

# The Abolition of Independent Directors in Indonesia: Rationally Autochthonous or Foolishly Idiosyncratic?

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FAKULTAS  
**HUKUM**



# The American Independent Director



# Independent Directors Anglo-America-Cum-Global Good Corporate Governance



# The Rise of IDs in Asia

International Corporate Law and Financial Market Regulation

## Independent Directors in Asia

A Historical, Contextual  
and Comparative Approach

Edited by Dan W. Puchniak,  
Harald Baum and Luke Nottage



CAMBRIDGE

*It is now indisputable that the 'independent director' is a ubiquitous feature of corporate governance throughout Asia – and its rise appears to have no immediate end in sight*

Dan W. Puchniak & Kon Sik Kim, *Varieties of Independent Directors in Asia* (2017)

Then, in 2018 Indonesia Removed its Mandatory Law for IDs  
Today, There are No Reported IDs on Boards

*To the best of our knowledge, there has been no in-depth analysis, either within Indonesia or internationally, of Indonesia's abolition of the requirement for independent directors to be on the boards of its listed companies.*

# The Global Economy in 2050

Here's how global GDP will be distributed in 2050, according to projections from Goldman Sachs.

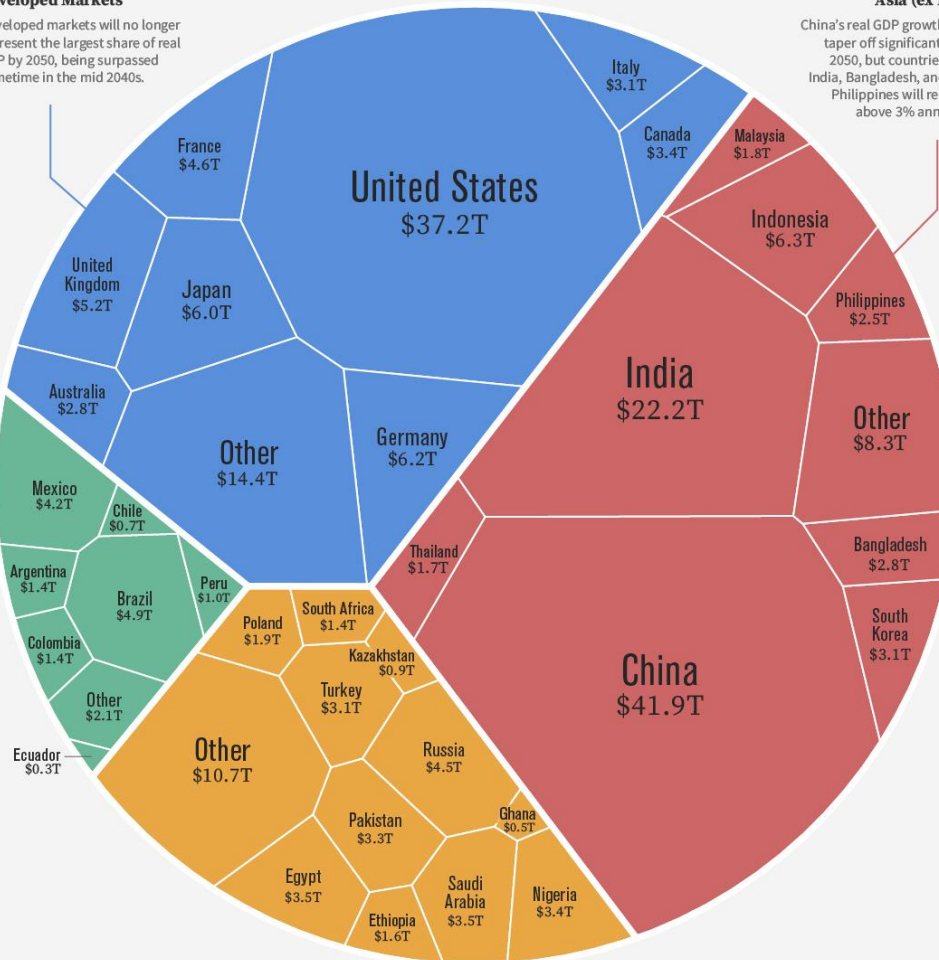


## Developed Markets

Developed markets will no longer represent the largest share of real GDP by 2050, being surpassed sometime in the mid 2040s.

