
Brcko, Crucible of Peace in the Balkans

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Robert W. (Bill) Farrand joined the Foreign Service in 1964 and served in embassies Kuala Lumpur, Moscow, Prague, and Port Moresby. He was appointed Ambassador to Papua New Guinea, Solomon Islands, and Vanuatu in April 1990. In 1993, he became Deputy Commandant for International Affairs at the Industrial College of the Armed Forces (Washington). In 1995, Farrand joined the staff of the Inspector General of the Department of State. In March 1997, Farrand was named Supervisor of the Bosnian city of Brcko (population 80,000). He departed Bosnia in May 2000 and is now at George Mason University in Virginia as a distinguished fellow and affiliate professor.

I am indebted to Professor Dave Davis for favoring me with an invitation to speak to you today about my experiences as practitioner and implementer of the Dayton Peace Agreement in Bosnia. For more than three years, from 1997 to 2000, I served in Bosnia and Herzegovina as supervisor of the strategic city of Brcko and, simultaneously, as Deputy High Representative for Bosnia's northern sector. In truth, however, the first role far outweighed the latter as I struggled day-to-day with realities on the ground.

Although it may be said that in my capacity as international supervisor of Brcko, I filled a one-of-a-kind role in a one-of-a-kind place, I trust what I will have to say this morning will lend itself to broader considerations of complex peace operations in the aftermath of war and armed conflict.

Clearly, we are now in a period where what comes next in Afghanistan — after the bombing and ground combat is done — is at the forefront of everyone's mind.

So I trust my talk this morning — which I entitle "*Brcko, Crucible of Peace in the Balkans*" — will in some small way be pertinent to the current debate over Afghanistan and the war on terrorism. An academic friend of mine assures me the way to uncover broad principles lies through the study of individual cases. So please consider this presentation my modest contribution to that notion.

For those, like me, who continue to think the Balkans are and will remain a region of national security concern not only to European states but to the United States and Canada as well, I welcome this opportunity to make the case for maintaining a minimum force in Bosnia for the foreseeable future. I will do this by briefly describing to you the post-war dilemma posed for the international community by the once tormented city of Brcko. In this connection, I passed among you a one-page summary of the essential facts regarding Brcko,

which Ted Woodcock edited to make readable, for those of you who have forgotten (or never knew) about this little town on the Sava River.

During these last 20 months back home, I have become aware of how little informed the public is about peace operations in the Balkans — Europe’s most unstable corner. And precisely because the Balkans *are* Europe’s most unstable corner — let us remind ourselves that World War I was triggered here following the assassination of the Archduke Franz Ferdinand in Sarajevo in June 1914 — they are deserving of our continuing close attention. As the last century proved twice, instability in Europe can lead to the expenditure of North American lives and fortune, however we may wish it were otherwise.

That said, there seems to be a growing resistance among Western governments and taxpayers — and not only in the United States — to continue expending resources, both human and financial, in the effort to bring about enduring peace and ethnic reconciliation in the Balkans, generally, and in Bosnia, specifically. There is a temptation to declare “they are big boys now and can take care of themselves” as we begin unilaterally to wind down our support mechanisms. I’ve forgotten exactly where I came across the rule that *for every year of war it takes four years of coordinated outside assistance and effort to rebuild a nation in ruins*. Since the Bosnian War was fought over a period of three-years (1992-1995), a minimum of twelve years may be needed to put matters right in that beleaguered land. Today, we are but six years from the war’s end.

This morning, I bring to you the perspective of a civilian practitioner versed in diplomacy (but not in operations analysis), who was tasked to implement the non-military aspects of the Dayton Peace Accords (or DPA) in the small Bosnian city of Brcko. I trust what I have to say will contribute to your understanding of the heavy demands that complex post-conflict contingencies like Bosnia and, now, Afghanistan have levied and will continue to levy on the international community. (The term “international community” is often used in this context to signify those nations — including most prominently the so-called “front-line states” immediately surrounding the troubled area — that come together to help countries emerging from war to get back on their feet.)

