

OSLOBODJENJE
ANSWERS TO INTERVIEW QUESTIONS

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Biographical details

Educated at the Universities of Cambridge and Chicago, Dr. Matthew Parish is an international lawyer who formerly worked at the World Bank before accepting an assignment as Chief Legal Advisor to the Brcko Supervisor in 2005. Since leaving Bosnia at the end of 2007, he has written and spoken widely on politics and state-building in post-war Bosnia, and he is publishing a forthcoming book on the international community's efforts in the country, entitled "A Free City in the Balkans: Reconstructing a Divided Society in Bosnia". He currently works for the Geneva office of a major US law firm.

1. How do you see present situation in B&H?

This is a dangerous time for BiH, but also a time of opportunities. OHR no longer plays the strong role it once did in leading and directing the country. The result is a power vacuum. The competing political interests in the country used to have their freedom of expression curtailed by a fear of incurring sanctions from the High Representative. Just three years ago, nobody could call for the secession or indeed the abolition of the RS, or they would have been promptly dismissed. Now OHR's powers have faded, and people are saying anything they want. The country is becoming a political football match. Politicians from every side feel there is now a window of opportunity to renegotiate the OHR-Dayton structure, The result is chaos and dysfunction in state institutions. Politicians no longer have any reason to work together, because the principal reason they did so in the past – coercion by the international community – is suddenly absent.

This is dangerous, because the directions in which different politicians want the renegotiations to occur are often diametrically opposed. If Serb politicians decide they want to reduce the power of the central government, and Bosniac politicians decide they want to prevent them, where will that lead? What if SIPA clashes with the RS Police? What if the State Court clashes with the RS courts? What if every piece of draft state legislation is seen through the lens of a debate about centralization versus decentralization? Indefinite political paralysis may result. Political instability can precipitate violent conflicts, as people whose strongly felt political agendas are frustrated take to the streets. Bosnia has a recent history of terrible war over such issues. Politicians representing every group need to bear that in mind and display caution and moderation.

On the other hand, this is a time of opportunities. In the absence of an international overlord to use as an excuse for evading responsibility, it is possible that Bosnia's politicians seize the chance to pursue serious political dialogue for the first time in the country's history. Bosnia has a long history of being dominated by foreign powers, the latest of which is OHR. Its politics are immature, because they reflect an unhealthy tradition of pleasing and manipulating outside masters. Through its use of coercion to engineer political change, OHR is in part responsible for continuing this attitude. Now, for the first time, Bosnia's citizens are getting the opportunity to pursue genuine self-determination. But Bosniacs, Croats and Serbs have sharply different political visions for the future. Therefore if this country's newly found independence from foreign influence is to be a success, it will require painful compromises on all sides.

I am not very optimistic. The Dayton Constitution makes compromise difficult, because its ethnic quotas and national interest vetoes require consensus that rarely exists. It is quite possible that years of political instability ensue, characterized by politicians separated by uncompromising agendas amid a clumsy political system, designed by foreigners in a US air force base. This system has proven itself unable to resolve political disputes in a democratic way. But I think Bosnia's politicians have to stop hoping for an internationally imposed solution to their problems. Foreign governments have lost interest in Bosnia. The EU's interests in the country are not very strong, and they are not going to force Bosnia to go in any particular direction. They may offer incentives for Bosnia to pursue a reforming course, but if its politicians refuse those incentives then the EU will turn its back.

2. Are you aware of different perspectives regarding OHR in Federation and Republika Srpska?

The differing attitudes to OHR between Bosniacs and Serbs are deeply pronounced for an obvious reason. The OHR agenda, of building central state institutions, is broadly aligned with the Bosniac goal of promoting ever greater political unity in the country, and an anathema to Serb aims of maintaining a decentralized weak federal state. In my experience, both sides deplore the indignities of answering to an unelected outside authority. But Bosniacs will tolerate those indignities, because OHR is pushing an agenda they support, whereas Serbs will do everything they can to obstruct OHR, for the same reason.

When I worked for OHR, we had a running joke about different Bosniac and Serb attitudes to the organisation. When you met a Serb politician and asked them to do something, they would immediately tell you it was impossible and a violation of Serb national interests, and refuse. When you met a Bosniac politician and asked them to do something, they would immediately tell you it

was a very good idea and would assist Euro-atlantic integration, but would then leave the meeting and ignore everything you said. Bosniac canton parliaments would obediently enact legislation drafted by international community “experts”, then roundly ignore it afterwards.

However, there is one attitude to OHR that is common to all sides. OHR is an insulting organization. It insults the intelligence of Bosnian people of every background, by breathing arrogance that it knows better. It thinks it knows better than Bosnians what the Constitution and laws mean. It thinks it knows better about how to draft laws and how government should operate. These things are not true. Like all organisations, OHR is a mixed bag. Some of its people are capable, some are woefully inexperienced. It is a highly fallible organization, that makes a lot of mistakes, and it has not managed to consistently recruit high-quality people. But because it is unaccountable to anyone except a private group of foreign ministers, it cannot admit its mistakes and cannot learn from them.