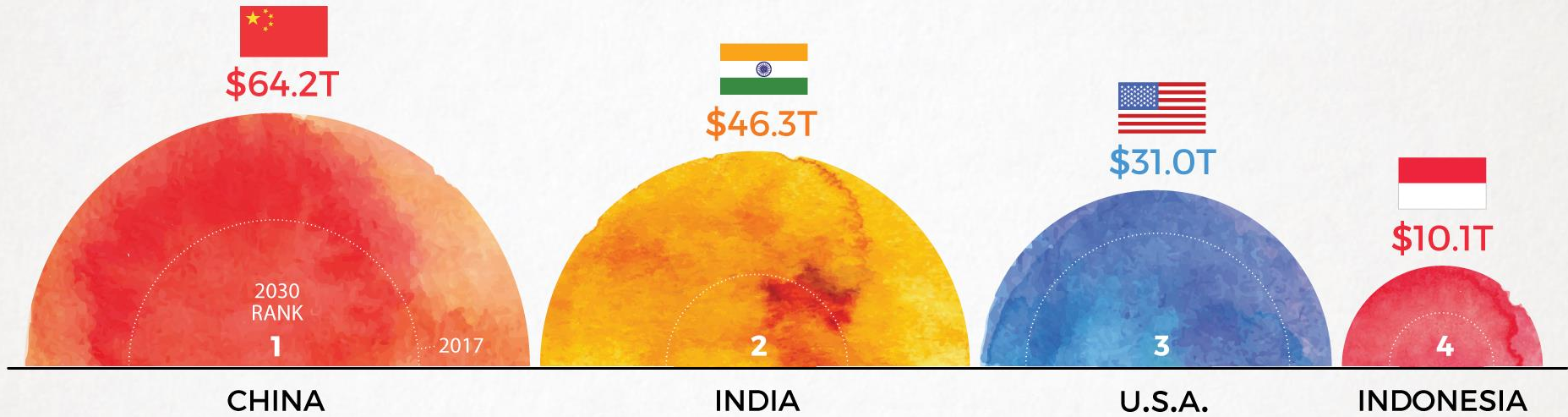
## Asia (ex DM)

China's real GDP growth will taper off significantly by 2050, but countries like India, Bangladesh, and the Philippines will remain above 3% annually.

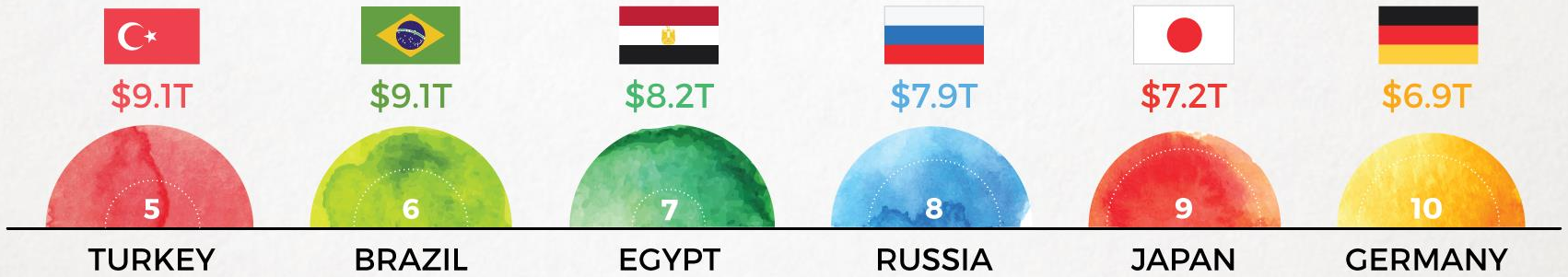


Based on real GDP projections (2021 USD)  
Source: Goldman Sachs Global Investment Research

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## TOP 10 COUNTRIES, BY GDP (PPP) IN 2030





# Indonesia's "Dutch" Civil Law Two-Tier Board DNA



# Transplanting the American Independent Director into Indonesia's Two-Tier Board

**IMF PRESSURE (2000)  
THE ASIAN FINANCIAL CRISIS**

**SIGNALING “GOOD” CORPORATE GOVERNANCE**

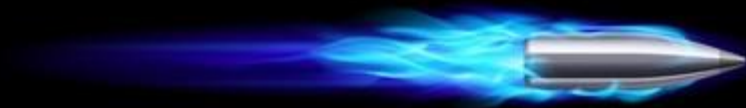
**VERY DIFFERENT PROBLEM THAN US IDs DESIGNED TO FIX**

Anglo-American Independent Directors  
Not a Silver Bullet

**IDS WERE OFTEN NOT TRULY INDEPENDENT**

**UNNECESSARY DUPLICATION**

**LACK OF CLARITY**



# The Abolition of Independent Directors in Indonesia 2006/2007 Start -- 2018 Death



Independent Commissioners as the Linchpin  
Some Justifications in Theory, But Many Risks in Practice

30% of BOC Must be IC

Must be a lead IC on Audit, Nomination, Remuneration

**BUT**

Indonesian Board Not Like German BOD, More Like China/Japan

**BUT**

China/Japan have IDs not ICs

## Problems with the Heavy Reliance on BOC for Independence and Good Corporate Governance

1. Limited Legal Authority and Practical Power of ICs on the BOC
2. Dominance of the Controlling Shareholder over the BOC Risks High Private Benefits of Control
3. Government Linked ICs -- A Risk of Corruption and Reason for Incompetence (especially in SOEs)

## Reforming ICs to Fit Indonesia's Corporate Governance Context: Hope for the Future

1. A Portion of the ICs Should be Elected by Minority Shareholders
2. ICs Should be Given the Broad Authority to Police RPT
3. There Should be a Political Cooling Off Period for All ICs
4. ICs in SOEs: Clarifying Asset Separation, The Business Judgement Rule and Anti-Corruption Measures

The Rise of Independent Commissioners in Indonesia:  
Inklings of a More Autochthonous Future for Corporate Governance?





Thank You

