

**A flawed Malaysia deal would surely be a lesser evil than losing more lives**  
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**By Michelle Grattan**

**I strongly opposed the Pacific Solution, and aspects of the Malaysia swap plan are also abhorrent, but so many people are dying we have to act now.**

IT IS HARD for politicians to admit the failure of their policies, let alone the abandonment of their hopes and values. But that's what government Senate leader Chris Evans had to face up to yesterday as he (unsuccessfully) urged senators to back legislation, sponsored by independent Rob Oakeshott, that would permit the Malaysia people swap, as a way of deterring people smuggling.

Evans, from the Left, is a decent man with a strong belief in human rights. As the Labor government's first immigration minister, he was proud to kill off John Howard's Pacific Solution. Yesterday, there he was, advocating that asylum seekers be sent offshore to join a long processing queue, with no hope of ending up in Australia.

"There is much about this bill that challenges some of my philosophical positions, my history, my baggage, if you like. I was the one who closed Nauru. I was the one who ended temporary protection visas ... I find a lot of this debate very difficult," he told the Senate. Swallowing the Malaysia people swap policy has obviously been incredibly hard for Evans. "I have had reservations about this," he admitted. "[But] I actually believe this will make a serious dent in the people-smuggling model."

For many MPs, on all sides and even if they have not had to change their views, this week's debate has been very challenging.

We in the media and no doubt the Australian public have been tough on our MPs. Yesterday's headlines condemned their "failure" and Parliament's "paralysis". After the second boat disaster in a week, the tone was that surely the politicians could just put aside their differences and *do something*.

Well you'd think so. But there's another way of looking at it too. Even leaving aside the practical issue of what will be effective, this is a moral morass, and in part the parliamentary impasse reflects that (as well as Senate numbers and jostling for political advantage).

Government, opposition and Greens can all argue they have defensible positions. We have to act to stop the people trade, the government says. Not by trashing human rights, the opposition counters, while the Greens denounce the major parties for the harshness of their respective versions

of offshore processing. Ironically, the week when politicians were flailed for their impotence actually saw many of them breaking out of their usual straitjackets, under the pressure of this problem being suddenly elevated to a political crisis after some 90 people drowned when the first boat capsized last week.

The push to transcend normal politics started with Mal Washer, an opposition MP in his last term. A medico who ministers to all and sundry in Parliament House, Washer is one of a small number of Liberal backbench moderates. He has been brave and outspoken on many issues of conscience, but this must surely have been one of his toughest weeks.

Last Friday, a day after the initial boat tragedy, Washer said the public had had "a gutful" of "the stupidity of the two parties" that was preventing a way being found to stop deaths at sea. He favoured a regional solution but he was totally torn - anything would be better than nothing, he believed.

By Monday, independent Tony Windsor had called a cross-party meeting attended by six MPs - the others were Oakeshott, Tony Crook (WA Nationals), Washer, fellow Liberal moderate Judi Moylan and Labor's Steve Georganas. On Wednesday, more than 40 MPs attended the follow-up meeting, urging their leaders to try to reach agreement; the group, despite its own internal differences, was still pushing its case yesterday. As Labor Left senator Doug Cameron, who was at Wednesday's meeting, said, they had "no silver bullet". But they have put their hearts into trying.

The backbenchers were attempting to defy the gravity pull of politics - that proved impossible.

Julia Gillard brought the Oakeshott bill forward for a vote after Wednesday's second boat tragedy. Tony Abbott threw out inducements in order to hold his own numbers and try to get some crossbench support, succeeding in the first and failing in the latter. The moral dilemmas were up in lights when the bill was debated in the lower house. Washer indicated to Labor he would support it if his vote was going to be crucial. When it wasn't, he rejoined his own ranks, having at one stage sat down on the government side.

Then there was Tasmanian independent Andrew Wilkie. Unlike Washer, who can tolerate the Malaysia plan but voted against it, Wilkie opposes it but voted for it. He said he would not have done so if his support had been crucial. But given it would pass the House, he negotiated a "sunset" clause in return for his vote. It was an interesting moral juggle.

Shadow attorney-general George Brandis yesterday told the Senate: "On the ultimate issue there is bipartisanship because everyone ... wants

people smuggling stopped ... It's a question of means, not a question of ends," Brandis said, highlighting also that "we are in a position of choice under uncertainty".

That goes to the nub of this debate. Can you separate ends and means? And how can you be sure what will work? If (and this is much disputed) the Malaysia "solution" would stop or curb the people trade, is compromising 800 people's human rights justified?

The review by former defence chief Angus Houston, announced last night, will examine the Malaysia people swap and other policies. Personally, I have to say that Evans' words of yesterday resonate with me. I strongly opposed the Pacific Solution, and applauded the Labor government's change. And the inadequate rights guarantee in the Malaysia plan (despite the government's protestations to the contrary) is undoubtedly abhorrent. But the people trafficking has now become so substantial, with so many lives at risk or lost, that it would be the lesser of evils.

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