and limit the active engagement of the international community.

The competing and highly political interests of the three stakeholders affected the nature and quality of the agreements negotiated in Doha. This chapter examines the collective development and impact of the Doha Agreements, seeking to place them in their appropriate political context, analyze the momentum and political slant of the negotiating processes, and consider the missed opportunities of the abbreviated DDR and SSR programs.

For purposes of this analysis, Security Sector Reform is understood to include cessation of hostilities, DDR, combating the spread of small arms and light weapons, prohibiting the use of landmines and undertaking demining, establishing mechanisms for transitional justice, strengthening the rule of law, combating trafficking in people, weapons, and drugs, and creating a framework for imbedding best practices throughout the security sector.

Historical Context

The current Darfur conflict began in the spring of 2003 when two Darfurian rebel movements—the Sudan Liberation Movement (SLM) and Justice and Equality Movement (JEM)—launched attacks against government military installations as part of a campaign to fight against the historic political and economic marginalization of Darfur.¹ The government of Sudan responded swiftly, often through a hired militia known as the Janjaweed, brutally attacking the movements and anyone affiliated with them. The government targeted the SLM’s and JEM’s predominant ethnic groups, and millions of civilians were forced to flee their homes. An immense humanitarian crisis resulted, and in September 2004, U.S. President George W. Bush declared the crisis in Darfur a “genocide.”²

In May 2006, the government of Sudan signed the Darfur Peace Agreement (DPA) with one of the SLM groups, but this brought about little in terms of peace.³ The two movements that refused to sign (JEM and SLM–Wahid) continued fighting the government and at times each other. This internal fighting and discord led to the fragmentation of the movements, and many leaders broke off to form their own groups. At one point, upwards of 27 rebel groups claimed legitimacy as the representatives of the people of Darfur.⁴

As of this writing, the fighting continues, and the United Nations estimates that 300,000 people have died and 2.7 million have been displaced.⁵

The Doha Peace Talks

The United Nations (UN) and the African Union (AU) have led efforts to resolve the conflict, with the United States and other countries providing support. To enhance their ability to mediate a resolution, the UN and AU created a Joint Mediation and Support Team (JMST) and appointed former Burkina Faso Foreign Minister Djibril Bassole as the joint AU/UN mediator. Mr. Bassole's tenure was preceded by a number of failed attempts at mediation by AU and UN cochairmen of the peace process.⁶

To create a suitable venue for the peace talks, the JMST turned to the state of Qatar, which agreed to host and underwrite the talks in its capital city of Doha. The JMST and the Qatari government launched a new round of talks in July 2009 between the government of Sudan and the JEM, which have continued to some extent since that time.⁷ Initially, the other Darfuri rebel movements refused to join the talks, citing the choice of an Arab state as the venue and the perceived lack of good faith by the government of Sudan as their primary rationale.

Over time though, most of the other Darfuri rebel movements joined the talks in Doha. In February 2010, several of the predominantly Fur rebel movements affiliated previously with the SLM united to form LJM. In late April, SLA–Abdel Shafi, SLM–Unity, and several other Fur rebel movements joined the LJM.

In an effort to broaden Darfuri input into the peace process and, according to some observers, to possibly dilute the influence of the Darfuri rebel movements, the JMST also hosted a large civil society “workshop” in Doha. The workshop resulted in a statement of principles agreed to by the civil society representatives referred to as the Doha Declaration.⁸ Many observers noted that the “civil society” delegation included numerous representatives appointed by or affiliated with the government and could therefore not serve as a legitimate voice of civil society. As a result, the JMST later undertook a more extensive effort to travel throughout Darfur to consult with and seek to incorporate the voice of traditional civil society.

As for the government, it actively participates in the Doha peace process through a moderately high-level delegation. For signing ceremonies, Sudan has been represented by President Al Bashir and Vice President Ali Osman Taha. Government delegations come and go from Doha at will;

their presence often dictates when talks will be held rather than the other way around.

