

Why boycotts against Brunei's new anti-gay laws won't be effective, but regional pressure might

Written by Paula Gerber, Professor of Human Rights Law, Monash University

The sultan of Brunei has been on the throne for 52 years, making him the second-longest reigning monarch in the world, after Queen Elizabeth II.

Until recently the sultan appeared more interested in living a decadent life, rather than a pious one. In 2011, [Vanity Fair](#) dubbed Sultan Hassanal Bolkiah and his brother, Prince Jefri Bolkiah, “constant companions in hedonism”. They spent lavishly on luxury cars, yachts and real estate, and according to the magazine:

...allegedly sent emissaries to comb the globe for the sexiest women they could find in order to create a harem the likes of which the world had never known.

Now, the sultan has introduced Sharia law in his country and taken aim at LGBT people, women and even children with [some of the harshest penalties](#) in the world for gay sex and adultery (death by stoning) and having an abortion (public flogging). In an apparent effort to eradicate transgender identity, dressing in attire associated with a different sex is also [punishable](#) with a fine and imprisonment up to three months. An adolescent who has reached puberty can be [punished as an adult](#) for these offences, while younger children can be whipped.

Read more: [Explainer: what is 'sharia law'? And does it fit with Western law?](#)

Needless to say, these laws amount to serious breaches of international laws relating to human rights, women's rights and children's rights.

Diversion from economic woes

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The big question is why the sultan would do this. One religious scholar [observed](#) :

This is obviously not coming from a place of religious devotion, since the sultan himself is in violation of every single rule of Sharia law you could possibly imagine.

One of the main reasons may be that plunging oil prices mean that, for the first time, the tiny, oil-rich nation of Brunei (population 430,000) is [grappling with an economic crisis](#) .

Other leaders faced with similar crises or corruption allegations have whipped up hatred against LGBT people in a similar way to distract the public's attention. This tactic was used by Gambian President Yahya Jammeh in 2014, when he enacted a law that created a new offence of “ [aggravated homosexuality](#) ” that carried a life sentence.

The sultan may also be seeking to [rehabilitate his reputation](#) as a “party boy”, perhaps believing that introducing Sharia law could enable him to leave a religious legacy that will outweigh the decades of excesses that he and his family have indulged in.

Why boycotts don't work

The international community has been swift in its condemnation of Brunei's new laws. Many outraged [celebrities](#) and gay rights activists have organised boycotts and protests outside hotels owned by the sultan (including the [Royal on the Park](#) in Brisbane) and [Royal Brunei Airlines](#) .

But are such boycotts effective? The short answer is [no](#) . We should be wary of boycotts for several reasons, including:

1. they can cause the government to harden its position to show it will not give in to foreign pressure, making the repeal of such laws even harder to achieve;

2. the LGBT community can be subjected to a vicious backlash, blamed for bringing economic pressure and shame on the country; and

3. it can be seen as hypocritical since there are other countries that impose the [death penalty](#) for homosexual conduct (Afghanistan, Iran, Mauritania, Pakistan, Qatar, Saudi Arabia, Sudan, United Arab Emirates, Yemen and parts of Nigeria and Somalia) and are not subjected to similar international condemnation.

What can concerned global citizens do?

In Australia, for one, people can put pressure on the government to respond strongly to Brunei, [a key regional defence and security partner](#)

. As I [noted in 2013](#)

, when these laws were passed but not yet implemented, Australia has a strong trading relationship with Brunei, which may give it leverage to have some influence.

So far, however, the response from Australia has been muted. Foreign Affairs Minister Marise Payne said in a tweet that [Australia has raised its “concerns”](#) with Brunei over the new laws, but she has otherwise been silent on the issue. Prime Minister Scott Morrison [has not spoken out](#) about the new laws.

International organisations can also put pressure on Brunei. For example, Brunei is a member of the Commonwealth of Nations, and this body may be able to engage in constructive dialogue with the sultan. The [Commonwealth Heads of Government Meeting](#) (CHOGM), which takes place in Rwanda next year, is a potential forum for such dialogue, not only with Brunei, but also with the other [35](#)

[Commonwealth countries that also still criminalise consensual same-sex sexual conduct](#)

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If negotiations with Brunei are unsuccessful, the Commonwealth can also [suspend](#) a country's membership – a step it has previously taken in response to grave breaches of human rights in [Fiji](#), Nigeria, Pakistan and Zimbabwe.

Read more: [Should the west be held accountable for gay persecution?](#)

It would be particularly helpful if the Association of South East Asian Nations (ASEAN) took a hard line against Brunei (a member state), but this is unlikely. Although ASEAN adopted a [Human Rights Declaration](#) in 2012, it did not prohibit discrimination on the basis of sexual orientation and gender identity and contains numerous “[weasel words](#)” that significantly dilute its impact.

The [ASEAN Civil Society Organisations](#) has urged ASEAN member states to call on Brunei to immediately halt the implementation of Sharia law, saying:

By adopting conservative views of morality and excessive punishments, Brunei essentially legitimises violence.

But this is likely to fall on deaf ears.

The United Nations also has a role to play. Brunei's human rights record will be reviewed by the UN Human Rights Council (HRC) next month and this provides another opportunity for constructive dialogue. Although the HRC is often perceived as a toothless organisation, [research](#) has shown that if a state is criticised by one of its strategic partners, it is more likely to accept that criticism than if it comes from a state with fewer ties.

Could other countries follow suit?

There are concerns that Brunei's actions will embolden its Muslim-majority neighbours, Malaysia and Indonesia, to [follow suit](#).

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Gay sex is not against the law in Indonesia, with the exception of Aceh province, which has instituted Sharia law. Although homophobia and transphobia have been [on the rise](#) and there [was talk of criminalising gay sex](#) ahead of this month's elections, it still seems unlikely that Sharia law will be adopted throughout the country. The vast majority of Indonesians – [88% of the population](#) – continue to consider themselves moderate Muslims.

Read more: [*Michael Kirby: the rainbow in Asia and the fight for gay rights in our region*](#)

Malaysia similarly has some states that apply Sharia law. Last September, [two women were found guilty of attempting to have sex](#) in the conservative northeastern state of Terengganu, and were sentenced to be caned six times each. Though Sharia law could potentially spread across the country, Malaysia is one of few countries in the region where [democracy is getting better, not worse](#).

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It is worth observing that Brunei has not used the death penalty since 1957. An optimist could conclude that the introduction of these new laws is mostly symbolic and designed to beef up the sultan's Islamic credentials and garner favour with other Islamic countries to boost trade and tourism.

But that does not diminish the legitimate concern the world is expressing for the vulnerable minorities targeted by these laws.

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Paula Gerber is a Director of Kaleidoscope Human Rights Foundation, a not-for-profit organisation working to advance the human rights of LGBTI people in the Asia Pacific region.

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