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Regulation and development: Theoretical contributions and empirical lessons from Latin America

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Abstract

How do regulation and development relate to each other? Despite the centrality of this question to the worlds of research and practice, surprisingly little scholarship has reflected on the nexus between regulation and development. Existing studies are mainly concerned with the design and operation of regulatory institutions and instruments in developed countries. Regulatory propositions about "developing" countries have, however, remained at a rather general level. This introductory article and the following set of contributions intend to broaden our understanding on how regulation and development relate to each other with a particular emphasis on Latin America. This article introduces key debates and themes as well as an analytical framework that incorporates the various dimensions of the regulation-development nexus. It also discusses the literature on regulation in Latin America. Following a brief overview of the articles in this special issue, we conclude with reflections regarding future research on the relationship between regulation and development.

Keywords: Global South, internationalization, Latin America, regulation and development.

1. Introduction

How do regulation and development relate to each other? This seemingly straightforward question has, so far, received limited attention in regulatory scholarship. This special issue seeks to highlight the diverse ways in which regulation and development interact with each other, and how such national experiences, drawn from the Latin American context, can help to come to a more differentiated understanding of regulation and development.

The reader may wonder why the question of the relationship between regulation and development deserves particular attention. After all, considerable attention has focused on how regulation affects development and on how being a "developing" country impacts on regulation and regulatory institutions (e.g., Baldwin et al., 2012; Dubash & Morgan, 2013; Laffont, 2005; Levy & Spiller, 1994; Lodge, 2016; Lodge et al., 2017; Minogue and Cariño, 2006). Handbooks covering the field of Regulation (Baldwin et al., 2012; Levi-Faur, 2011) have included chapters that specifically focus on this subject (Estache & Wren-Lewis, 2010; Jordana, 2011). However, a closer look at the literature points to several areas requiring closer attention.

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First, scholarly attention has not been widespread. Other state-of-the art surveys on the literature do not include specific discussions of regulation and development (Bianculli et al., 2015; Coglianese, 2017; Moss & Cisternino, 2009), and most of the literature on regulation remains concentrated on the design and operation of regulatory institutions and instruments in developed country settings. Even when exploring the literature on "developing" or "transition" countries (e.g., Dubash & Morgan, 2013), propositions and arguments tend to stay at a rather general level, applicable to a "Global South" which basically includes all of the non-developed world. Such general views about the "Global South" offer helpful insights. However, they lack sensitivity to the many distinguishing features that characterize countries in the "Global South." For example, regulatory reform rarely occurs on its own, but needs to be understood in the context of wider public sector reforms that may have coincided with regulatory reforms.

Furthermore, political systems in the Global South vary significantly, with some witnessing relative political stability, whereas others have faced continuous volatility. Research is often based on rather simplified assumptions regarding organizations and political systems. For instance, international organizations are frequently seen as coercively imposing preferred institutional arrangements on countries. Similarly, it is usually assumed that the establishment of regulatory agencies will lead to inevitable disappointment given the lack of national administrative capacities (Dubash & Morgan, 2012; Elizondo & Dussauge-Laguna, 2019). Such claims may reflect some national experiences, but do not necessarily hold universal applicability, even in "most likely" contexts (Lodge & Stirton, 2006).

In addition, there needs to be also greater clarity as to what is meant by "development." Some regulation scholars conceptualize development as wealth generation or quality of life (Bridge et al., 2016; Ferguson et al., 2000; Stern et al., 2019). They go about measuring development in terms of GDP growth or poverty reduction, for example. Some of these measurements, however, are quantified differently, and remain context-dependent and contested. Furthermore, development often has different meanings for different regulators, depending on their area of regulatory policy expertise (e.g., education regulators *vis-à-vis* telecommunications regulators).