3. Do you think it is right time now to close OHR?

Yes, the sooner the better. I have two strong reasons for this view, that I think should appeal to Bosniacs as much as to Serbs.

First, OHR has no real power anymore. Its influence traditionally derived from two sources. The first was the overwhelming levels of foreign troops in the country. They have now disappeared, and the remaining foreign troops in Bosnia are negligible in numbers. They can no longer undertake an enforcement role as they used to in the past (when they blocked radio transmitters in 1997, for example). The second source of OHR’s influence was the large amount of foreign aid money that was flowing into the country. Those aid levels have dwindled, and that remaining no longer flows through the portals of OHR. Most of it comes bilaterally from individual interested government. OHR now just talks. It has become like a Hollywood celebrity, giving interviews, opinions and criticisms. But it can no longer dismiss people or impose significant laws, lest the RS simply withdraw from state institutions as punishment.

Now if an organization has no power, what is the value of keeping it open? It remains only as a charade, something behind which Bosnian politicians can hide. That is not useful at all.

The second reason OHR should close is that it does not have the capable people and foreign political support it used to. The good people in OHR have mostly moved on. The wise policy initiatives the organization used to push have been neglected. It is now a haphazard amalgam of shifting ideas that change from one day to the next but are seldom followed through with competence or commitment. OHR is a wounded tiger. It is dying but

dangerous, interfering at random in domestic politics often in a harmful way. Prompt euthanasia is the best course for this unfortunate beast, before it causes further damage.

4. What are the dangers of closing OHR and what are possible advantages?

The dangers are clear. A power vacuum unleashes political chaos as the country's already highly dysfunctional state institutions collapse completely. At its worst, the RS tries to use this chaos to declare independence and the Bosniacs take up arms to prevent it from happening; Brcko collapses. Croats use the chaos to revive their plans for autonomy from the rest of Bosnia; Mostar explodes.

But if every side acknowledges these dangers and moderates their behaviour to avoid them, a more optimistic scenario might emerge. Bosnian politics finally has an opportunity to mature. Bosnia has not been a genuine sovereign democracy since 1995. It has been a protectorate ruled by a consortium of foreign powers, principally the US and the larger members of the EU. It is time for this demeaning arrangement to end. OHR says that it cannot close its doors until Bosnia's domestic politicians demonstrate that they are capable of maturity. But it fails to understand that the reason Bosnia's domestic politicians are immature is that they have a schoolmaster who makes all the important decisions for them.

At some point, an independent Bosnia, divorced from Yugoslavia, was always going to have to survive on its own. It cannot survive forever on an international respirator. It must either breathe for itself, or dissolve in a chaos of political squabbles. The legions of foreign officials driving around Sarajevo in black SUVs must leave. Bosnians must take their future into their own hands. I cannot predict the final result when this happens, but the status quo is unsustainable.

5. What do you think about role of OHR in Bosnia all together from 1996?

Almost everyone agrees that OHR was at its best in the years immediately after the war. It encouraged politicians who had previously stood either side of a military front line to engage in dialogue. It established basic state institutions – those anticipated under Dayton, and the minimum necessary for the country to survive as a unified state. It promoted freedom of movement where none existed before. Many people believe the common licence plates, passports and identity cards are OHR's most important achievements. And, at least in the earliest years, it was staffed by impressive people and acted with restraint. We forget that Carl Bildt, the first High Representative, had no coercive powers, imposed no legislation, and dismissed nobody from public office. It was only in December 1997 that the Peace Implementation Council

decided to grant the High Representative powers the Dayton Peace Accords never anticipated. This was a brazen legal fiction. And it was dangerous, because nobody foresaw the consequences. It started off innocuously enough: the High Representative imposed the design of banknotes and flags. But by 2004, the High Representative was dismissing more than forty people in a day, without any reasons or procedure, fair or otherwise. By 2007, the High Representative was unilaterally changing the voting rules in the state government, causing the government to collapse when the prime minister resigned.

The most intensive period of state-building in post-war Bosnia was under Ashdown's reign. He forced an SDS government, enfeebled by his seizures of their bank accounts, to agree to a centralizing political agenda. He achieved this by threatening dismissals of public officials for complicity in crimes of the wartime period. But this is a gun with only so many bullets. After a while, Ashdown had removed all the people he could, and SDS became so weak that it was swept aside in favour of SNSD, a party without the same wartime connections. OHR could not control that party in the same way, and it started demolishing the state-building efforts Ashdown had forced against the prevailing political will in Republika Srpska. So paradoxically, OHR laid the foundations for its own demise. This is one of the most fascinating ironies of the international community's involvement in post-war Bosnia.

The biggest failure of OHR, in my opinion, was to focus on political reform at the expense of economic reform. I believe that wealthy people are far less concerned about the political structure of the society they live in than are poor people. When you have a well paid job, a good car, you live comfortably, and you are working to support your family, what does it matter how much power is concentrated in central government versus cantons or Entities? Moreover economic development gives people incentives to cooperate politically. If I run a factory in the RS, I will want to sell my goods to consumers in the Federation, to make more money. Therefore I will pressure my government to support construction of a motorway from Sarajevo to Banja Luka, to carry the trucks that will deliver my goods for sale. By contrast, forcing political reforms where one or two of Bosnia's three constituent peoples are not yet ready for them is a task of Herculean proportions.