As for structure, the JMST has adopted an approach of proximity talks between the parties. Under this approach, the mediation team creates an initial draft and then shops it separately to each of the parties in an effort to create a consensus document. The mediation does accept documents produced by the parties, but seems to rely on them only as an expression of the interests of the groups and not as actual negotiating texts.

In February and March 2010, two key milestones were reached in Doha. On February 23, the government and the JEM signed the Framework and Ceasefire Agreement (JEM Framework). The JEM Framework set forth a general roadmap for future negotiations. It also included guiding principles relevant to a cessation of hostilities.

On March 18, the government and the LJM signed two documents. The first, a Framework Agreement to Resolve the Conflict in Darfur (LJM Framework), provided a roadmap for future negotiations, and the other, a ceasefire agreement (LJM Ceasefire), provided for the temporary cessation of hostilities and the formation of a Ceasefire Commission.

Pre-agreement Momentum

Collectively, the Doha Agreements sought to provide a framework for lasting peace. The desire to conclude the agreements was spurred by a sense of urgency on the part of the parties, the Qataris, and international political actors. In particular, the government of Sudan and the international community were interested in shifting their focus to the pending referendum in South Sudan. Yet the singularly political approach of the internationals and their narrow and short-term focus on elections compromised success and sustainability of the process from the start.

In the winter of 2010, both the Qataris, as the host nation and financier of the peace process, and the JMST as the mediation team, had a strong interest in seeing the peace process gain momentum. Many in the international community were getting impatient with what was viewed as a drawn-out process that yielded limited deliverables. The international donor community was also under pressure from their governments and funders to justify the millions of dollars in expenditures. The JMST and Qataris were well aware of this impatience, and it could be sensed that they felt a significant urgency to generate an initial agreement to maintain the viability of the JMST as a credible vehicle for mediation, and Doha as a suitable venue.

The mediation team was also under pressure from other important international players. Both General Muammar Qaddafi of Libya and former South African President Thabo Mbeki publicly and privately expressed interest in playing a greater role. Libya's desire to reestablish itself as a key player in the peace process and Mr. Mbeki's wish to interject himself into the effort were not welcome by Mr. Bassole or at least initially by the Qatari hosts.⁹

Another political actor who played a significant role in moving the agreements forward, especially the signing of the JEM Framework, was President Idriss Deby of Chad. Several weeks prior to the JEM signing ceremony, he made significant headway on the normalization of the previously contentious relations between Chad and Sudan over their shared border.¹⁰ As part of the process of normalization with Sudan, President Deby sought to use his influence over JEM to promote the negotiation of a framework agreement and ceasefire between the government and the JEM (which reportedly utilized territory within Chad as a safe-haven). He hosted the negotiations in N'djamena and prepared the initial draft of the JEM Framework. Some observers have noted that the legally imprecise terminology of the framework agreement and its rather disjointed organization are the result of it being appropriately and primarily a political document penned by President Deby himself. It was originally written in French and then poorly translated into Arabic and English, the languages of the negotiations.

The U.S. commitment to the April 2010 elections in Sudan, and the perceived crucial role of the elections in the implementation of the North-South Comprehensive Peace Agreement, contributed to the momentum for concluding the agreements. U.S. Special Envoy General Scott Gration had long made it known that it was a priority of Washington to support the elections, with little regard to whether they were free and fair.¹¹ To this end, Envoy Gration was a strong proponent of a temporary cessation of hostilities that would allow the elections to occur with limited violence and interruption.

