Labour’s Brexit Plan: In Conversation With Sir Keir Starmer

Henry Newman (Director of Open Europe)

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Sir Keir Starmer QC (Shadow Secretary of State for Exiting the European Union)

Newman introduces Islam and Starmer. He disputes Starmer’s viewpoint that the Government is following his lead in terms of Brexit. He says that they are proposing a different position, which is a technical exit at the end of the Article 50 process and for the UK to leave all European institutions. Newman wants to know if, as Starmer is proposing staying in the single market for the transition period, whether that applies to EU institutions too. He also says that one of the silver linings of the hung parliament is that it’s made parliament more important and shows scrutiny is needed. The role of the opposition needs to one where it comes up with constructive suggestions to take things forward, and also not to be unduly critical of the UK government whilst never criticising the EU position.

Starmer is asked how much of a shock the result was by Islam:

Starmer says it was a shock and he had been campaigning heavily against it. His constituency voted 75% to remain and he wanted personally to remain too. He explains his relationship with the EU as a human rights lawyer and says it was a shock to learn of the result. He says it has made him think about the role of the UK changing from an internationalist out looking country to inward looking and withdrawn one, and the impact this might have on his children.

Islam asks about his legal background. He says the Government has a specific view about sovereignty and the EU – did you feel frustrated with interaction between EU and UK law?

Starmer says that there were cases when that happened, but thought being on the inside changing it was better than the outside. He felt the voice of the UK was a powerful voice in EU institutions and had influence. Britain’s role is now at stake and it has to make sure it is still seen as a key player.

Newman says the election result is being interpreted differently by different groups in and outside of Labour. EU partners feel the election was a reaction against the Prime Minister – would Starmer agree?

Says there was a period of adjustment to Brexit and May’s speech at conference last year – the referendum told us people wanted to leave, but nothing about how or our future relationship. PM gave an extreme interpretation of Brexit with the single market off the table, no ECJ etc. He says he went to Brussels shortly after and the reaction there was that it left little space for a future relationship. The election was an opportunity for May to test that, and the result speaks for itself. She doesn’t want parliament involved in process and has fought any involvement. In the 15 months since the referendum there has only been one vote relating to Brexit which was Article 50. He says Florence might be the beginnings of a change in position.

Starmer is asked whether he welcomed the Gina Miller court case relating to Article 50?

He says it was important to establish parliament could have that vote. He had been concerned about media reaction – there is a legal answer to the question which was posed and to brand courts as enemies of the people for answering that is very dangerous. Judges can’t go on the television to defend themselves, the Lord Chancellor should do this for them, she didn’t do that quickly enough and that was a low moment.

Do you think that legal process has set precedence for how Brexit is treated?

If the Prime Minister hadn’t conceded to a vote I think there might have been another legal challenge, but she did concede and also to a vote on a final deal. Starmer says she didn’t have much choice, EU parliament has a vote on the Article 50 deal so for MEPs to vote but MPs not to, would not have been possible.

So Parliament will vote on the withdrawal deal?

Starmer says that’s her intention, mid-autumn of 2018.

And this will be the withdrawal treaty and outline of future deal? What’s the alternative - no deal?

Starmer says he thinks it will concern everything in Article 50. So the terms of withdrawal will cover the final agreement for EU citizens, the financial settlement and all other issues. Assuming we have agreed transitional measures it will include those as well, which are the terms of our relationship with the EU before the final deal. He says there will be an ‘’up-down’’ vote which is simply a yes or a no, and that comes with problems – if it’s voted down, the stakes involved are very high which is why parliament should be involved throughout the process.

Will it be a Bill?

Starmer says he doesn’t know. Only guarantee is there will be a vote.

You’ve criticised the red lines of the Prime Minister - what are yours?

Starmer says jobs and economy are his red lines: he wants to seek to retain benefits of a single market customs union. Also it has been clear that freedom of movement is bound up in the result, so that will have to come to an end when we leave. It’s difficult to deal with this and the single market, but cannot separate freedom of movement from the result of the referendum.

Jeremy Corbyn has talked about reforming place of work directives to stop undercutting – if that could be reformed could we stay in the EU?

Starmer says there’s a discussion to be had with the EU about freedom of movement – they’ve clearly said the four freedoms come together and are fixed. Europe itself has been going through a period of change and there’s been nervousness about whether it would survive in its form, especially in relation to the French election. Now it has renewed confidence, but regardless of this, any transitional measures will go against a background of the EU thinking about its future, which may include amendments to freedom of movement laws. Starmer says we should be part of this discussion.

