

# **The New Terrain of Co-Regulating Good Governance:** *You take the high road, and we'll take the high road*

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UNIVERSITY

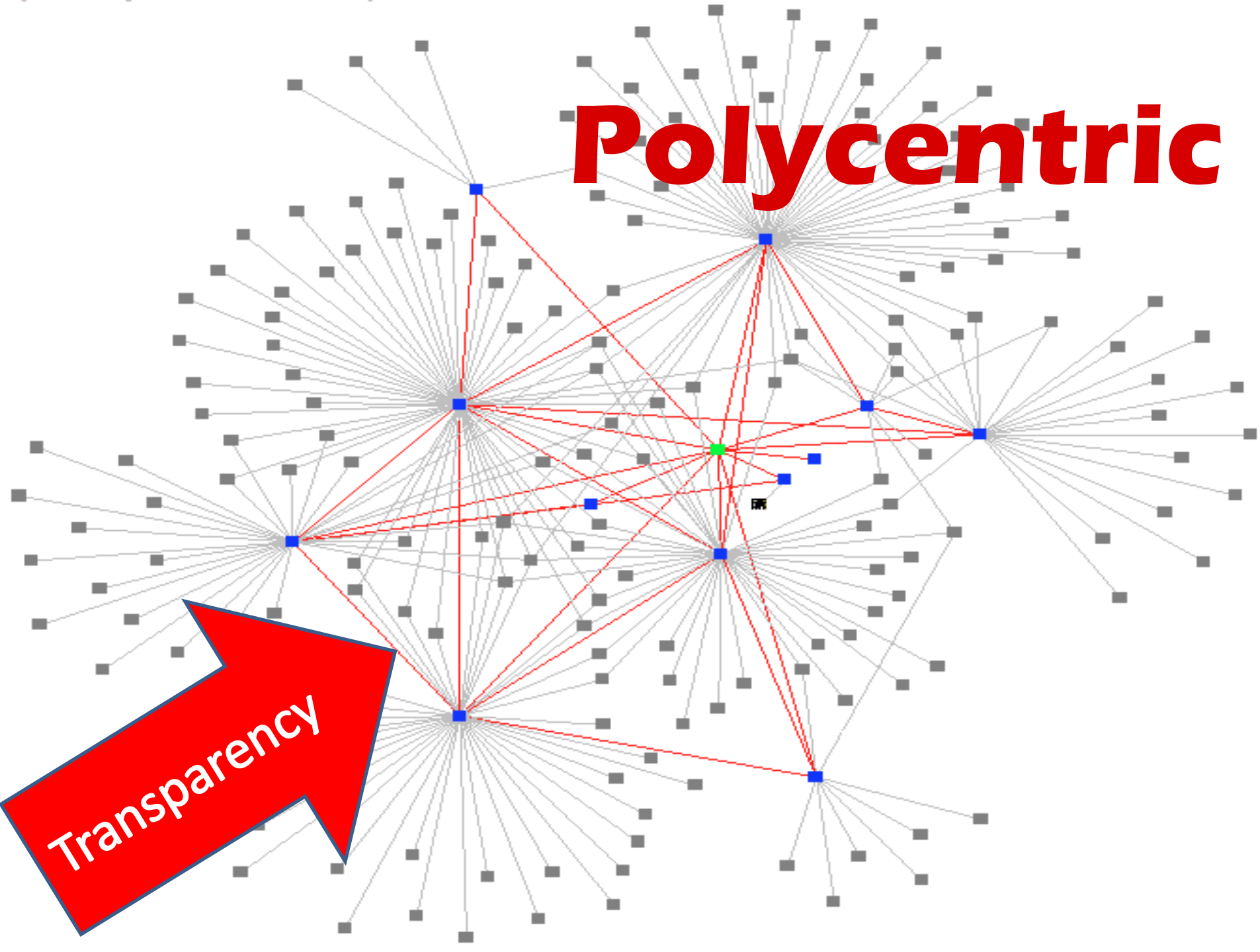
School of  
Public Policy and  
Administration

