

Civil Society and Risk Regulation: Insights from NGOs efforts to reduce industrial pollution in China

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RISK

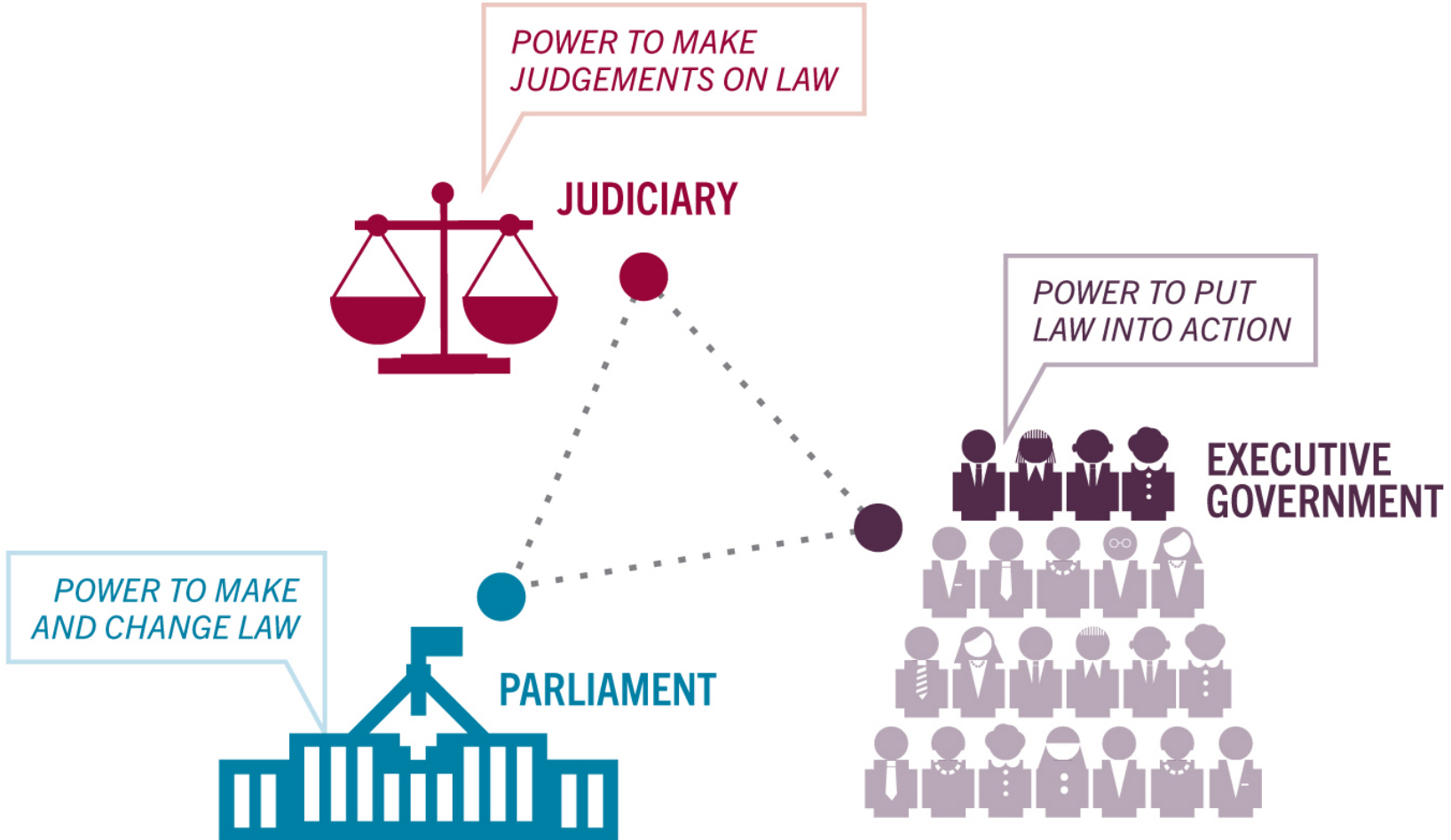
The image shows the front cover of the book 'Risk Society: Towards a New Modernity' by Ulrich Beck. The cover is primarily black with a large, bright blue diagonal shape on the right side. The author's name 'Ulrich Beck' is printed in white serif font at the top of the blue area. The title 'Risk Society' is printed in a dark blue serif font in the middle of the blue area. Below the title, the subtitle 'Towards a New Modernity' is printed in a smaller, italicized dark blue serif font. In the upper left corner of the black background, there is a soft, glowing white circular light effect.