There was so much more OHR could have done to promote economic development, but didn't. It could have changed the burdensome urban planning rules and public ownership of property, that make property development so difficult. It could have challenged the bankrupt Entity healthcare and pension fund systems, that make employing people legally so expensive that foreign investors are deterred from what should be one of the cheapest labour markets in Europe. It could have scrapped burdensome socialist-era regulations over businesses. Corrupt officials make their money by taking advantage of their powers to issue permits and licences. Abolishing

the licence system is a much more effective way of tackling corruption than setting up a secretive anti-corruption unit. OHR never hired the economic experts that could guide them in pursuing these goals, because they got their priorities wrong. If Bosnia were a richer country now, it would be more politically stable. But OHR spent the whole time thinking that if only the political system were changed, the country would be richer. That is exactly the wrong way round.

If you had to draw a single conclusion about OHR, I think you can say that it stayed too long. Politically, the country has not significantly advanced since about 2001. Since then, institutions have been created by High Representative pressure or decree, but there was no genuine political consensus on the need for them, and they were created by use of pressure and threats. As a result, they are so fragile that they are unlikely to survive. OHR has filled the state courts and financial institutions with foreign officials. These people are unaccountable to domestic political procedures, and they will surely leave Bosnia soon after OHR closes. Then, with nobody to replace them, the institutions these foreign officials sustained will collapse. With the exception of Brcko (see below), I'm not sure what OHR has achieved in the last seven years that we can hope to see last.

6. How do you see the future of Brcko?

Brcko is a very troubled place, and it is a microcosm of Bosnia's problems as a whole, so it deserves careful study.

Enormous successes were achieved in Brcko before the District's first elections in 2004. It became the wealthiest place in post-war Bosnia, with the best public institutions and the most receptive environment to foreign investment. It was run as a benevolent dictatorship by the Americans, who invested great attention and capable personnel. But the first elections radically politicised the District, at just the point the Americans were losing interest. Politicians from different national groups with competing democratic mandates could not cooperate, and by 2007 the institution of Brcko Supervisor had collapsed through lack of American support. Now Brcko is a Potemkin village. It is touted as a glowing success by some international officials, but the truth is that its politics exist only in perpetual crisis, its officials finding it impossible to cooperate and citizens remain segregated and suspicious of one-another after the horrors of war. The volatile cocktail is held together only by a seemingly endless series of fines, penalties and impositions emanating from the office of the Supervisor.

The Supervisor is now keen to terminate Supervision and escape from his impossible mission. What will happen then? It seems possible that Brcko institutions will simply stop functioning. The District Assembly has continuously found itself incapable of making key appointments to important

public offices. The vision of a unified District has already collapsed. National groups have started vying for influence. De facto domination by one group or the other, or partition, seem the likely alternatives. At its worst, the District may again become a flashpoint for Bosniac-Serb confrontation. It is still the hinge that keeps Bosnia and Herzegovina whole as a single state, because the Serbs cannot achieve independence without it. The Bosniacs know that, and will do everything to control it.

I don't think the international community can take on a project like Brcko and leave so quickly. The result will be a lot of pain. In the short term, Brcko was perceived as a success. But if the international community builds something up artificially and then pulls out prematurely, leaving its creation to collapse, the net result may actually be worse than if it had never started in the first place. The same could be said about OHR's role in the rest of the country.

7. Tell us something about your forthcoming book.

If there is one concept I would use to describe the international community's work in post-war Bosnia, it is short-sightedness. People made decisions without thinking about their long-term consequences. If you want to turn the High Representative into a foreign governor, you have to think about the legal and political effects of his orders in ten years, and you have to ask how the decisions he makes will survive after the institution has left. How does a "High Representative" encourage reconciliation and democratic compromise, if he is imposing decisions that a lot of people are unhappy with? How can we expect Bosnia's courts to develop towards EU standards of judicial fairness, if they see Europe's official representative in the country dismissing officials without evidence, trials or appeals, and imposing legislation without consultation, debate or scrutiny? Likewise, if you want to try an ambitious social reconstruction project like Brcko, you have to be prepared to make a twenty-year commitment. If you can't see projects through, you shouldn't start them.

My book is called "A Free City in the Balkans: Reconstructing a Divided Society in Bosnia". It tries to chart this short-sightedness, by tracing the international community's efforts in Brcko and comparing them with the efforts in the rest of Bosnia. Part of its aim is to record the often arbitrary or incompetent ways the international community has made its decisions in post-war Bosnia, and to ask why the quality of OHR's decision-making was in general so bad. It is a profoundly pessimistic book. And it pains me greatly to reach such a skeptical conclusion, because Bosnia is a country I have come to care for deeply. I wish all its people, from every national group and none, the very best. They deserved better than we gave them.