As an implementer, rather than an architect, of the Dayton peace accords, I faced the practical problem each and every day of translating goals and objectives — established on high during three weeks of intense negotiations at Dayton, Ohio, in December 1995 — into actual, palpable change on the ground. Real results in real time under real conditions. All in accordance with the DPA and, of equal importance for me as supervisor of Brcko, the three Arbitration “Awards,” as they are called, that emerged from a decision taken at Dayton to arbitrate the Brcko dispute under United Nations rules.

For those of you unfamiliar with the dilemma Brcko posed for the Dayton Peace process in Bosnia, let me refer you now to two maps; one showing Bosnia and Herzegovina with the political boundaries of the two entities, and the other showing the narrow Brcko (or “Posavina”) corridor. With the maps as guides, let me make a few key points about Brcko:

Brcko is, in a word, a microcosm of Bosnia and Herzegovina. Every major issue confronting the international community throughout BiH, we also confronted in Brcko. As a municipality, Brcko was in fact multiethnic, even robustly so, for most of its 500-year history. It was a city where nearly 90,000 Bosnian Serbs, Bosnian Croats, Bosnian Muslims

(Bosniacs), and a smattering of “others” (mainly gypsies and those persons who refused ethnic name-tags) had lived harmoniously side-by-side for generations. It is a little known fact that over one quarter of all marriages in the Brcko region (and perhaps in all of Bosnia) were of mixed ethnicity when the war broke out; 27% to be exact in the Brcko area. Can you imagine the pain an ethnic war creates for the offspring of such marriages?

At the end of armed hostilities in 1995, Brcko sat astride a strategic corridor where the two halves of Republika Srpska — one of Bosnia’s two “entities” — came together in a narrow strip of land several kilometers long and, at one point, only 5,000 meters (three miles) wide. You will note from the colored map that Brcko lies between the Sava River — Bosnia’s border with Croatia to the north — and the Croat-Muslim entity, the “Federation,” on the south.

The Federation flatly refused at Dayton to countenance a post-war consolidation of Bosnian Serb presence in Brcko, a city that, as I said, had been robustly multiethnic before the 1992-1995 war. The Federation’s intransigence met with the equally unbending refusal by Bosnian Serbs to relinquish control over a city they had taken by force — by ethnic cleansing — in war. This stand-off nearly scuttled peace negotiations at Dayton in November/December 1995.

To prevent the collapse of negotiations the parties were persuaded — or, to describe the situation more accurately, arm twisted by the United States — at the last-minute to submit the Brcko dispute to binding arbitration; a time-honored mechanism to which lawyers frequently resort when confronted with seemingly immovable obstacles in a negotiation.

After a fruitless year of trying to bridge the gap, the Arbitral Tribunal — headed by American lawyer, Roberts Owen — decided in February 1997 to place Brcko under international supervision. That’s where I came in. At about the same time, Carl Bildt, Bosnia’s first High Representative and former prime minister of Sweden, called Brcko “the mother of all difficulties.”

The Arbitral Tribunal’s 1997 decision was the first of three arbitral decisions, or “awards,” as they are known in legal circles. The second — or “supplemental” — Award was done in Washington in March 1998; and the third — or “final” — Award was handed down in Washington the following year (March 1999). Because of the extreme sensitivity among the ethnic factions — mainly between the Bosniacs and the Serbs — the formal arbitral process thus took three years to run its course. Why so long? The answer is, it took that long for tempers to simmer down to the point where a final decision could be made with a reasonable chance for success.

The 1997 Award laid out my operational mandate and the two later awards strengthened and expanded that mandate by refining my objectives as the peace process unfolded. To paraphrase the words of a senior State Department official before I took the job; “if we can get Dayton right in Brcko, we may be able to get it right elsewhere. But if we fail in Brcko, the peace process will surely fail throughout Bosnia.” He urged me to take the initiative, to be bold, to lead. I was assured of Washington’s full support across-the-board and, for the most part — especially in the beginning — I got it. Funding, as always, became the cardinal issue and on this subject I could speak for hours. Suffice it to say, however, that the practitioner in a peace operation would do well to sprinkle several teaspoonsful of salt on

promises, particularly oral promises, of financial support given in the heat of the recruiting moment. But that is a topic for another time.