This collection of articles intends to contribute to a conversation to deepen understanding of the relationship between regulation and development as applied to the "Global South." Such a step is essential to advance theoretical understandings (e.g., building, testing, and refining theories and concepts) as well as supporting empirical knowledge, if only for the simple reason that most regulatory activity takes place in contexts of what is defined as "developing." In this special issue, we offer such a perspective by zooming in on one region and a certain subject (e.g., regulatory agencies and how they affect certain development indicators or standards).

Moreover, this special issue contributes to discussions as to how different conceptions of "development" relate to a set of theoretical discussions and research questions. This allows for a variety of perspectives and types of operationalization regarding the countries and policy areas under consideration. It also implies that research on regulation and development requires a flexible view in terms of possible causal relationships, as regulation and development may be conceived as dependent or independent variables depending upon the research interests (see below an analytical framework that explores and systematizes these possibilities).

The rest of this introductory article progresses in five steps. First, it provides an overview of diverse social science contributions on regulation and development in order to place the following articles in the wider theoretical context. Second, it puts forward an analytical framework to inform empirical research, Third, it introduces the context of Latin America as a "reform laboratory" for the study of regulation and development. Fourth, it summarizes the papers included in this special issue, and underlines their main empirical findings and theoretical insights. Finally, the article concludes with some broader reflections regarding the multifaceted relationship between regulation and development, especially in the context of Latin America, and point to avenues for future research.

2. The nexus between regulation and development

This section presents a series of research questions that build on and draw together central currents from existing accounts on regulation and development. Our line of argumentation is that regulation may not only affect development (e.g., that certain regulatory tools may have an effect on development outcomes), but that it may also be conditioned by it (e.g., that developmental models or institutional conditions may also affect regulatory choices). Thus, depending on the research interest and research questions, regulation and development may be studied as either dependent or independent variables. The relationship between regulation and development needs to also consider distinct national and international factors, ranging from the rather general (e.g., administrative traditions) to the sector and issue specific (e.g., "best practice").

2.1. How does a country's "developing" features affect regulatory design and regulatory performance?

One prominent way to approach the relationship between regulation and development is to explore the ways in which the latter (development) may influence the former (regulation). Indeed, this approach is informed by the seminal work by Levy and Spiller (1994) and their interest in how credible commitment (e.g., the increase in transaction costs that make regulatory reversal less likely) can be established in a context of weak government (and weak judicial system) capacity. The central concern here is the political time inconsistency problem which is key to all regulation—and the economic regulation of utilities, in particular. However, given the supposed dependence of developing countries on private investment into their network industries, questions about how to regulate in order to maximize private investment "for" development is even more central for the "Global South" than in the context of the "Global North."

In the same vein, and building on Laffont (2005), Estache and Wren-Lewis (2010) discuss some of the key institutional features commonly found in developing countries to assess how they may affect the design of regulatory institutions and policies. The central concern is with limited "commitment" that governments in the development context can "offer." In other words, the key institutional design issue is the minimization of the risk (to the private investor) of potential policy reversal. Limited capacity, limited accountability, and limited fiscal efficiency are said to heavily condition the effectiveness and developmental potential of regulation. Such a context limits the capacity of regulators to use discretion "responsibly," therefore presenting a risk to private investors in terms of "administrative expropriation" (as termed by Levy and Spiller). In order to maximize potential private investment, such contexts call for the use of non-discretionary regulatory approaches, such as long-term contracts.

More generally, the literature has discussed the design of institutional frameworks of regulation in view of checks and balances, regulatory agency design, public personnel resources, or contracts (Baldwin et al., 2012; Estache & Wren-Lewis, 2010; Laffont, 2005). Other discussions have focused on how to improve regulatory enforcement, and thus the effectiveness of regulation, given the limitations regulators face in developing contexts where informality may be high and regulatory compliance low (Baldwin et al., 2012; McAllister, 2010).

Whereas these works are largely interested in understanding existing arrangements so as to inform the institutional design of regulatory institutions (e.g., how much discretion should be granted to administrative and political actors; how should judicial review be organized), one subsequent line of research has been concerned with the question of strengthening capacities for regulation in the context of development (Heredia et al., 2018). This concern has been particularly driven by the inherent tension emerging from the literature discussed above. That is, the demand for "commitment" clashes with the need for "flexibility," whether that is because of changing economic circumstances or changing electoral coalitions. After all, any institutional arrangements will come undone in view of sustained political and societal resistance (Lodge et al., 2017).