# Regulation – Traditional View

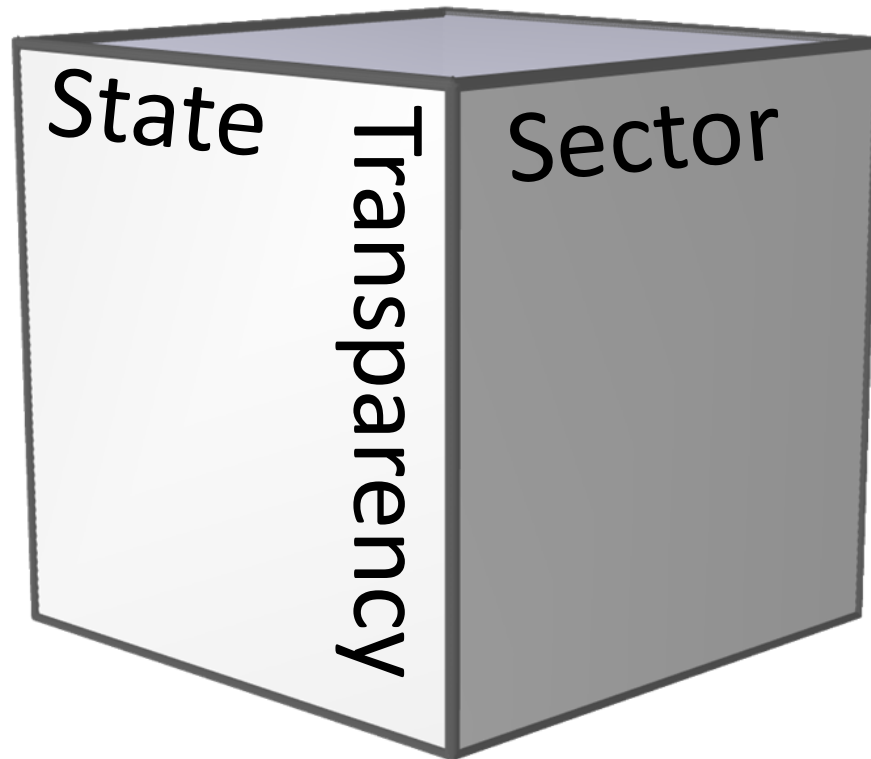
- Rules of behaviour backed up by the sanctions of the state
- Use as a policy instrument when the issue requires:
  - Technical expertise
  - Apolitical
  - Flexibility