In parallel with this international pressure, the parties themselves were also individually motivated to sign peace documents with each other. The government of Sudan was looking for the political benefits of peace. Through the first elections in 24 years, it sought to legitimize the regime and counterbalance the negative publicity resulting from the indictment by the International Criminal Court of President Bashir on war crimes and crimes against humanity. The government was clearly focused on holding the elections with minimal disruption and was therefore eager to sign an

agreement with the Darfur movements that would provide for the temporary cessation of hostilities, hoping that would be enough to allow the elections. Possibly for that reason, President Bashir personally attended the signing ceremony of the JEM Framework in Doha. Indeed, it was said that the government was only interested in reaching a temporary cessation of hostilities before the elections using the ceasefire as a political tool, and that it was unwilling to negotiate any of the more substantive proposals the Darfurian rebel movements tried to place on the agenda.¹²

The government's avoidance of the substantive proposals may also have reflected its desire to stall comprehensive negotiations until after the elections in the hope that the results would produce an alternative Darfurian delegation for future talks. Almost immediately after the elections, the government began to argue that the newly elected representatives from Darfur, who came primarily from President Bashir's dominant National Congress Party, were now the legitimate, democratically endorsed representatives of the region and should therefore represent the people of Darfur in future negotiations. This claim, on its face, lacks credibility given the nearly universal criticism of the Sudanese elections, and of the election process in Darfur in particular. The government likely reasoned, however, that the international community, which validated the elections to a certain degree, may feel compelled to allow participation of an additional NCP-dominated delegation. Even if the delegation were not added to the talks, the assertion of an alternative "elected" delegation would suit the interests of the government to undermine the validity of the claims that the Darfurian movements represent the whole of Darfurian society.

The timing for an agreement was also right between the JEM and LJM. For the Darfurians, the vast majority of the prior year was spent addressing the unification of the movements. Pressure from the mediators and international community was strong for the Darfurians to do away with the fragmentation that plagued them during prior negotiations and to present a united front against the government. Intensive resources and time were spent on meetings in Addis Ababa, Tripoli, and various parts of Darfur, encouraging the movements to crystallize into a single negotiating block. The U.S.-led effort in Addis saw many of the most powerful Fur groups join together. Similarly, a program led by General Qhadafi formed a separate alliance of Fur fighters in Kufra, Libya. Many of these efforts were successful. The Addis and Tripoli groups, along with a handful of others, merged through a series of shifts and realignments to form the LJM. This intensive engagement generated results, as the once highly-fragmented movements consolidated into fewer than a half dozen. To this end,

much of the international community's attention up to and even after the signing of the Doha Agreements was focused on bringing the movements together around common leadership.

The staging of the signing ceremonies revealed the political motivations of the various stakeholders. Reflecting the Qataris' desire to highlight the progress made in their peace process, the ceremonies were held in Doha at the opulent Sheraton and Ritz Carlton hotels.¹³ To demonstrate the perceived breakthrough and the hopes for a reinvigorated process, the guest lists included heads of state from neighboring countries, the Secretary Generals of the Arab League and African Union, and representatives from still other countries. As noted above, President Bashir attended the signing ceremony with the JEM and made a concerted effort to highlight his engagement with the other Presidents and dignitaries including many from Western Europe.

President Deby of Chad sat immediately to the right of the Emir of Qatar during the signing of the JEM Framework. The event was also used to demonstrate the Qataris' commitment to the peace process and to highlight the fact that they were willing and able to put substantial resources into the effort. This sent a positive signal to both participants and observers, giving hope that there was strong support for the process. However, as will be discussed below, the signal was not backed by substance or operational support through security sector reform.

The Doha Agreements and Consequences

While the Doha Agreements appeared at the time to achieve their objective of reinvigorating the peace process, there was immediate concern that they might not have succeeded in setting forth an adequate foundation for sustainable SSR. This section will introduce the three agreements and provide a general analysis. The next section will examine the substantive provisions of the agreements in detail. Given that all peace processes are naturally fluid, the following critique will focus on the key elements of SSR covered in the agreements and note which additional elements are necessary for future accords.

The JEM Framework and Limitations for SSR

The JEM Framework and Ceasefire Agreement (JEM Framework), which as noted above was initially negotiated under the auspices of President Deby of Chad, was designed to bring about a cessation of hostilities, set forth a preliminary substantive agenda for future talks, acknowledge and address in principle the pressing issues of internally displaced persons

(IDPs) and refugees, and initiate a process of Security Sector Reform, with primary emphasis on DDR. The document, which was only three pages, was intended to express agreement between the parties and define the process for moving the peace talks forward at the highest level of generality. The parties' and mediation's motivation to see a document signed took priority over including details and specifics that would presumably prolong and complicate the negotiations.