As a result, one central interest has been in exploring conditions and devices that deal with the tension between commitment and "credibility" on the one hand, and "flexibility" on the other. One response has been an interest in ideas of "regulatory autonomy," a state of the world in which regulatory agencies are captured neither by state nor economic interests (Lodge & Stirton, 2002). Such state of autonomy may result from encouraging regulatory approaches that focus on "disciplined discretion." For example, Lodge et al. (2017) noted how the lack of disciplined discretion in the context of Brazil's regulation of logistics infrastructures impeded sustainable development but served the short-term interests of private and political actors alike. Another line of interest has been that of how to develop "coordination" structures and instruments. This took place, for instance, in the energy regulation sector in Mexico, where three different regulatory agencies had to collaborate to implement the structural reforms promoted by president Enrique Peña-Nieto (2012–2018; Casas et al., 2018; Morales & Pietikainen, 2018; OECD, 2017).

Questions of the broader institutional context in which regulatory activities are placed point to the need to explore wider historical institutional long-term dynamics and inheritances, such as "colonial legacies." The literature on regulation in the developed context has highlighted how regulatory arrangements emerge in the context of administrative traditions and "legacies of the past" (e.g., Elizondo & Mejía, 2024, in this issue; Lodge, 2003; Thatcher & Coen, 2008). Differentiated approaches toward institutional change—including a focus on "layering" and "hybridization"—have also started to be applied in the study of developing countries (González & Gómez-Álvarez, 2022; Jayasuriya, 2013). For the context of Latin America, the implication is to carefully assess the importance of national legacies, including the emergence and evolution of administrative systems, the historical role of the state in economic and social life, the relationship between executive, legislative and judicial branches, the degree of politicization of policy decision-making processes, and patterns of patronage and patrimonialism within public sector organizations (Munck, 2023; Panizza et al., 2023; Jordana and Ramió, 2010). In addition, questions such as trust in government are also likely to influence the availability of certain regulatory strategies (e.g., "compliant" societies require less coercive regulatory tools; Jordana, 2013; Peeters & Dussauge-Laguna, 2021).

A separate research agenda explores how changing ideas regarding development, and, especially, the role of the state in promoting development, matter for regulation. Government coalitions may prefer a certain "development model" and thus seek to adapt a country's regulatory structure to such a model (Eimer and Lütz, 2010). However, those preferences are enabled or constrained by the context of a country. For instance, in the case of the Colombian water sector, Urueña (2012) found that, while government economists pushed for a depoliticized and independent water regulator aimed at achieving efficiency gains in water providers, the constitutional court pushed for redistributive measures that ended up mixing both the regulatory state model and the neo-constitutional state model (López-Murcia, 2013). Similarly, the current administration of Andrés Manuel López-Obrador in Mexico has tried to reverse the regulatory state model built up by his predecessors. Instead, he has sought to establish an alternative developmental model based on public ownership, a diminished role for independent regulators, and a stronger control by central ministries over regulatory policy (Dussauge-Laguna, 2021). Thus, understanding the role that different governing coalitions may have in either advancing or trying to reverse specific developmental (e.g., regulatory) models is essential to understand how regulatory institutions and instruments play out in developing settings.