To be part of a discussion in a structure we’ve committed to leave?

Starmer says it depends what you mean by in and out. We’re in the single market at the moment, and when we leave the EU we can’t be in the single market on the same basis. Whatever the situation is, it will be a changed relationship.

Starmer is asked whether accepts that the entire debate mired by semantic issues – things like the single market and customs union are not made clear by politicians.

Starmer says he does. He explains the European Free Trade Agreement (EFTA) and EU country process of single market agreement, which is the European Economic Area (EEA). People have concluded that when we leave the EU, we could we swap and go back to the EFTA and sign up to the EEA from that, which would technically keep up in the single market. Starmer says he doesn’t think that will work. Within that model, we can’t discuss freedom of movement and EFTA membership does not necessarily mean anything about remaining in the customs union. This means we have to be creative with our next steps.

Do you think the Labour manifesto clashes with EU laws?

If EU laws were to inhibit it, it would have been a concern – but Starmer says he doesn’t think anything there’s anything that couldn’t be implemented, especially in relation to our future relationship. In other countries there is state ownership of the rail industry without any clashes with EU laws.

Q&A

Starmer is asked what he thinks about extending two year transition period to five?

He says he understands the argument, however the extension cannot be guaranteed and extending at every stage may not be helpful. Businesses are increasingly anxious about 2019, so transition agreements are appropriate in this respect. But otherwise, issues need to be resolved and moved on to find a final deal – prolonging the uncertainty is bad for business.

He states the Labour position which during the transition period is to remain in the single market and customs union. He says May appeared to follow that in Florence but he’s unsure she’s spelt out precisely what it will look like. We will have a two year period when we won’t have voting rights, but in that period any regulations will be ones that already started life when the UK sat on the Council and would have played a role in creating that regulation. He says our EU colleagues will be watching Manchester very carefully given what happened at Conservative conference last year.

Starmer is asked how certain he is the final vote will be something as simple as ‘yes’ or ‘no’:

He says he is confident it will come to a vote. The Prime Minister is a woman of integrity and if she says there’ll be a vote then he will take her at her word on it. However she envisions a vote where you cannot amend what comes before parliament, and this will be a real battle to change.

A member of the audience says it appears we have to accept the referendum means no freedom of movement, and this means we have to accept we are leaving the customs union and single market. Starmer is asked whether he accepts that, if this damages jobs, so be it?

Starmer says there is a political judgement to be made about our new relationship with EU which will need to endure for decades and we can’t interpret referendum as disabling us from having a proper discussion about our future. He does accept that there’s an issue in terms of these three points and jobs. He goes on to say that the distinction between Government and Labour with regards to the new relationship is deregulation – Patel and Fox want a deregulated UK and the Labour party is not in support of this, so grappling with the question of not falling behind European standards is key for the party. He then says that Europe will change as negotiations go on and we need to focus on getting through them despite that change.

An audience member says that parliament needs to override the ‘’Brexit means Brexit’’ proposition as this only applies to 50% of population.

Starmer says that we voted to have a referendum and then campaigned based on that – he knew it was real at the time and didn’t meet anyone who approached it on a different basis. If Remain had won they would have been horrified if the government decided to leave anyway. He thinks that part of the reason behind people voting as they did was a distrust of politics, so to have overridden the decision would have provoked a real crisis of confidence in the political system. He says that we need to be respectful of both sides in what was a narrow majority; however the Prime Minister’s interpretation of Brexit makes people feel written out of role in their own future. We have to find a way to bring people together and not let result fracture us.

A member of the audience says that Sadiq Khan has suggested a referendum in the next manifesto on our exit terms. They say that Starmer seems to be making case that there is such constitutional change possible:

Starmer says that the Labour party has never called for second referendum. In terms of the timing of it there are lots of difficulties – it couldn’t happen until around 2020 and we will already have left the EU by then. He says we need to face up to the challenge of tomorrow, something that the Lib-Dems haven’t been able to do.

Starmer is asked whether he thinks sufficient progress been made since May’s speech in Florence?

He says that progress has been slow on both sides. What May said is significant and hopefully we can move forward in negotiations. He then says that talks need to succeed for the future of the country, and that there isn’t any political satisfaction to be had from going over a cliff-edge in 2019.