# Polycentric



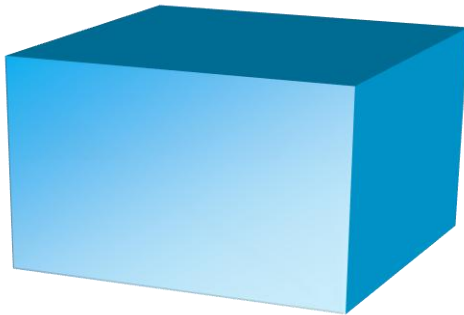
# Regulatory Regimes in 3 Dimensions



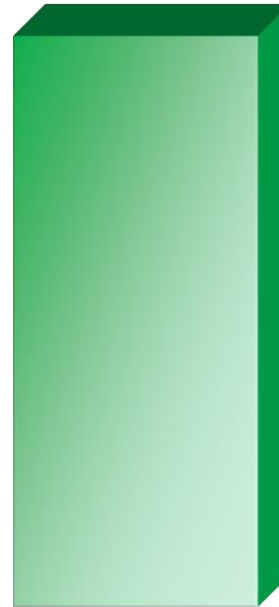
# Regimes Vary



State Dominant



Mixed Model



Transparency  
Dominant

# Central Argument

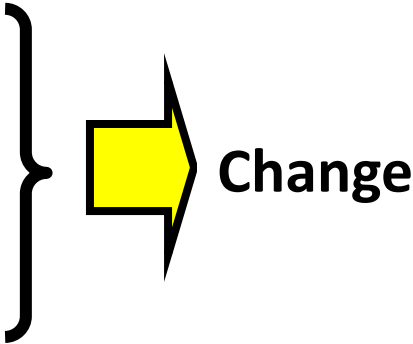
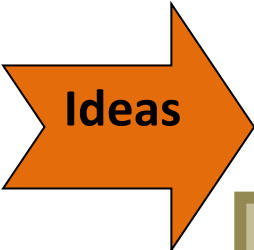
Greater regulation *of* private governance and  
*by* private governance

Regulation of governance by the 'back door'

What is being regulated?



Regulatory  
Styles

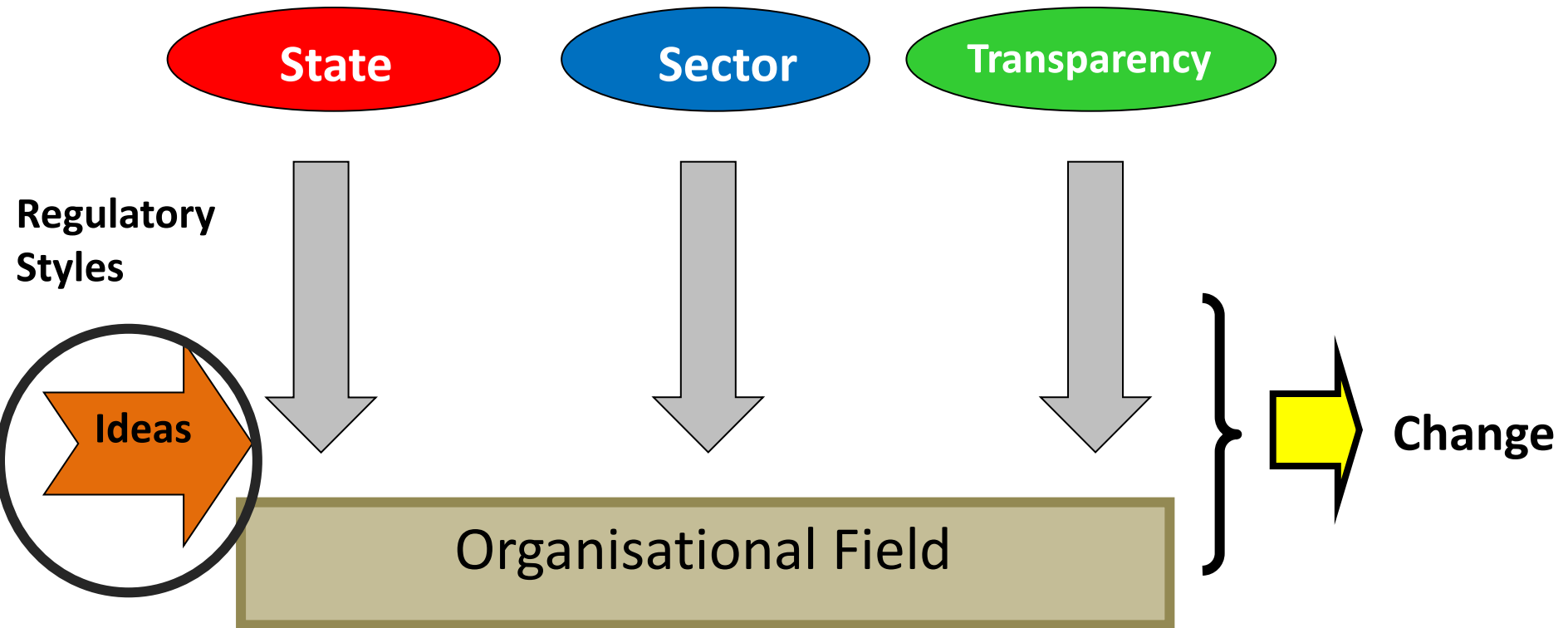




# Regulatory & Enforcement Styles

State	Sector	Transparency
<b>REGULATORY STYLES</b>		
Command-and-control	Token / Symbolic	Information
Responsive regulation	Voluntary	Rating
Risk based	Certification	Naming and shaming
Meta-regulation		
<b>ENFORCEMENT STYLES</b>		

What is being regulated?