At the same time, changing ideas regarding development and the role of the state in achieving such outcomes are likely to be constrained by the existing institutional framework and administrative capacities. Some countries in the region, like Brazil and Mexico, have created special public employment systems for some of its regulatory agencies, and they have thus achieved a certain level of professionalization, even if independent regulators still face challenges to regulate government-owned utilities (Peci et al., 2017). Yet the same does not apply to the whole region. In fact, regulatory agencies still need to function in environments where regulatory expertise is continuously challenged by clientelism and patronage practices (Dussauge Laguna & Casas, 2021; Munck, 2023; Panizza et al., 2023; Parrado & Salvador, 2011). Such a context also has implications for a research agenda interested in regulatory agencies' reputation (Carpenter, 2010; Lodge, 2014). After all, how to build a reputation for technical, performative, procedural, or moral competence can be assumed to be highly challenging in a context of a highly politicized environment, competing policy objectives, pressures from international organizations, and limited regulatory capacities (Dussauge Laguna et al., 2023).

2.2. How does regulation affect development?

A further way to approach the relationship between regulation and development is to ask how the former affects the later. Research on this subject has traditionally explored whether, how, and why regulatory institutions and instruments contribute to changes in levels of development (however that is defined) in countries seen as "less developed." Perhaps the best-known example is Laffont's (2005) pioneering work that explored the links between regulation and economic development to pursue an economic theory of regulation for developing countries.

At least two strains of research can be identified. One focuses on the impact of regulatory institutions and interventions on sectoral performance. One sub-strain is interested in the impact of regulatory institutions and interventions on sector performance; "positive" outcomes of regulation are seen as improving overall "development." The assumption is that the presence of an appropriate institutional design or the use of certain regulatory instruments will have an overall positive impact on "performance." This sub-strain therefore focuses on how the work of regulatory agencies affects a certain regulated sector, whether in terms of prices, market dominance, or service coverage. A related sub-strain explores regulatory strategies and their impact on prices, investment levels, customer satisfactory or social and environmental objectives (see Baldwin et al., 2012; Gilardi, 2008; Thatcher, 2007).

This line of argument suggests that once regulatory actors correctly "check" certain boxes, either in terms of institutional design (e.g., regulatory agencies' degree of independence, or coordination mechanisms), or in terms of the regulatory instruments they use (e.g., price controls, regulatory impact assessments), positive development results will ensue. For instance, once regulators improve coordination then one should expect regulatory outputs to improve as well (González, 2017). Similarly, if regulatory agencies use more sophisticated methodologies to regulate prices, their decisions on a given subject might be shielded from political factors, thus leading to better regulatory outputs.

The second research strain is related to debates regarding the meaning of "development" both for different groups of regulators and across different countries (Cunha & Rodrigo, 2012). On the one hand, development may be defined according to international treaties, indicators, or goals (e.g., the United Nations Sustainable Development Goals, SDGs). However, competing understandings of development are likely to exist among regulators, given their distinct portfolios. For example, competition authorities are likely to have a different view as to what constitutes development than telecommunications or energy regulators (CARR, 2017b). Similarly, regulators are likely to have different views as to what constitutes "development" to ministerial departments (CARR, 2017a). Differences in terms of what is regarded as a "developmental goal" are therefore central to any debate regarding regulation, such as the alignment of political and regulatory objectives, or the ways in which regulatory interventions are being measured and assessed.

These two strains have been particularly prominent in the context of Latin America. One of the central ideas underpinning the "rise of the regulatory state" has been the separation of regulatory and redistributive functions—the former being concentrated in regulatory agencies and focusing on efficiency (and questions of controlling monopoly), the latter residing with political decision-making within ministerial departments. Separating regulatory and redistributive functions (or effects) is far from straightforward, if not impossible. This issue has extremely high salience in the context of development (see Donadelli & van der Heijden, 2024, in this special issue). Latin American states have traditionally embraced a large redistributive role (Dubash & Morgan, 2013; Riesco, 2009), meaning that governments have long used a variety of tools (including but not restricted to regulations) to transfer wealth (e.g., public funds) across different societal groups. Regulated industries, often state-owned, are also of high political significance, whether in terms of employment opportunities, cross-subsidization of services and goods, or generators of revenues. As a result, it is less likely that regulatory agencies in Latin America can be solely dedicated to technical efficiency considerations; in fact, they are often required to continue dealing with an administrative legacy that is dedicated to concerns of redistribution. Thus, the rise of regulation as a dominant mode in steering the economy is likely to contribute to the emergence of a "polymorphic state" capable of accommodating regulatory and redistribution (e.g., developmental) functions (Levi-Faur, 2013).