The substantive agenda for talks embedded within the JEM Framework contained commitments to negotiate issues relevant to both parties including the participation of the JEM at all levels of government, the administrative restructuring of Darfur, resource sharing, and land reform. The agreement also contained commitments relating to IDPs and refugees including recognition of their right to voluntary return, the provision of fair compensation, the creation of adequate social infrastructure, and the guarantee of a dignified life in their places of origin. The agreement, however, failed to address several issues that were of particular importance to the Darfurians including borders, transitional security, the disarming of the Janjaweed, economic reconstruction and rehabilitation of Darfur, national wealth sharing, and reconciliation and justice mechanisms.

With respect to cessation of hostilities, the JEM Framework provided rather opaquely that the parties "proclaim a cease-fire and engage in immediate discussions to reach an agreement for its observation." This wording almost immediately led to a dispute as to whether the parties had in fact agreed to a ceasefire or merely to negotiate one.¹⁴ As of mid-June 2010, the parties had not yet negotiated an agreement to implement the framework provisions relating to the proclamation of a ceasefire, although the draft agreement circulating around Doha did include provisions for implementation.

The JEM Framework also failed to establish a clear timeline for the initial cessation of hostilities. The agreement, consistent with all parties' desire to build momentum through quick results, did provide a March 15, 2010, deadline for final peace negotiations, but this date was unrealistic given the capacities of the parties and the complexity of the issues. The passing of the deadline for a final agreement led many to conclude that the ceasefire had expired on that deadline as well.

In addition to establishing a cessation of hostilities, the JEM Framework was intended to serve as a precursor to a full-fledged Ceasefire Agreement and therefore contained a number of very specific SSR and DDR principles. Significantly, these provisions did not carry over to the actual agreement.

The JEM Framework Agreement started with a general release of prisoners of war by both parties and included amnesty for combatants. This amnesty provision was particularly important for JEM as over 50 of its combatants were held by the government and otherwise were scheduled for execution after allegedly taking part in a raid on Khartoum.

As part of SSR, the agreement included a provision for the disbandment of JEM forces and their integration into the ranks of the state armed forces and other Sudanese military and police groups. It did not include an option for creating a separate police or military force for Darfur comprised of former JEM members, as is commonly found in similar agreements. Interestingly, the agreement also included a commitment by the government, rather than the international community, to fund JEM's daily operations, cantonment, and training through the abbreviated DDR process. Given the preliminary nature of the agreement, it is likely that disbandment was chosen by JEM over more thorough DDR as a hedge against its belief that their forces would be needed to defend against government attack in the near future.

Finally, the agreement provided at an early stage for the political reformation of JEM, through the transformation of JEM back into a political party. This provision was important for returning JEM to its roots as a political organization. It also set a positive precedent for other movements with regard to integration into the political process, which will be critical to the future stability of the government of Sudan. Importantly, although the JEM was willing to consider returning to the status of a political party, it insisted on a lengthened process for disarmament and demobilization with integration into the Sudan Armed Forces preferred over a quick disbandment and return to civilian life for its combatants. Notably, the interest in reintegration was consistent with the general trend to reestablish the monopoly of force by states instead of preservation of a separate post-conflict police or security force.

In short, the initial JEM Framework, despite its brevity and the absence of disarmament or demobilization, paid considerable attention to SSR provisions. Unfortunately, when the mediation later developed and circulated a subsequent draft comprehensive ceasefire to implement the JEM Framework, none of these SSR provisions was expressly present. While it is possible that SSR could be included in another portion of a final peace agreement, established practice indicates that these provisions should have been provided for expressly in the comprehensive ceasefire. For instance, recent ceasefire agreements in the Democratic Republic of the

Congo, Liberia, and Burundi have all expressly provided for SSR provisions rather than leaving them to incorporation in subsequent documents.¹⁵