# The 'Big' Ideas

- Efficiency and order: managing the unruly
- Impact and measurement

What is being regulated?

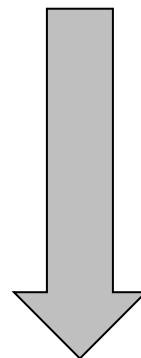
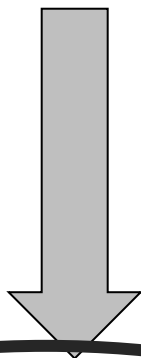
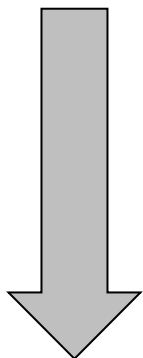
State

Sector

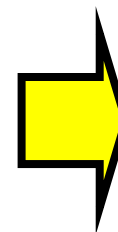
Transparency

Regulatory  
Styles

Ideas



Organisational Field



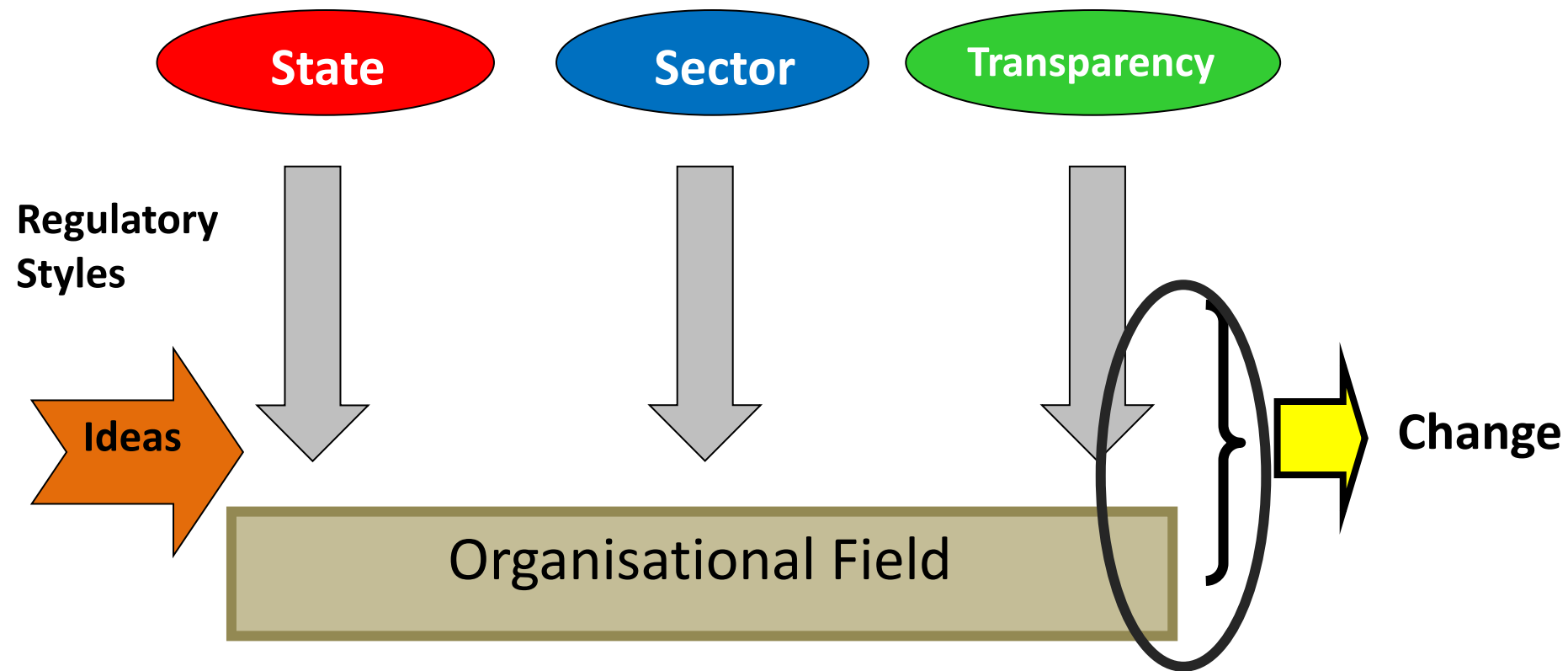
Change



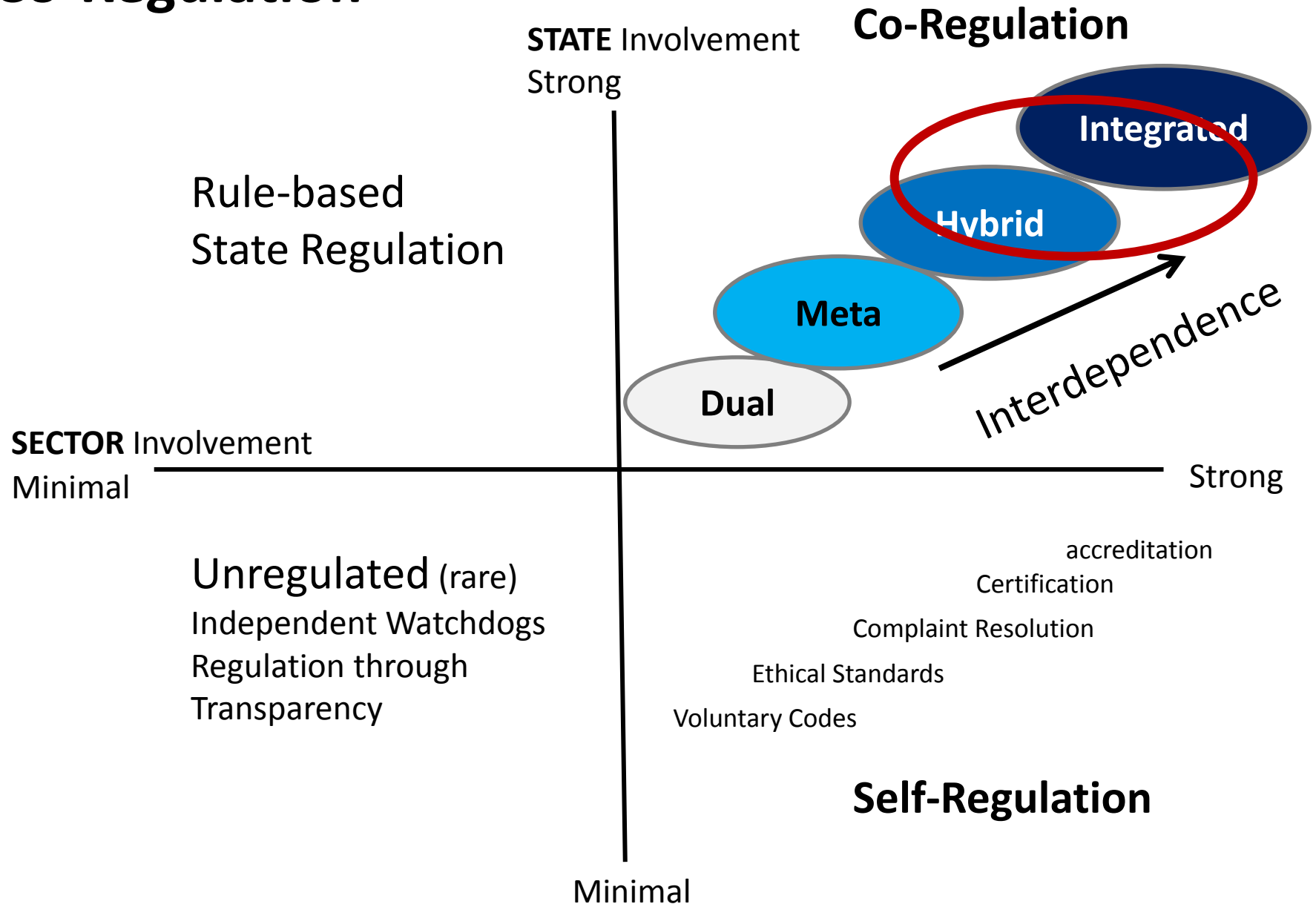
# The Organisational Field

- Motivations for compliance / change
- Capacity
  - Victoria's Secret
- 'Governing the gap'
  - Why chemists are more likely to comply than biologists

**What is being regulated?**



# Co-Regulation





# Examples

- Regulation of charitable fundraising in Canada and the UK
- Regulation of impact investing

Others:

- Environmental Management Systems (ISO 14001)
- women on boards

## SEX and CHARITY

**STAR INVESTIGATION** James Arion profits from both. He runs a 'consulting' company that's a front for top Toronto escort services and a bogus AIDS charity that the federal government has failed to shut down.



### TAX SHELTERS

172,000  
Canadians  
claimed  
\$5.4 billion