Similarly, Dubash and Morgan (2013) suggest that, in the context of Latin America, the distinction between efficiency and redistribution becomes even more blurred due to low levels of public service access, large poverty levels, and deficient service delivery. Regulatory decisions regarding cost allocation (such as the elimination of cross-subsidies between services) have, in the context of development, potentially large redistributive effects. Additionally, whereas debates about regulatory interventions in the "Global North" are usually about the level of universal service that customers should enjoy, in the context of development, making a service available in the first place constitutes a key regulatory and developmental objective (see Donadelli & van der Heijden, 2024, in this special issue; González & Peci, 2024, in this special issue).

At the same time, while there has been considerable attention to economic regulation and "privatization" (Chong & Benavides, 2007; Murillo, 2009; Teichman, 2001), far less research has been concerned with questions about the control of risk (Guidi et al., 2020). The interest in how to allocate regulatory attention, such as risk-based regulation, has witnessed considerable expansion, but remains mostly focused on the British experience

(Black, 2006; Black & Baldwin, 2010, 2012). Indeed, the Latin American region has been under-represented in this regard (but see Elizondo and Mejía in this special issue).

In sum, therefore, the claim that appropriately designed regulation can foster development (however defined) requires further investigation. Comparing Latin American experiences offers a rich set of cases for such deeper probing. It is far from settled as to whether the presence of a supposedly effective and predictable regulatory framework will be beneficial to developmental outcomes, regardless of whether they are defined in terms of market outcomes, such as prices or number of competitors, or wider societal outcomes, such as, literacy or economic growth. Continued conflict over the appropriate balance between political and regulatory spheres add further complexity (and ambiguity) as to the relationship between regulation and development. Finally, contestation as to what developmental outcomes are, raises further issues in terms of conceptual development and measurement.

2.3. How does internationalization affect regulatory choices in developing countries?

Contemporary debates about regulation are inherently international. A third avenue to explore dynamics between regulation and development thus relates to how internationalization affects regulatory choices in developing countries. Internationalization refers here to political, ideational, policy, and institutional exchanges that may take place beyond national borders, but which have direct implications on national developments (Baldwin et al., 2012; Thatcher, 2007). Indeed, internationalization has played a central role in contemporary regulatory reforms in a variety of forms, including: (i) the adoption of rules and standards promoted or required by international organizations (i.e., the World Bank) or specific sector expertise networks (i.e., the International Telecommunication Union, the International Energy Agency); (ii) the regional diffusion or transfer of regulatory practices and institutions; (iii) cross-national learning triggered by policy tourism, peer-to-peer learning exercises, and expert engagement in international regulatory networks; and (iv) the international promotion of (and the pressures associated with) international indicators and rankings (de Francesco, 2013; Elizondo, 2022; Lodge, 2005; Perales-Fernández & Dussauge-Laguna, 2023).

The influence of internationalization raises three distinct avenues for research in the context of Latin America (but possibly also in other jurisdictions). One is to investigate how international actors have contributed to the adoption of regulatory institutions, practices, tools, and fashions across the region. Dubash and Morgan (2012, 2013), for instance, suggest that the World Bank has had a key role in the design of regulatory policies and institutions in "Global South" countries, particularly in the utilities sectors. Similarly, looking at regulatory reforms in Latin America in the telecommunication sector, from the 1980s through the 1990s, Gutiérrez (2003) suggests that privatization programs aimed at opening markets were promoted in view of the "Washington consensus" sponsored by the IMF. Another example is the introduction of carbon taxes and emission trading systems in Mexico, following recommendations of best practices from international organizations and institutions from developed countries (Elizondo, 2022).