Within weeks of signing the Framework Agreement, JEM and the government exchanged accusations of ceasefire violations, and renewed violence erupted between the parties. From late April to early May 2010, renewed clashes between JEM forces and the government intensified, resulting in the deaths of over 100 Darfurians in the Jebel Mara region.¹⁶ On May 4, JEM announced that it was suspending its participation in the Doha peace talks to protest the government attacks on its forces and “a lack of seriousness from the part of the Government of Sudan regarding a peaceful resolution to the conflict.” JEM also accused the international community, and the AU in particular, of failing to assert sufficient pressure on the government, thereby allowing it to turn the peace process into “political theater” designed to rehabilitate the image of newly reelected President Bashir.¹⁷

After the breakdown of talks in Doha, tensions between JEM and the government escalated further. In May 2010, government leadership insisted that Interpol apprehend JEM leader Dr. Khalil Ibrahim on terrorism charges.¹⁸ Additionally, later that month, upon his return from a series of meetings in Cairo and Doha, the once-supportive government of Chad denied Dr. Khalil access to Darfur through Chad, his customary route into the region, and he was forced to take refuge in Libya.¹⁹ The government of Sudan concurrently issued statements ruling out future negotiations with JEM in Doha.²⁰

The LJM Agreements and the Absence of DDR

The signing of an agreement between the government and JEM created a sense of urgency for the other movements. With advance warning that the agreement was to be signed the evening of February 23, 2010, the fragmented Fur movements conducted intense internal negotiations on unification for the several days prior to that event. Likely to prevent the JEM from getting too far ahead in the talks, and with the goal of presenting a unified face for the Fur movements, the LJM was formed only a few hours before the JEM signing ceremony.

Then, as noted above, the LJM signed a separate framework agreement and ceasefire. The Framework Agreement was much more detailed than the framework signed by JEM. The Ceasefire Agreement reflected both the aspiration of a cessation of hostilities and a detailed set of standards and procedures for implementing the cessation, as well as a minimal degree of SSR. However, no components of DDR other than an amnesty provision were carried over, with other SSR, transitional justice, and gov-

ernance issues left to a future time. The agreements were lacking in certain areas of substance and failed to account for important contextual realities. As a result, they failed to create an adequate incentive for the Darfurians to disarm and reintegrate, and thus limited the utility of the agreements for restoring the monopoly of force to the state.

The LJM Agreements accomplished a great deal on the political front and set out an initial foundation for cessation of hostilities, DDR, and SSR by providing initial treatment of several topics that routinely appear in ceasefire and peace agreements. Accordingly, the agreements provide a workable basis for a more comprehensive ceasefire. Their signing also generated momentum in the peace process and created the political space for future negotiations.

LJM Framework. The LJM Framework began by setting out an eclectic mix of general principles that included respect for Sudan's territorial sovereignty, a reaffirmation of democracy, fair and equitable power and wealth sharing, alleviation of suffering of the people of Darfur, provision of humanitarian assistance, and a commitment to an efficient federal system of government.

Importantly, the general principles section did not clearly indicate whether these were principles that a subsequent peace agreement should incorporate as goals of an agreement or simply affirmed the status quo. It is likely the parties would argue differently: the government of Sudan would probably insist the general principles are a reflection of the status quo, while LJM could well see the section as calling for their enforcement, calling for the creation of competent mechanisms to ensure their implementation. Such ambiguity was no doubt necessary to secure the agreement of both parties, but it can have a destabilizing effect during the negotiation of a full peace agreement unless it is addressed clearly at that time.

The LJM Framework then turned to some preliminary principles. The agreement broadly provided for a ceasefire and cessation of all hostilities, effective upon the signing of the agreement and the final ceasefire. Both parties also committed themselves to permitting the African Union-United Nations Hybrid Operation in Darfur (UNAMID) to monitor the ceasefire.