For me, the Brcko assignment represented a near total shift from my normal work routine as a career diplomat serving abroad. In fact, I was yanked unceremoniously from an important inspection of our embassy in Riyadh, Saudi Arabia, and asked to return to Washington with delay. I had never in my thirty years in the Foreign Service faced a professional challenge like Brcko.

I take a moment to inject this note into our discussion this morning because I want to draw a parallel between my mindset as a career diplomat in Brcko and the mindsets of professional military officers serving in Bosnia — nearly all of whom were trained not as peacekeepers, but as war fighters. They, too, had to make significant adjustments in their ways of thinking and acting. Not a perfect analogy, perhaps, but I ask you to bear this comparison in mind as we go along.

The active, interventionist agenda I was handed in Brcko differed sharply from the ordinary work of a diplomat. Let me explain how. A diplomat's first and highest priority is to represent his or her nation's interests in the host country abroad. A diplomat is charged with observing and analyzing the political, economic, social, and cultural life in the foreign country to which he or she is assigned.

Flowing from these interwoven functions is the diplomat's professional obligation accurately to report on what he or she perceives to the metropole — be it London, Madrid, Ottawa, or Washington — and to assess why the development reported on is relevant to his or her government's foreign policy. Depending on decisions then made in capitals, the diplomat will be instructed to carry them out on the ground to the best of his or her ability.

At all times, as I have said, the diplomat must broadly represent his or her nation's interests in the country of assignment. Although a diplomat is often called upon to influence the host government to act in ways beneficial to his or her country (in my case, the United States), he or she never engages in the internal workings of that government.

As a matter of fact, the first rule of diplomacy is never, *never* to interfere in the internal affairs of another country. A very big “no-no” in my business. (An even bigger “no-no,” of course, is to get caught interfering in the internal affairs of another country, but even to contemplate such a chilling prospect is beyond the scope of my remarks this morning...)

Occasionally, a lucky diplomat may find himself or herself in the middle of a high-stakes negotiation. But such heady assignments are far from the norm. The norm may safely be described as the quiet, persistent, unromantic conduct of bilateral relations with a host government on a broad spectrum of issues, ranging from visiting United States citizens incarcerated in prison to securing over flight rights for civilian (or military) aircraft to delivering demarches on everything from trade subsidies to fishing quotas.

Please note I use here the infinitives “to observe, to analyze, to report, to represent, and to influence” when describing the heart of a diplomat's work; all relatively reactive, non-interventionist verbs.

Now let me quote directly from the relevant passage in the first, or Interim, Arbitral Award describing my authority as Supervisor:

“The Supervisor will have authority to promulgate binding regulations and orders in aid of the implementation program and local democratization. Such regulations and orders shall prevail as against any conflicting law. ...”
(Chapter VII, Section 104, Paragraph 1.B (1))

Now, if that doesn't amount to license to interfere directly in the affairs of a foreign government — or polity, or state, or entity, whatever you choose to call it — I don't know what license is!

The verbs and phrases in the First Arbitral Award that were to guide me in my work in Brcko had a distinctly harder edge — more direct, more explicit, and more imperative — than those I referred to above describing a diplomat's customary work. Listen to the difference as I quote from the four main objectives laid out for me in the 1997 Arbitral Award:

- The Supervisor is “to ensure freedom of movement,”
- “to establish a program to govern the...return of former residents...”
- “to ensure that free and fair elections are conducted...” and
- “following such elections, (to) issue such regulations and orders as may be required to enhance democratic government and a multiethnic administration...”
- Finally, I was “to assist ... international development agencies to ... implement a (n) ...economic revitalization program for (Brcko).” All of these phrases are lifted directly from language in the First (or Interim) Award of February 1997.

These verbs I just emphasized are proactive, not reactive, and empower the supervisor *to intervene directly* in the affairs of the Brcko municipality. To attain the Award's objectives, in other words, it would be necessary for me, as Supervisor, to operate from the inside, not the outside, in Brcko. Far, far from a diplomat's standard operating procedure, I can assure you. This is not to say I had not made hard decision in my diplomatic career, but they were of a different kind, scope, and gravity from those I was headed into.