Ulrich Beck

Risk Society

Towards a New Modernity

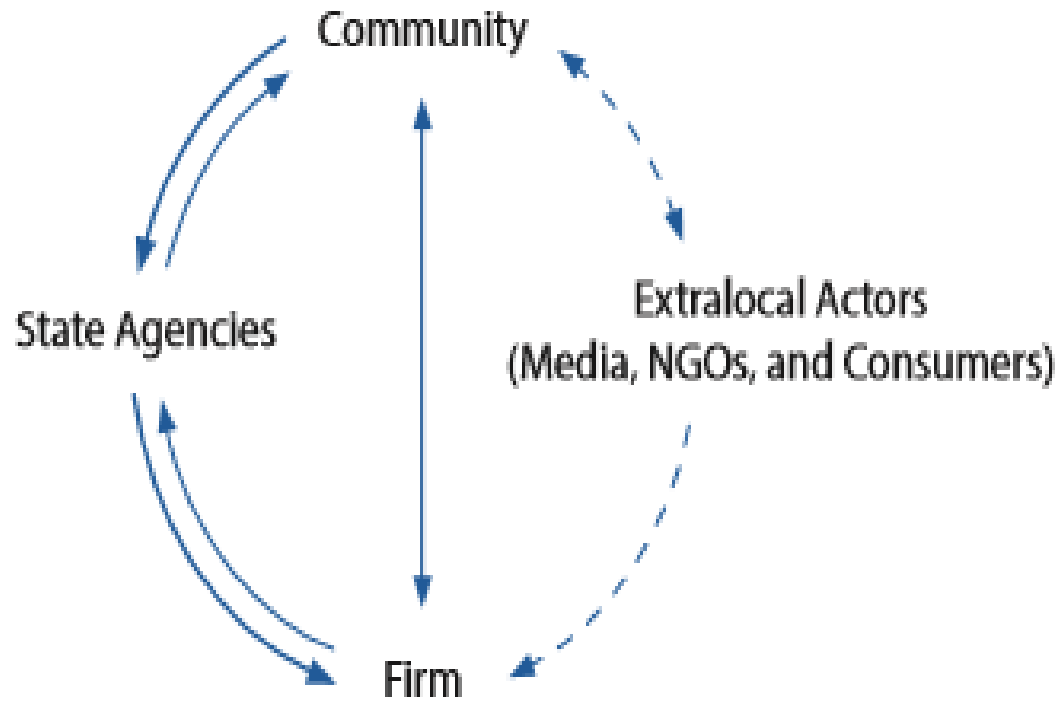
SEPARATION *of* POWERS





REGULATION





Defining regulation in the era of regulatory pluralism

“For criminologists, policemen are the regulators; for scholars of public administration, the employees of regulatory agencies are the regulators; and socio-legal scholars see all of us as regulators. While only a few of “us” act as regulators in a professional capacity, most, if not all of “us” do act as regulators in some capacity.... Most broadly defined, the concept of regulation encompasses all mechanisms of social control including unintentional and non-state processes. Indeed, it extends to mechanisms which are neither the products of state activity, nor part of any institutional arrangements, such as the development of social norms and the effects of markets in modifying behavior.”

- David Levi-Faur, 2011, Handbook on the Politics of Regulation.





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"We will resolutely declare war against pollution as we declared war against poverty"

1. Do NGOs in China seek to regulate industrial pollution risks?
2. If yes, why and how do they design and implement activities that do so?