More recently, Latin American countries have been influenced by the notion of regulatory quality—an approach advocated by the OECD, which has triggered a variety of national responses (González & Gómez-Álvarez, 2022 ; Peci, 2016). Querbach and Arndt (2017) argue that countries in "the region have started adopting an explicit whole of government approach on regulatory quality covering a broad range of different regulatory disciplines, matching a trend among OECD countries." They also state that in many countries the focus has been only on reducing regulatory costs and simplifying administrative procedures for citizen and business. This trend has been particularly influential in some countries such as Mexico, where policymakers have established a regulatory policy oversight agency (the *Comisión Nacional de Mejora Regulatoria*, CONAMER) and have advanced the use of regulatory tools such as regulatory impact assessments (RIA; Perales-Fernández & Dussauge-Laguna, 2023). This, admittedly, stands in contrast to the fascination with the World Bank's "cost of doing business" indicator (The Economist, 2020). Just as India has been widely cited as a poster-child for promoting the latter discredited indicator for regulatory quality, in recent years Brazil has been directed toward this "easy" path for regulatory reform, departing from earlier initiatives that sought to consider "regulatory quality" more generally (and in less visible ways).

The tension between "easy" and "complex" approaches about enhancing regulatory quality have endured both within international organizations (such as the World Bank) and among developing (and developed) countries. This tension also points to a line of research that explores the overall reach and practical effects that these international trends and forces have had on developing countries such as those in Latin America. For example, Dubash and Morgan (2013) argue that the institutional and reform projects of previous decades have created "hollow institutional shells." In the case of regulatory impact assessments, Peci and Sobral (2011) have shown that this regulatory technique has had negative effects on agencies, at least in the case of Brazil. According to Peci and Sobral (2011), regulatory agencies have resisted the implementation of RIAs and the creation of a central oversight authority because they regard these measures as potential threats to their independence. More recently, other authors have shown that the adoption of these regulatory techniques do not always lead to positive outcomes in the energy sector of Latin American countries (see González & Peci, 2024, in this special issue).

At the same time, not all exchanges with international actors are likely to have this kind of outcome. For example, the institutionalization of competition authorities and competition law across the region would seem to point at situations in which foreign institutions and legal practices, once perceived as "legal irritants" (Teubner, 1998), have now become part of Latin American administrative and legal systems (Aydin, 2019b, 2023; Gutiérrez, 2018).

The way in which different regulatory approaches diffuse, and the role of policy learning, therefore, points to a further fertile field of research. A widely shared perspective is that developing nations are coerced by powerful international organizations and donors to introduce specific regulatory policy frameworks. A separate perspective would be to suggest that developing countries wish to appear modern by adopting the language of the latest regulatory fashion. The results of such international legitimacy-seeking are far from uniform, depending on how these efforts at connecting to international reform discourse link to domestic reform agendas. Rather often, the adoption of international "best practice" lacks the administrative (and political) prerequisites to give effect to these changes (Lodge, 2005).

There is also growing evidence that some developing nations are not only rule takers but may play a role in rule making internationally (Aydin, 2019a, 2023). While capacities may be absent in some countries and some policy areas, they may be quite developed in others. This therefore calls for a more careful and nuanced perspective on regulatory experiences: The transfer of regulatory policies and tools may be the result of well-thought-out learning processes by regulators, who may know well how to take advantage of their participation in international expert networks for improving regulatory frameworks at home.

Finally, understanding the influence of internationalization matters for the study of regulation in developing countries because national regulatory frameworks, outputs and outcomes are often compared and assessed against international rankings, standards, and best practices (Perales-Fernández & Dussauge-Laguna, 2023).

2.4. Toward an analytical framework

The previous discussion has argued that the relationship between regulation and development can be explored from at least three broad perspectives: the analysis of how regulation affects "development" (however defined); the study of how the "developing" features of a jurisdiction condition regulation; and the analysis of how internationalization dynamics influence developing countries' regulatory policies (precisely because of their developing nature, and thus their asymmetrical position *vis-à-vis* developed nations or international organizations).