Like the framework signed by JEM, the LJM Framework provided for a general amnesty for civilian and military members of the LJM and the release of prisoners of war by both sides. However, it did not include the other SSR and DDR provisions that were contained within the JEM framework for the disarmament of fighters, the reconfiguration of the movement

as a political party, and the reintegration of former combatants into civil society.

After the initial ceasefire provisions, the LJM Framework set out a detailed list of issues for subsequent negotiation, including the administrative status of Darfur, wealth and natural resource sharing, democratic reform, security arrangement, and reconciliation and “issues of justice.”

Interestingly, the LJM Framework also included a provision that all disputes arising under the agreement were to be resolved by the AU/UN Joint Mediation Support Team. This provision is both unusual and problematic, as disputes under the agreement are likely to arise long after the mediators have concluded their work. Most agreements provide for a more formal and regularized body or mechanism to resolve disputes relating to implementation.

Just as the agreement between JEM and the government set March 15, 2010, as the deadline for final negotiations, the LJM Framework provided that the “Final [peace] agreement and its additional implementing protocols shall be prepared, negotiated and signed in Doha before the end of March 2010.” This deadline, less than 3 weeks after the initial agreement was signed, seemed to confirm the motivation of the government to secure a peace agreement, no matter how limited, to build momentum for the elections. Unfortunately, previous experience in Sudan demonstrates that setting unrealistic deadlines can in fact erode momentum for a peace process and breed mistrust among the parties and with the mediators.²¹

The LJM Framework concluded with an agreement on the role of civil society, which is a relatively recent addition to framework agreements in general and a call for the parties to work in political partnership. Given the need for substantial public participation in the implementation of certain SSR provisions, the inclusion of genuine civil society representatives in the peace process, if done appropriately, could have a long-term positive impact on both the development and implementation of security sector reform.

The reference to political partnership, while seemingly innocuous, is reminiscent of the Comprehensive Peace Agreement between the government and the SPLM in South Sudan, and is generally seen as an attempt to bind each party to the implementation of the agreement once the rebel movements have transformed into political parties. It is also odd in the context of DDR to provide for the transformation of the movement into a political party but not for the reintegration of movement soldiers. It begs the question what will happen to combatants once the movement is established as a political party.

LJM Ceasefire. The LJM Ceasefire sought to accomplish the four main objectives of bringing about a cessation of hostilities, creation of a ceasefire commission, DDR of LJM combatants, and DDR of child soldiers. However as noted above, DDR of adults was abbreviated and limited to disbandment. DDR of child soldiers was far more expansive, with considerable specificity and even innovation.

The LJM Ceasefire began with a typical commitment to the prior obligations of both parties under international law, and then turned to an agreement to observe an immediate and complete cessation of hostilities between the two parties both on land and in the air. Providing for a cessation of hostilities in the air was a major victory for LJM, who sought to curb the government's aerial bombardments of military and civilian positions within Darfur and had no planes or helicopters of its own.

The LJM Ceasefire spelled out the parties' disbandment and other peace commitments in more detail than the JEM Ceasefire, including agreement to cease and refrain from acts of hostility, military or other armed activity, recruitment or military activity within proximity of the IDP camps, acts of violence against UNAMID or other humanitarian personnel, acts of gender-based violence, and hostile propaganda.

While the LJM Ceasefire generally included many of the provisions necessary for an effective ceasefire and peace promotion, two major weaknesses may prove problematic in its implementation and support for sustainable peace. First, the agreement is overly broad and vague in parts, lacking in essential specificity and precision. Second, it inadequately addresses SSR and DDR other than DDR for child soldiers. Third, it fails to account adequately for the political and historical context of the Darfur conflict. Fourth, it does not address provisions for renewal or modification.

The first major concern with the LJM Ceasefire is that it lacks specificity on numerous issues. For instance, in an effort to be comprehensive, it contains a general prohibition against all "military or other armed activity in Darfur," and any "retaliatory action . . . against any armed groups. . . ." These overbroad statements would, if interpreted strictly, prohibit legitimate policing activities as well as self-defense against attack from a nonsignatory.