Returning to my earlier comparison between diplomats and military officers in peace operations, I will leave it to you to imagine how difficult it was (and is) for trained war fighters to adjust their operating procedures to the peacekeeping agenda. Perhaps we need a little school where members of both professions can come together to learn the fundamentals of peace operations. Just an idea.

Let me now run through a brief overview of my three years in Brcko. Following that overview, I will end my remarks this morning arguing – actually, pleading — that to instill the Rule of Law in all its manifest complexity (police, judicial, penal) is far and away the IC's most important task in any post-conflict contingency operation. This immense

undertaking is, however, at once the most difficult and elusive task to achieve in the short run. Nonetheless, the rule of law, or a very close approximation of it, must be firmly in place before any peacekeeping, or peace-maintaining, operation – large or small – can successfully be drawn to a close.

The only exit strategy that will stand the test of time is to leave behind a safe, secure community whose economy is self-sustaining and whose citizens are secure in their persons under the rule of law.

Perhaps I should make clear at this point that my concept of what can be achieved in Bosnia differs substantially from the viewpoint of those who sing the blues these days about corruption, missed opportunities, and the utter hopelessness of it all. To be sure there are plenty of signs pointing to flagging enthusiasm for continuing the IC's support to Bosnia. This, despite evidence of real progress in the region.

For example, these positive developments offer substantial hope for the future of the region: first, Croatian strongman Franjo Tudjman's death two years ago; second, Slobodan Milosevic's incarceration at the Hague; third, Bosniac (Muslim) wartime leader Alija Izetbegovic's retirement from political life, and, finally, the largely successful result achieved in restoring Brcko to a semblance of its prewar multiethnic circumstance. There are other positive indicators and successes, of course, but, in my view, these are among the more important.

Taken together, these and other constructive developments should give us a basis for renewing our commitment to finishing the job in Bosnia. After all, the wallets of North American taxpayers have already been touched to the tune of well over \$2 billion. The Carnegie Endowment for Peace recently completed a study that estimates the total cost — i.e., including all costs from all donors, not merely funds for reconstruction — of peace operations in Bosnia at US\$53 billion! I need not lecture this group on the concept of sunk cost and what happens when you walk away from an investment before it has achieved its potential. Our investment in Bosnia should be safeguarded and not tossed away by withdrawing prematurely from Europe's most unstable corner. _

But back to Brcko ...

After a whirlwind series of briefings in Washington and Sarajevo, the helicopter carrying my staff and me landed in Brcko on 11 April, 1997. As we made our descent over the city, I looked down and was appalled at the scene of utter devastation. Homes, schools, factories reduced to rubble as far as the eye could see, especially in the outlying areas. Death and desolation hung in the air. One international agency counted over 9,000 homes — lodging for around 40,000 people — destroyed in the Brcko municipality alone.

Shortly before my arrival, the local Serb newspaper published an open letter entitled "Good Day, Mr. Farrand" harshly attacking me for presuming I could come and simply wave a wand to set things right in Brcko. From barely 20% before the war, the Bosnian Serb population accounted for 97% of the town when I arrived. The majority of these Bosnian Serbs were themselves displaced from homes elsewhere in Bosnia. Brcko was, therefore, a virtual powder keg of sullen, angry, and frightened people huddled together and wondering

what was coming next. Their mood, in a word, was ugly. And I was the guy they were going to look to for answers!

Facing one of the steeper learning curves I had ever encountered, I needed good advisors. As it happened, High Representative Bildt had assigned a skeleton multinational staff of a dozen experts from half a dozen countries to help me get started. As my deputies, Bildt had appointed a retired Brigadier of the United Kingdom's Royal Parachutes and a seasoned Russian diplomat of ambassadorial rank.

In coming weeks, I would rely upon the judgment of these two professionals in ways I could never have imagined in earlier times. We spent countless hours together meeting with the local power structure, chewing over options, deciding on courses of action.

