

Let's hope we find out what Labour means when it acknowledges a need for a second vote



*Before and during its party conference the Labour Party may have encouraged confusion on the question of “a fresh referendum”, even if they have now found the right way forward, writes **Jennifer Hornsby**. She goes on to explain that a referendum without a Remain option is diametrically opposed to the one sought by the vast majority of those who brought the Brexit issue to the conference. The People's Vote campaign are not calling for any old fresh vote. They are campaigning for an informed vote on what Brexit might actually entail, which could not have been known in June 2016.*

The People's Vote campaign was launched in April. In July, Justine Greening endorsed what she called 'a second referendum on Brexit'. Having recently been Secretary of State for Education Greening had a high profile. And some may have got the impression that she was up for a People's Vote. Far from it, as I intend to explain. Anyone who got that impression would confuse very different referendums. And they would fail to appreciate the argument there is for a People's Vote.

In recent days, the Labour Party has introduced a different confusion from that which Greening may have been responsible for. Rebecca Long Bailey, Shadow BEIS Secretary of State, said 'the government ... would hold the pen on the people's vote, they would determine the questions that would be asked in such a people's vote'. Here she betrays ignorance both of the government's attitude to Brexit and of parliamentary procedure. Does she not know the Prime Minister has said that a second referendum on Brexit is ruled out 'under any circumstances'? If she knew this, it would be clear to her, what she ought, in any case, to know, that if there is a further vote, it will be because Parliament will have determined this, and the relevant Act of Parliament will have said what choices voters would be offered. (The Electoral Commission would need to consult on the exact wording of the question, but not of course on the options.)

Although Long Bailey used the phrase 'a people's vote', she manifestly did not know what vote is canvassed by those who are signed up to the People's Vote campaign. They are not calling for any old fresh vote. They have an argument from democracy. It goes like this: When the government has come to an agreement with the EU (or has failed to do so) it will be determinate what 'Leave the EU' means. In June 2016, it was not determinate. If "the people's will" is to carry the day, then it should be the will of people as informed by what it is that they are voting for, as it could not have been in June 2016.

Long Bailey spoke ahead of the Labour Party conference. So did Len McCluskey, General Secretary of the Unite Union. He was explicit about what question could be asked in a referendum, saying that 'Any new referendum must exclude any option to remain in the EU'. And John McDonnell, Shadow Chancellor, speaking later, and following a lengthy debate on what official motion the Conference should address, agreed with McCluskey: 'a new Brexit referendum should not include a remain option'. When Keir Starmer, Shadow Brexit Secretary, contradicted McDonnell, McDonnell fudged, rather than retract. The matter will be sorted out. But it bears considering quite what the implications of a referendum without a Remain option are.

A referendum without a Remain option provides a way forward diametrically opposed to that sought by the vast majority of those who brought the Brexit issue to the Labour Party conference. And it contemplates inviting the electorate to vote for No Deal even when the government has reached an agreement. Why ever should that be?

It might be thought that No Deal must now be an option. After all, the slogan 'No Deal is better than a Bad Deal' has taken hold. And the government's published guidance on 'No Deal' preparations has made this "option" vivid. But the 2016 referendum led to the triggering of Article 50, according to which the '[European] Union shall negotiate and conclude an agreement with [the UK], setting out the arrangements for its withdrawal'. And very certainly no-one was told in 2016 that they'd have another vote because they might want to express a preference for the UK's crashing out of the EU even when it had been sorted out what sort of Brexit the government had managed to agree in accordance with the protocol for leaving.



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McCluskey and McDonnell have their reasons. They are aware that there are traditional Labour supporters who voted Leave in the referendum, and they don't want to lose the support of these people. The response to this might be that free marketry had led many Leave voters to feel a loss of control, and Labour should present its economic policies as addressed to the concerns of those who had been at the losing end of free-market policies. They (it could be argued) have more to fear from being ruled by a Conservative government than from retaining their EU citizenship. Of course, this would be a party political argument, and McDonnell might have doubts about making an effective case.

McDonnell's disquiet about a People's Vote may not stem from considering Labour Leavers just as such, but specifically, those Leavers who think that what they wanted had been achieved in 2016, and who would consider it an outrage to allow that what they wanted might be overturned. They insist that the question whether the UK should leave the EU must be taken to have been settled in 2016. Understandably McDonnell wants to keep such people on board. But he also recognises the loud cry within the Labour Party for a second referendum. And then a fudge seems just the job. 'Yes, I support a second referendum; but I'm not saying that it should be allowed to reverse the 2016 vote.'