## House of Commons Debates

Salary Caps for Charities

# Regulation of Charitable Fundraising: Canada

- Who regulates:
  - Tax agency
  - Transparency
- What's New?
  - Tax agency: ratios and governance 'guidance'
  - Charitable sector: third party certification



## New 'Guidance' on Fundraising


- Prudent planning processes
- Appropriate procurement processes
- Good staffing processes
- Ongoing management and supervision of fundraising
- Adequate evaluation
- Use made of volunteer resources
- Disclosure



# The Standards Program

- Comprehensive, not just fundraising
- Certification, not just a voluntary code
- Focus is on learning and creating a community of practice: avoid the ‘numbers game’

Section A: Governance Standards			
	Level 1	Level 2	Level 3
24.	No member of the board is entitled to receive, either directly or indirectly, any salary, wages, fees, commissions or other amount for services rendered to the organization in their capacity as a director. Paying board members, or their companies', reasonable compensation for services provided to the charity, other than in their capacity as a director, is permissible if a board-approved policy is in place to ensure all legal requirements and conflict of interest obligations are met.		
25.	New board members are briefed on their roles and the organization and all board members receive the training and on-going support needed to discharge their duties.		A formal process is in place to ensure orientation of new board members. Board members must understand their legal and fiduciary responsibilities, exercise due diligence consistent with their duty of care, be familiar with the organization's activities and fully informed of the financial status of the organization.

A grayscale photograph of a forest path. The path is a light-colored, winding trail that leads from the bottom left towards the center of the frame. It is flanked by numerous tall, thin trees with dense foliage. The overall scene is misty or overcast, with a soft, diffused light. The text 'Co-Regulation: Dual, Meta, Hybrid?' is overlaid on the left side of the image in a bold, black, sans-serif font.

# **Co-Regulation:**

## **Dual, Meta, Hybrid?**

# UK

- Meta-regulation: legislation with reserve powers
- Independent Fundraising Standards Board
  - Caught by defining its success by the numbers