Similarly, though the ceasefire contains a list of prohibited acts, the document fails to clearly define many of them. The agreement prohibits "actions that impede humanitarian access," all "acts and forms of gender based violence," "recruitment and other activities" near IDP and refugee camps, and even "[o]ther activities that could endanger or undermine their

commitment to a complete and durable cessation of hostilities.” Such catch-all prohibitions are dangerously broad and subjective, and without further expansion and definition they are virtually guaranteed to raise allegations of violation and cause dispute.

Moreover, the ceasefire uses the term “offensive action” without providing a clear definition. It is customary to clearly specify a positive, exemplary list of actions that constitute offensive actions under the agreement. In defining offensive and prohibited actions, it is also customary to clarify which acts are considered to be within the scope of the military. Defining prohibited actions and military/nonmilitary distinctions makes it easier to identify violations of the agreement, and provides for more effective and efficient dispute resolution. Failing to do so is cause for substantial confusion and potential lack of implementation.

An obvious example of the LJM Ceasefire’s lack of specificity and precision is its creation of a Ceasefire Commission (CFC). The agreement provided for the establishment of a body responsible for the implementation and monitoring of the agreement but did not provide any detail on its mandate or composition. Likely as a result of the speed at which the negotiations progressed, and the political motivations to get the LJM Ceasefire signed as soon as possible, the drafters referenced, but failed to include, an annex which would set out the mandate and procedures for the CFC. The lack of an annex defining its role is particularly troubling because it leaves the LJM Ceasefire without a clear process to address violations. Given the frequent violations in prior ceasefires,²² any ceasefire in Darfur would require robust monitoring and verification mechanisms as well as meaningful penalties.

The LJM Ceasefire, furthermore, did not obligate the parties to refrain from reprisals in response to violations of the agreement, nor did it clearly distinguish acts that constitute retaliatory actions or reprisals (violations) from defensive acts (not violations).

The ceasefire also suffers from a failure to set out clearly affirmative and restrictive obligations. For instance, it restricts acts of hostility and violence toward the civilian population in Darfur but does not specify an affirmative obligation for the parties to protect civilians. An affirmative obligation would require additional specificity that obligates the parties to not only avoid hostilities and violence but also provide a safe environment for civilians, typically in accordance with international standards. Similarly, with the parties not obligated, it becomes difficult to identify responsibilities, which will hamper the monitoring of implementation and violations.

The agreement also failed with regard to holding the parties accountable not only for their own troops and their direct actions, but also those groups that are engaged in the conflict on their behalf. Armed groups affiliated with the parties play a prevalent role in the conflict. Thus, the ceasefire should have provided that the parties are affirmatively responsible for communicating the provisions of the ceasefire and any other agreement to affiliated groups and are fully responsible for any affiliated group's violations. Furthermore, particular provisions on affiliated groups should list identifiable affiliated groups to the conflict such as Chadian forces, fighters under the control of Mini Minawi, border guards, and Janjaweed.

The LJM Ceasefire would have benefited from much greater attention to the core elements of a traditional ceasefire agreement, including SSR and DDR. The separation of forces should be provided for on a detailed level, including the disengagement of troops, establishment of security zones, troop and weapons verification, and the withdrawal of foreign and proxy forces.

Notably, considerable attention is paid to the DDR of child soldiers, including provisions obligating the parties to adhere to several international conventions on the protection of children, and to turn over all children associated with the armed forces soldiers to the UN. The specificity on this issue likely is the result of the active involvement of the United Nations Children's Fund (UNICEF) in Doha and its work with the movements. UNICEF deployed its people to the Doha talks to advocate for the greater inclusion of child protection provisions and clearly have had an impact.

The LJM Ceasefire fails to account adequately for the political and historical context of the Darfur conflict. For instance, the agreement reaffirms the territorial integrity and sovereignty of Sudan but fails to reiterate the customary corollary, which is right to internal self-determination and self-government. The agreement thus focuses more heavily on the prerogatives of the government rather than mutually agreed goals. An agreement based on the needs and interests of one party is less likely to yield lasting peace on the ground than an agreement where both parties' needs have been equally addressed.