Figure 1 summarizes the above discussion and describes the interactions among the multiple factors and variables noted above. It offers a framework which serves various objectives: first, it allows us to map the existing literature; second, it points to future research questions; and, finally, it helps us place the contributions from this special issue into a broader context.

Figure 1 is divided into four components. We place the design of regulatory policies in the middle, including both regulatory institutional design (e.g., agencies' features and mandates) and regulatory instruments design (e.g., the kind of tools to be employed, such as standards, sanctions, etc.). Depending on the research topic and the specific research question one may want to address, the regulatory policy may either be the main "dependent variable" or the "independent one." For instance, when one seeks to study the effects of regulation on development, the regulatory policy represented by the middle box will become the independent variable (see González & Peci, 2024, in this issue). The box on the right-hand side ("Development") will be then used as the dependent variable.

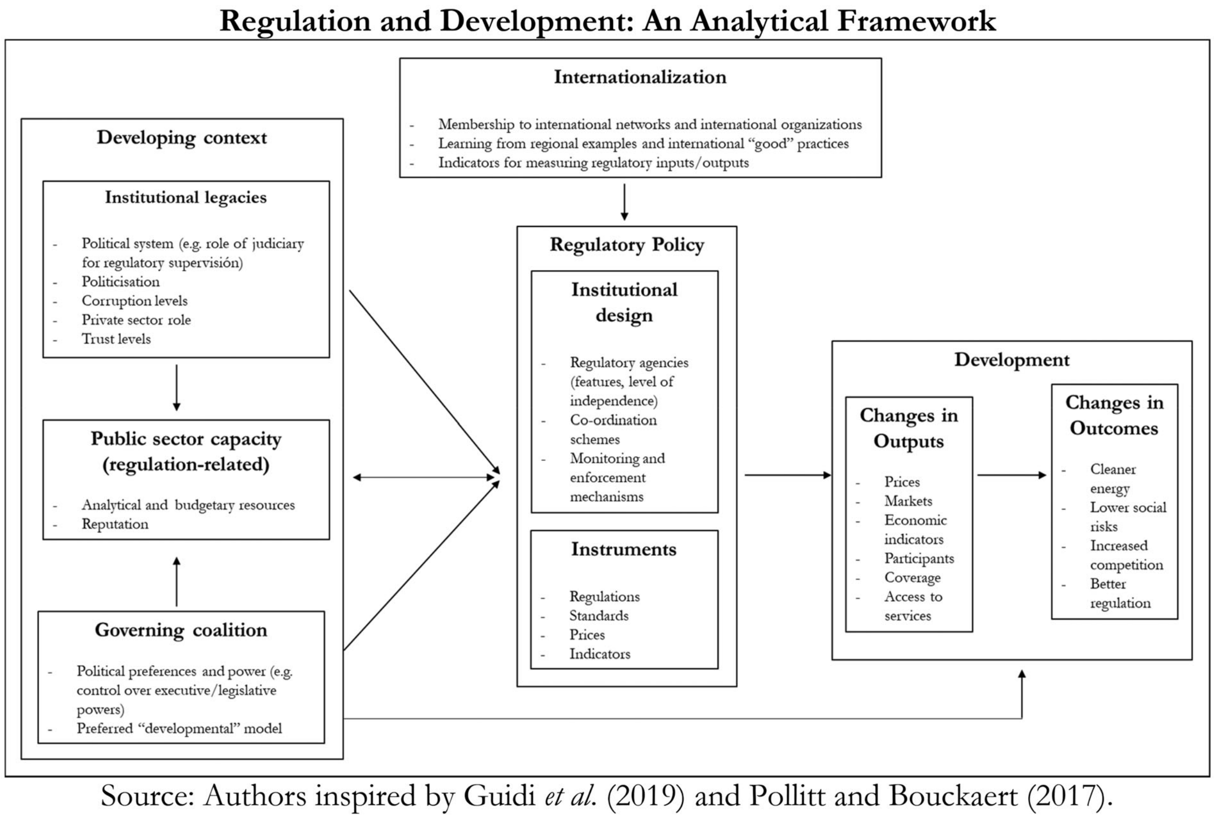

FIGURE 1 Regulation and development: An analytical framework. *Source*: Authors inspired by Guidi et al. (2020) and Pollitt and Bouckaert (2017).