Some of China's environmental NGOs





Category	Description of activity	Regulatory component	Type of NGOs involved (and number) in this activity
Research-based legal advocacy	NGO seeks to contribute to the creation of new legal standards via development of research reports documenting the need for new standards for regulation of specific pollution risks. Research reports are disseminated through various channels and shared with strategically positioned stakeholders. These in turn may influence processes by which new legal standards are adopted by government authorities.	If legislative authorities adopt a new legal standard as a result of this activity, and if that legal standard is appropriately enforced, this activity may contribute to the prevention of pollution risks.	International NGO (1)
Capacity building- based legal advocacy	NGO facilitates activities which aim to increase the capacity of participants characterised by (i) judicial decision-making power; or (ii) the power to influence judicial decision-making processes. These activities seek to effectively provide stakeholders with enhanced tools for the development of new legal standards. These may be employed in the prevention of specific pollution risks.	Same as above	International NGO (1)
Crisis-based legal advocacy	NGO uses a relevant crisis as a catalyst for drawing attention to the need for new legal standards. This may be used to prevent and/or control similar industrial pollution risks.	Same as above	International NGO (1)
“Green Finance”	NGO seeks to influence ‘green finance’ practises in order to prevent and/or control pollution risks via impeding access to financial instruments to “dirty” (polluting) industries and concurrent encouragement of investments in ‘green’, sustainable industries. This may be achieved in one of two ways: (i) directly influencing financial institutions; or (ii) influencing regulatory agencies overseeing the aforementioned financial institutions (i.e. through promotion of “green finance” policies).	Successful adoption, implementation and enforcement of “green finance” policies can contribute to the prevention and control of pollution risks (i.e. obstruction of a new, potentially-polluting project from obtaining financial support, thus preventing project implementation).	International NGOs (2), national level NGO (1)
Voluntary standard setting	Development of voluntary regulatory standards which seek to prevent and/or control pollution risks, followed by encouragement of enterprises to adopt these standards.	Successful development of voluntarily adoptable regulatory standards, followed by compliance, may contribute to prevention and/or control of pollution risks.	International NGO (1), GONGO (1)
Awareness raising	NGO designs and carries out awareness raising activities pertaining to industrial pollution risks amongst various stakeholders in order to (indirectly) influence actions, leading to the prevention and/or control of such risks.	A population characterised by a heightened awareness of pollution risks may push policy and decision-makers to pay increased attention to environmental issues and thus foster a demand for increasingly robust policies and legislative tools. This can potentially result in the adoption of regulations which seek to prevent or control pollution risks.	All NGOs are, in some capacity, involved in this activity type.
Community-based services for risk mitigation	Provision or facilitation of (technical) services aiding in the reduction of individual-level exposure to industrial pollution.	Mitigation of private citizens’ exposure to industrial pollution, characterized by the absence of pollutant source control and/or prevention measures or efforts i.e. this activity does not comprise an explicit regulatory	City/county level NGOs (2), provincial level NGO (1), national level NGO (1)





Create awareness of the need for a new standard

Swimming in Poison

— An analysis of hazardous chemicals in Yangtze River fish



GREENPEACE
绿色和平



Create a standard

All China Environmental Federation and Guiyang Centre for Public Environmental Education vs. Dingpa Paper Mill



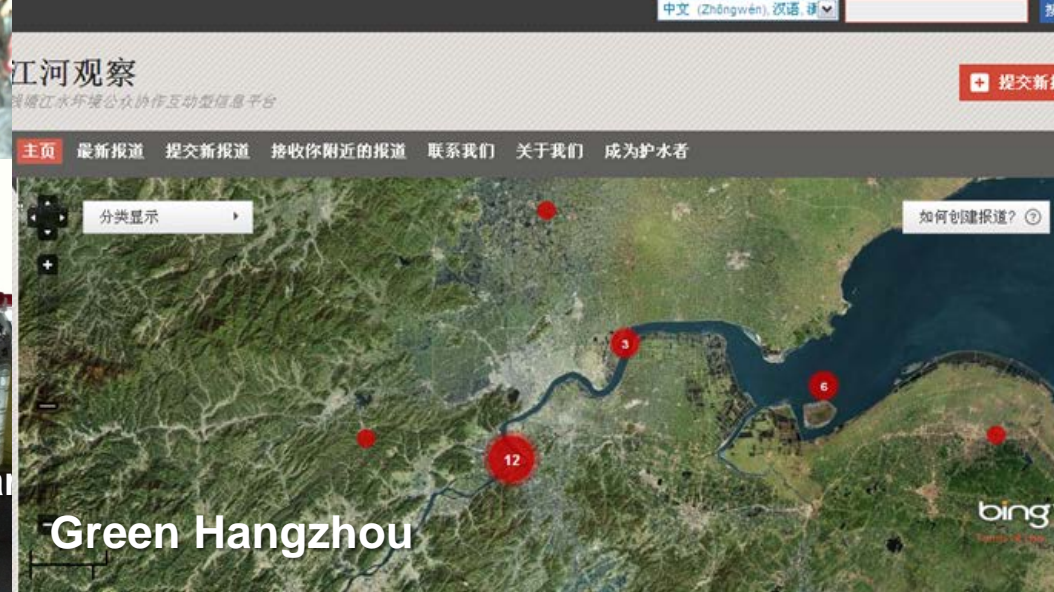
中华环保联合会
All-China Environment Federation

大中华 大环境 大联合



Enforce a standard

Monitor the enforcement and/or compliance with/of the standard



What about the effect/impact?