The Bosniacs (Bosnian Muslims) pressed me from the very beginning to exercise my broad supervisory powers to the maximum by restoring Brcko immediately to its *ante-bellum* state. No warm-up, no breaking-in period, *just do it and do it now* was the Bosniac message conveyed at every opportunity. I decided, however, that only a fool would go in wielding such wide, virtually unlimited, powers like a shillelagh without first sizing up the neighborhood, getting to know the people — and those that passed for their leaders — as best he could. My advisors and I agreed that once we had a better “feel” for the situation, we could devise a prudent strategy. And that is exactly what my staff and I set about to do.

To those planners and strategists among you, let me simply say that under the acute pressure of time and events we were forced to make plans and devise strategies as we went along. A devout believer in forward planning, I will confess to having had moments of extreme uncertainty — bordering on an overwhelming sense of inadequacy — as I came face-to-face with the sheer size of the task before us. We had little choice, however, but to press on since the Award had a built-in deadline of one year to show results. All this against a steady drumbeat of United States Army commanders declaring that the military had completed its job under the DPA of separating the warring factions — now, said they, it was time for civilian peace implementers to get on with their program of setting peace objectives and meeting them.

The underlying principle that I came to embrace as a guide to action is neatly summarized in words drawn directly from Annex 7 to the Dayton Accords: *peaceful, phased, and orderly*. These four words became my virtual mantra as we went about implementing the Dayton Peace Agreement and the Brcko Arbitral Awards in parallel. Peaceful, phased, and orderly.

Over the course of the ensuing three years, and in full coordination with the legal division of the High Representative in Sarajevo, I issued some 25 supervisory orders. These orders dealt with the spectrum of issues relevant to governing a municipality whose pre-war population came near to 90,000 souls. My orders ranged from establishing a return program for former residents, to restructuring the local police force, to collecting customs fees at the Brcko bridges, to installing the beginnings of a legal framework to protect property rights — an explosive issue if ever there was one.

Each of my orders went through a careful, if not always uniform, decision tree to guard against egregious error. In drafting the orders, I was ever heedful of the medical practitioner's guiding rule: at a minimum, do no harm. Only after taking counsel with a wide

circle of advisors and asking the question “What is wrong with this order?” would finally I sign these directives.

I think I can say today with equal measures of confidence and humility that my supervisory orders were largely responsible in the early days for restoring a sense of direction to the lives of the disoriented and fearful people of Brcko. In a sense, these supervisory orders became a temporary substitute for the rule of law, which had broken down completely during the war.

Now a brief word about the military component of the Dayton peace process.

The Dayton Accord in Annex 1(a) and 1(b) directs our military forces in Bosnia to maintain a peaceful and secure environment so that civilian implementers like me have sufficient freedom — elbow room, if you will — to implement the civilian aspects of the peace agreement. Most comforting in those early days was the palpable presence of the Stabilization Force (SFOR) battalion at Camp McGovern, a U.S. Army base with a complement of 800 troops, located three miles south of Brcko proper. Camp McGovern was equipped with M-1 tanks, Bradley fighting machines, and HUMVees (modern equivalent of the jeep). McGovern’s soldiers patrolled Brcko’s streets daily without fraternizing with its citizens except in an official capacity.

I quickly established a working relationship with the Battalion Commander and with his superiors at Eagle Base in Tuzla, under the command of a Major General. That relationship remained strong and unfailingly constructive throughout the 38 months of my tenure in Brcko. I want to say unequivocally at this juncture that SFOR and the U.S. Army performed this function with uncommon skill, care, and dispatch.

And make no mistake about it: *the need for close contact between civilian and military components in any complex peace process can hardly be exaggerated.* It is a fundamental ingredient for success. Civilian peace operations simply cannot proceed in the absence of a friendly military presence; strong, disciplined, and visible. Civilians, foreign and domestic, need a “safe and secure environment” in which to do their work. Until the indigenous police are up and running, such an environment is the military’s responsibility to provide. Civilian organizations cannot function on their own, whether in Bosnia, Afghanistan, or similar post-conflict zones.