# Impact Investing

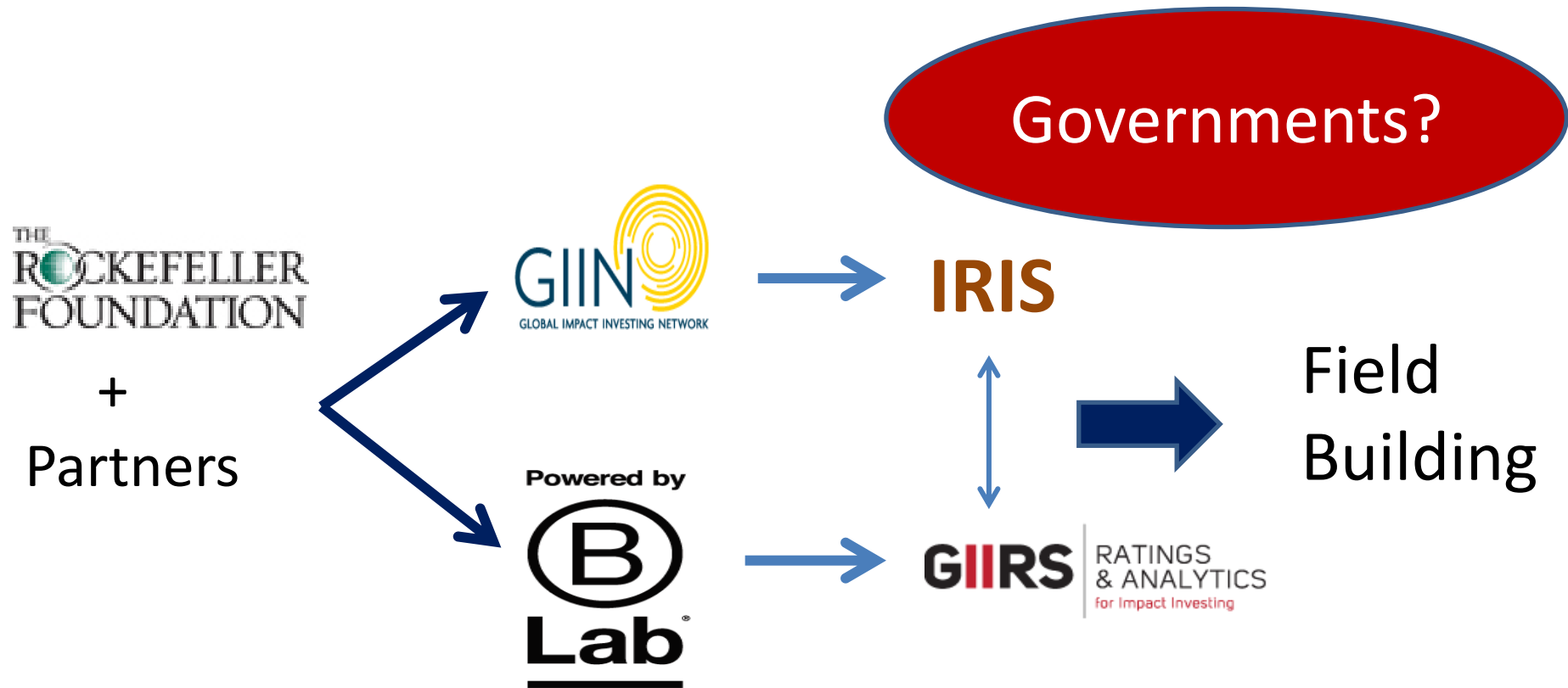
- Impact investments aim to create social or environmental benefit while generating financial returns.
- Attempt to build a marketplace – a new asset class



# Challenges

- fragmented demand and supply
- lack of enabling infrastructure to help people identify and function as part of an industry
- lack of impact investing opportunities
  - need systematic assessment of nonfinancial returns
  - need to mitigate the tendency for mission-oriented organisations to only report favourable impacts

# Self Regulation & Transparency



# Key Features

- Regulation by private governance is a tool for field and industry building
- Standards cover private governance
- Value of regulation by transparency
- Importance of the supply chain – intermediaries outside government
- Importance of learning as part of the regulatory approach

# Implications

- For government regulators?
- For the regulated?
- For science-based regulation?
- For the study of public policy and regulation?