Specific instrumental effects

- directly control or prevention of a pollution risk.

General instrumental effects

- the control or prevention of a pollution risk through deterrence.

Facilitating instrumental effects

- the development of new civil regulatory tools to prevent and/or control industrial pollution risks; (ii) the development of new civil regulatory capacities facilitating regulation of industrial pollution risks; and (iii) the creation of new initiatives and pilot projects reducing industrial pollution risks.

External normative effects

- agenda setting, public awareness of the existence of NGOs, improved relationships-nurturing a positive point of departure for civil regulation

Internal normative effects

- improved confidence of NGOs.

Activity and case	Instrumental effect	Normative effect
Litigation based enforcement (public interest litigation): All China Environmental Federation and Guiyang Centre for Public Environmental Education vs. Dingpa Paper Mill	Dingpa paper mill closed down. Claimed deterrence effect on other factories located on the Nanming River. Improvement of water quality in the Nanming River.	Development of local eNGOs capacity in initiating public interest litigation. Increase judges capacity in hearing and handling of environmental litigation.

What can we learn from this?

Chinese Characteristics

Regulation through leverage

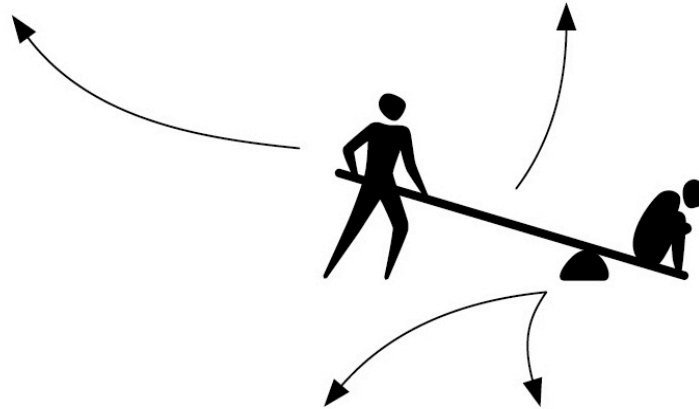
Civil regulation in the shadow of the State

The fragmentation of civil regulation – NGOs missing out of ‘regulating through numbers’ as leverage

Scientific barriers to civil regulation and implications for ‘regulating through leverage’

Hand - capacity and resources required to put 'regulation through leverage' in motion.

Lever - strategy applied by the NGO to use the power which is held by the benchmark and envisioned fulcrums.



Benchmark fulcrum - fundament or base on which the NGO bases its 'regulation through leverage' approach.

Envisioned fulcrum - the agent/institution the NGO envisions that it will be able to assert 'regulation through leverage'.