I have gone on long enough, perhaps too long, about the Brcko agenda and its background. Let me now wrap up these remarks with a few observations about what we actually accomplished in Brcko and how one aspect of those accomplishments could, in my judgment, have a particularly beneficial effect on peace operations elsewhere in the Balkans at a minimum.

What, then, did we achieve under the unique powers that the Arbitral Awards granted the Supervisor? Let me list some accomplishments all of which were attained in an unrelenting atmosphere of obstruction, distrust, intimidation, and fear:

- Freedom of movement throughout the Brcko area of supervision was effectively restored within a year of our arrival in the city;

- Municipal elections were held in September, 1997;
- A multiethnic (triethnic) police force was in place by January, 1998, based on election ratios;
- A multiethnic municipal administration and court system was in place by late summer of 1998;
- Over 6,000 former residents have by now returned to Brcko, the highest proportion in Bosnia;
- Finally, and most significant, was the establishment of the Brcko District on March 8, 2000, as a common, neutral area over which neither entity would exercise sole sovereignty. The legal term used to describe this concept is “*condominium*.”

In every category mentioned, Brcko was, ironically, at the time ahead of developments elsewhere in BiH. This was (and is) particularly true regarding the number of minority returnees to the Brcko area.

The Brcko District is now completely demilitarized and functioning under the constitutional umbrella of a modern statute drafted in my office and fully vetted with the three ethnic factions. We also secured for our draft statute the blessing of the Vienna Commission — a volunteer group of constitutional lawyers and scholars in Western Europe that assists countries in transition (from war to peace, from autocracy to democracy, etc.) to prepare basic democratic, constitutional documents. My son, Peter, a law student at Emory University in Atlanta, has told me that his international law professor has mentioned the Brcko statute and Final Award as a “hot” item in international legal circles just now.

But the most auspicious aspect of the new Brcko District was the establishment of the Brcko Law Revision Commission (BLRC). Let me tarry here for just a moment before closing because what we are talking about is nothing less than instilling the rule of law on a society reeling from war where every law, every norm — save that of violence and atrocity — was trampled in the dirt.

As consumers and investors, can you imagine a world without contracts? A world where there’s nowhere to turn — except to the gun — to resolve commercial conflicts? How, in such a world, could you as, say, supervisor of Brcko, hope to lure entrepreneurs, domestic or foreign, to come and risk their capital by investing in or starting up enterprises in your new District? And unless you are able, at some point, to attract such private capital you will be forever dependent upon foreign assistance to rebuild the community. But that is the road to nowhere.

Taxpayers from donor countries will at some point restrain their governments from endlessly pouring money into post-conflict zones. They call it “donor fatigue” and, believe me, it sets in early.

So you will need a transparent system of law to sustain the private investment that will be essential to the creation of wealth and sustainable employment.

The Presiding Arbitrator, Roberts Owen, wrote into the Final Award's operating Annex [issued in August 1999] a requirement that the Supervisor establish a multiethnic commission to harmonize the laws of the two entities for application in the new District. The BLRC was empowered to draft new legislation where necessary to bring laws in the new Brcko District into line with modern standards.

The BLRC was headed by a respected international jurist and staffed by qualified legal and juridical representatives from Bosnia, two from each ethnic faction — Serb, Croat, Bosniac — as well as a staff of western lawyers skilled in drafting legislation. The United States Government funded the BLRC at a tab of \$500,000 per year, an enormous bargain for what it delivered.

The executive director of the BLRC has now issued his final report. The BLRC drafted over forty laws, numerous by-laws and regulations, and oversaw the stem-to-stern reform of Brcko's judiciary. Such an advance in the Rule of Law has taken place nowhere else in Bosnia. One American investor from Chicago has taken a chance on Brcko by opening a cement block factory there. That's a start.

The BLRC model might well be studied for possible application in other post-conflict peace operations, including in Afghanistan. I regret to report, however, that the BLRC itself was dismantled last October on budgetary grounds.

It has been a pleasure speaking to you this morning on a topic close to my heart.