Similarly, the agreement prohibited offensive action against any party signatory to the Darfur Peace Agreement (DPA) signed on May 5, 2006. While the DPA created an obligation on the government not to use force against the other signatory to the DPA, the LJM was not bound by any such obligation. Under the new ceasefire, the LJM is banned from using force

against those who signed the DPA, but those groups are not bound by a reciprocal agreement. Under strict interpretation of the agreement, the LJM is thus exposed to attack, while the government is protected. The LJM was also burdened with an additional obligation, while the government gave up nothing to maintain its prior obligation under the DPA. Considering the DPA's lack of implementation, this was a missed opportunity to accomplish forward progress in SSR and DDR, and created an asymmetrical relationship between the DPA signatories and the LJM.

Given the government's poor track record on the implementation of previous ceasefire and peace agreements in Darfur, and the international community's expressed interest in achieving a sustainable solution to the conflict there, the ceasefire should also have empowered the international community to monitor and enforce the security provisions of the agreement by providing a clear mandate for international participation in the CFC, as well as establishing mandates for other international organizations. The enforcement of these provisions, including the obligation to grant unimpeded access to humanitarian agencies, and the prohibition of military activity within the IDP camps, was a ripe opportunity to involve the international community and increase the likelihood that the security provisions would indeed be respected.

Conclusion

The story of the Doha Agreements is one of complicated relationships and political motivations. For some stakeholders like the government, they accomplished their goals; temporary documents with limited substance that advertise their participation in the process without actually binding parties to firm commitments. LJM arguably accomplished its goal of establishing itself as a legitimate negotiating block in the process. Other stakeholders accomplished less; the JEM Framework was repeatedly violated early on, and its March 15 deadline for final negotiations seemingly came and went without notice. What cannot be lost in the frenzy of these constantly changing relationships, and what this article has endeavored to establish, is that words matter. Though they were no doubt a positive step in the peace process, the substantive weakness of the Doha Agreements limited their ability to be sustained and implemented in any meaningful way. In particular, the parties and the mediators missed a real opportunity to set the foundation for significant security sector reform and DDR. Greater specificity, more consistency with international state practice, and an increased role for the international community would all have contributed to the likelihood that the agreements would be meaningfully imple-

mented in a sustainable way. Going forward, those responsible for negotiating and drafting subsequent agreements must recognize that the words, when drafted well and in a manner consistent with international state practice, work to bind the parties to the document and its principles in a way that self-interest and motivation cannot break apart.

Notes

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² George W. Bush, President's Statement on Violence in Darfur, Sudan, Office of the Press Secretary, September 9, 2004, available at <<http://georgewbush-whitehouse.archives.gov/news/releases/2004/09/20040909-10.html>>.

³ Laurie Nathan, "No Ownership, No Peace: The Darfur Peace Agreement," Crisis States Working Papers No. 5, September 2006, available at <<http://www.crisisstates.com/Publications/wp/WP-series2/wp5.2.htm>>.

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²¹ See Laurie Nathan, *No Ownership, No Peace: The Darfur Peace Agreement, Crisis States Working Papers*, no. 5, September 2006, available at <<http://www.crisisstates.com/Publications/wp/WP-series2/wp5.2.htm>>, which explains how the use of deadline diplomacy in the DPA negotiations undermined both parties' trust in the mediation and ultimately led to the collapse of the agreement. See also Alex de Waal, "I Will Not Sign," *London Review of Books* 17, 18–19 (2006), available at <<http://www.lrb.co.uk/v28/n23/alex-de-waal/i-will-not-sign>>. According to Alex de Waal, the rebel movements were only given 5 days to review the final version of the 100+ page peace agreement, and the mediators refused their request to extend the signing deadline thus leading to several key rebel leaders refusing to sign the agreement.

²² See International Crisis Group, *Darfur's New Security Reality, Africa Report No. 134*, November 2007, 22 (detailing multiple violations of prior ceasefire agreements).