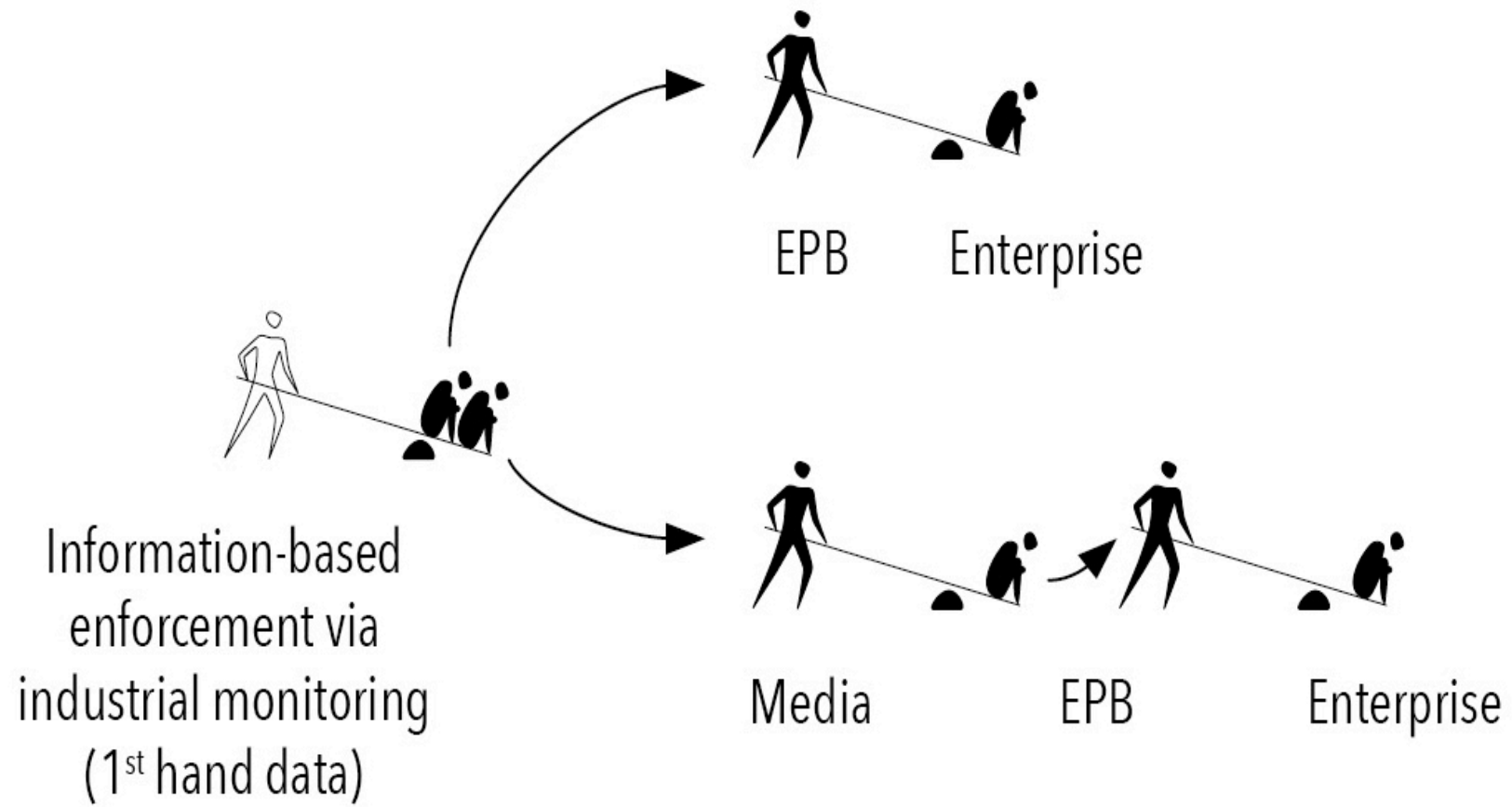


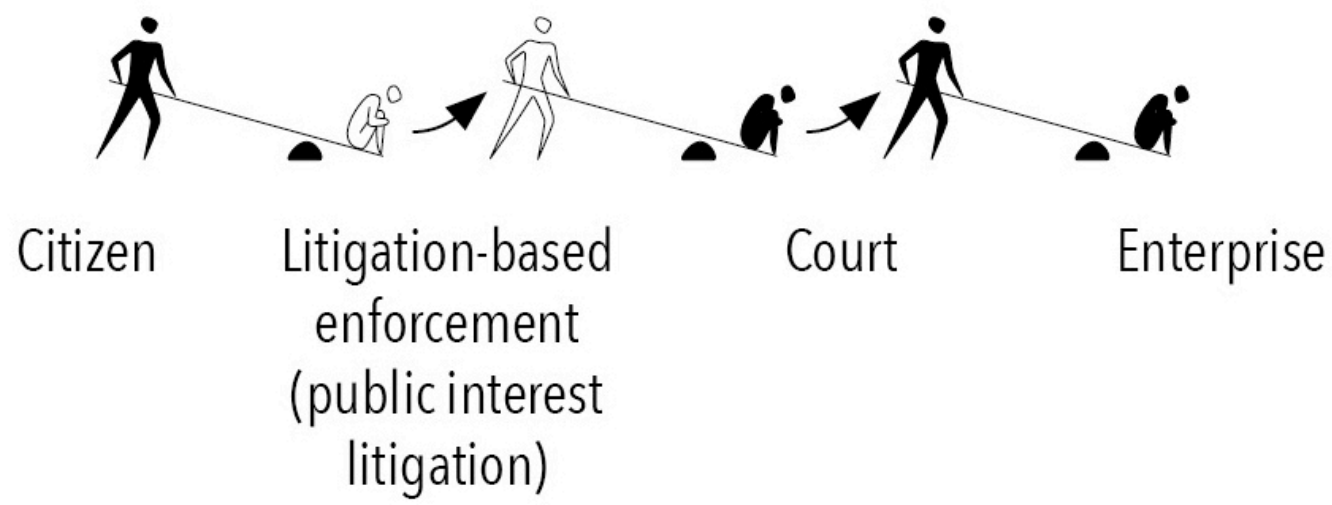
Awareness
raising

Citizen

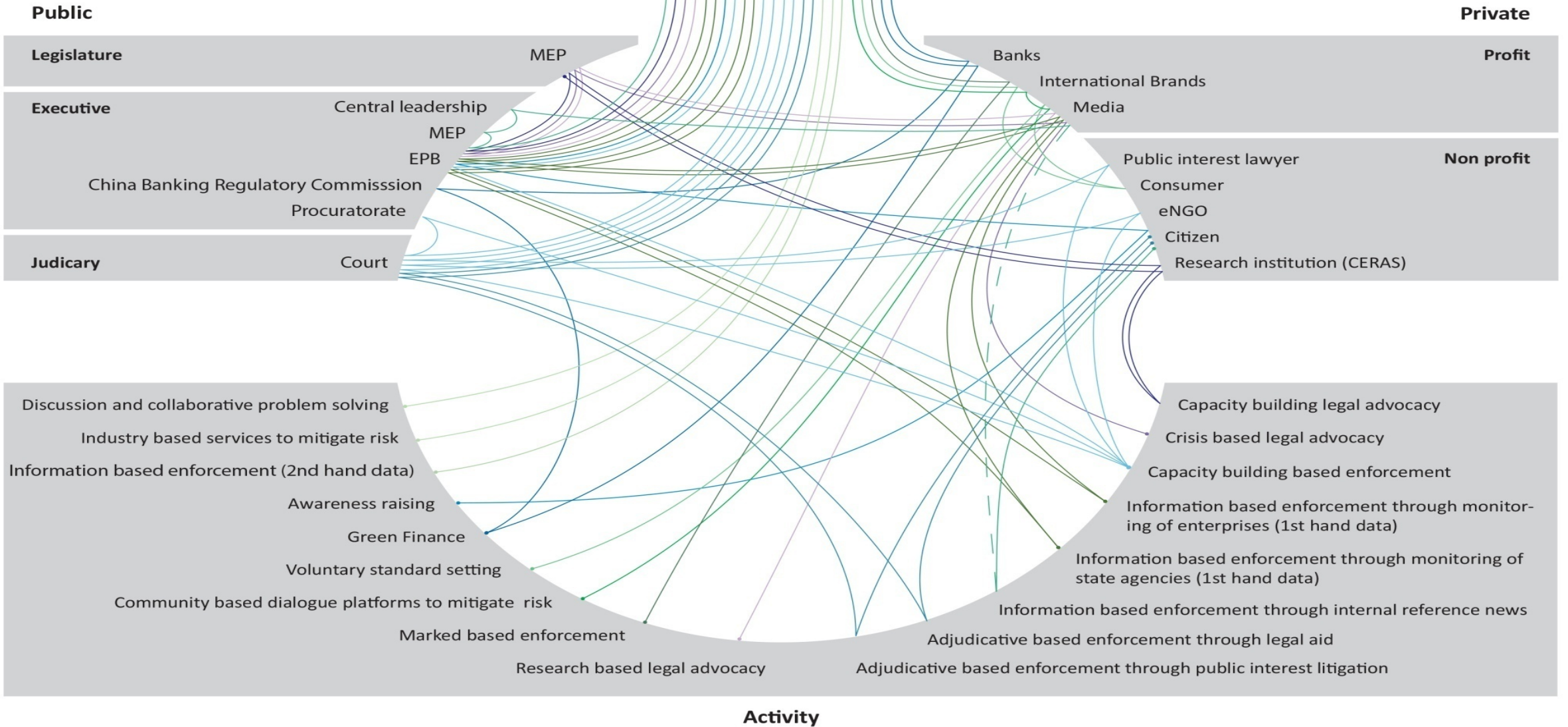
EPB

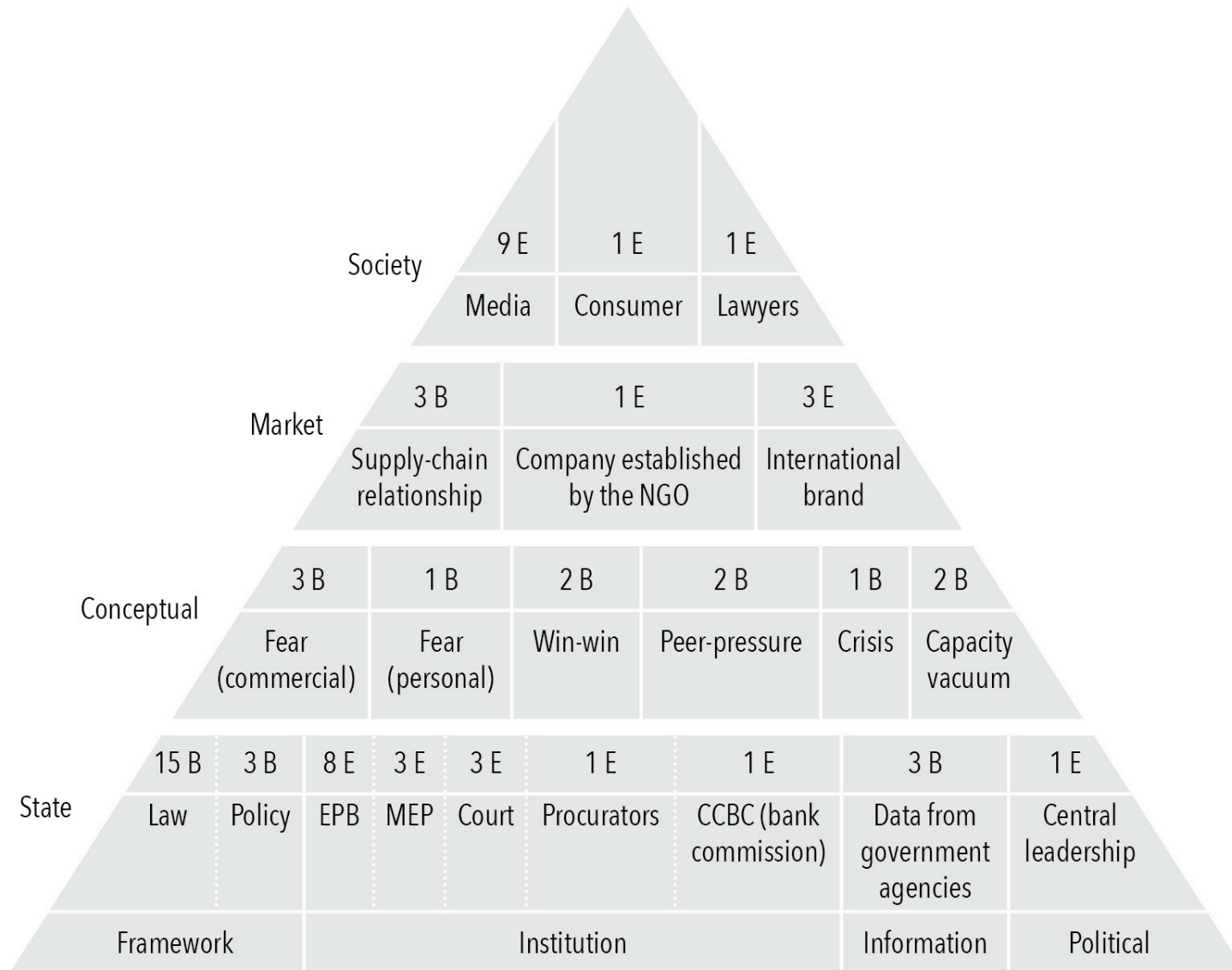
Enterprise





Enterprise





E - Envionred fulcrum B - Benchmark fulcrum

Theoretical implications

- ‘Regulation through Leverage’ not just in China and not just for civil regulators.
- Civil regulation in authoritarian regimes.
- Civil Regulation and the Role of the State.
- The rise of civil regulation ≠ a retreat of the regulatory State
- The prospect of civil regulation when civil society is under pressure



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