In keeping in place the option of a Deal vs No Deal referendum, the fudge comes with enormous potential costs for Labour which McDonnell appears to fail to recognise. It can seem as if, like Long Bailey, he forgets that any referendum will result from a vote in Parliament. So he appears to ignore the fact that to get the referendum he sometimes explicitly advocates, Labour MPs would need to be instructed to take the side of the hard Brexit Conservatives (Rees Mogg, Johnson, Fox, Davis, and their like). They would love to open up to the country an invitation to vote to leave the EU without a deal. And that would be achieved if a referendum with 'Government Deal' and 'No Deal' as the two choices were enacted.

Could anyone in Labour really want the Party to align itself with these Conservatives? And does anyone in Labour want to deny its MPs an opportunity of joining up with a different sort of Conservative—with those who are persuaded by the argument for a People's vote? Obligations to democratic principles led very nearly all of them to vote to trigger A50 in response to the 2016 referendum. But they—as well as Labour MPs—could feel no obligation to introduce a No Deal option even once the Article 50 process had reached its conclusion.

It might now be thought that McDonnell would have done better to compromise than to fudge. Could Labour not back a *tripartite* referendum: Remain vs Leave-with-Government-Deal vs Leave-with-No-Deal? This is exactly what Justine Greening advocated when confusion about a second referendum was first introduced.

The argument against McCluskey/McDonnell's suggested 'Deal vs No Deal' depends upon appreciating the absence of any principled argument for introducing 'No Deal' into the frame if the electorate is to be consulted again. Evidently, this applies equally when a tripartite referendum is contemplated. But there is more to be said against the tripartite option.

There can be considerations about the desirability of a tri-partite referendum in any circumstances. And they have particular force when a febrile electorate is being invited to vote. The psephologist Peter Kellner has constructed an example in which three different results would be forthcoming according to the method by which a result is determined. In Kellner's example, Remain wins if First Past The Post is used, Leave-with-No-Deal wins if Alternative Vote is used, Leave-with-Government-Deal wins if the Condorcet method is used. (With three options, Condorcet takes the winning option to be the one that wins when the preferences of each voter are taken one at a time in order to determine which voters overall prefer against either of the others.) So which of these to use? On the face of it, Condorcet sums up individuals' views better than Alternative Vote. But past British elections—Mayoral elections for instance—have used Alternative Vote, and none has ever been conducted under Condorcet. There must be something to be said for using a method which voters understand. And it's arguable that British electors for the most part only fully understand First Past the Post.

The relative merits of Alternative Vote and Condorcet might be debated. And so they would need to be if it were assumed that First Past the Post would not serve in this case. But if Greening's envisaged three options were in play, then it would not be at all obvious that First Past the Post was not, in fact, the right method. This is the point made by those who speak of having two different Leave options in a referendum as "splitting the vote". Whereas Leave voters might, on the whole, be very happy to be granted a second preference, a typical Remain voter would surely be right if she considered herself deprived of the opportunity to register her real view if she was required to show support for one or other Leave option in order to make use of a second "choice".

At this point, the argument for a People's Vote is pitted against the people whom McDonnell wanted to take care of on behalf of his Party. They think it a matter of principle that not be a second referendum of any sort: 'The question whether the UK should leave the EU was settled in 2016', they say. Well, if it was settled then, it was not settled by way of a 2019 vote that a few senior people in the Labour Party and Trades Unions might join with the hard Brexiteers in setting up. And if it wasn't settled then, that is because in 2016 no-one could know what deal the government might strike.

We should hope that it is very soon settled exactly what the Labour Party means when it acknowledges a need for a second vote. This week they have come close. Keir Starmer received much applause for telling the Party 'Nobody is ruling out remain as an option.' By itself, that doesn't rule out a tripartite referendum. But Starmer also said 'Labour MP's [should] vigorously oppose any attempt by this government to deliver a no deal outcome'. It may be that Labour has confused the issue in recent days. But perhaps they have now come to accept the argument from democracy.

This post represents the views of the author and not those of the Brexit blog, nor the LSE.

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