In the second box "Development" we group components which help assess whether regulatory policies are having an effect, or not, on the levels of development of a jurisdiction. Based on our literature review, we include both "Changes in Outputs" and "Changes in Outcomes," where the former refer to commonly used measures of regulatory performance (e.g., prices, coverage, access), and the later to longer-term effects (e.g., cleaner energy, increased competition). Of course, we are aware that some topics (e.g., "better regulation") may be considered both an output (e.g., the existence of a new set of regulations addressing state-entrepreneurs' relationships), as well as an outcome (e.g., the perception that regulation is fairer or less burdensome).

On the left-hand side of the figure, we add the box "Developing context." Here we include the politico-administrative features that characterize a given developing country. The box includes three sets of features. First, "institutional legacies" (e.g., the role of the judiciary, corruption levels, role of the private sector), which are factors that have developed historically in each jurisdiction. Second, "Public sector capacity" (e.g., administrative resources) among those regulation-related institutions. And third, "Governing coalition," which may hold control not only over the executive and legislative powers, but also over the "developmental model" under discussion at a given point in time. Most of these variables or factors may certainly influence any country's regulatory policy, but they are particularly relevant for understanding the relationship between development and regulation. Features such as extended patronage, low-trust on the state, or institutional instability are usually more prevalent and more influential in developing countries than in developed ones, particularly with regard to either regulatory credibility or regulatory enforcement. Limited analytical capacities, again most common in developing states than in developed ones, will most likely curtail regulatory institutions' ability to develop and oversee sound regulations (see Elizondo & Mejía, 2024, in this issue). Thus, these are all politico-administrative aspects which may have substantial influence on regulatory policy and which, therefore, may require particular attention by researchers.

Lastly, Figure 1 includes a second box at the top of the middle section, "Internationalization," which refers to factors that go beyond national borders. Here, we call attention to those international aspects discussed above, which influence how a developing country's regulatory institutions evolve (e.g., membership to international organizations, benchmarking, cross-national learning, and such like). Of course, international variables also influence regulation in developed countries. Yet existing studies have also shown that the nature of internationalization effects over developing countries' regulatory policies is different and usually determinant.

3. The Latin American regulatory experience as a laboratory

As in the case of developed countries, regulation and regulatory institutions have become increasingly prominent across Latin America over the course of the past three decades (Levi-Faur and Jordana, 2006). State reforms initially associated with the so-called "Washington Consensus," which advocated the privatization of public sector utilities, have led to the introduction of new regulatory frameworks throughout the region and across several policy sectors (Chong & Benavides, 2007; Levi-Faur, 2005; Teichman, 2001; Post and Murillo, 2013; Martínez-Gallardo and Murillo, 2011). Indeed, a good indicator of the relevance that regulation has achieved in Latin America is the increased number of regulatory agencies in the region, an institution commonly associated with the rise of the "regulatory state" (Majone, 1997). Moreover, national regulatory agendas have continuously expanded, from being initially focused on utilities, financial regulation, and competition policy, to including social, environmental, and better regulation initiatives. As a result, one can confidently suggest that Latin America represents an important regulatory reform laboratory with significant implications for the field of regulation.

Despite the growth of regulatory tools and institutions as basic features of contemporary Latin American states, the body of academic literature on the subject remains limited and disperse. There have certainly been important contributions. For instance, David Levi-Faur, Jacint Jordana and colleagues have systematically analyzed the spread of regulatory agencies, as well as the national and sectoral patterns of diffusion through time (Jordana et al., 2011; Jordana & Levi-Faur, 2005; Levi-Faur, 2003). More recently, González (2022) and González and Gómez-Álvarez (2022) studied delegation patterns in Latin American countries after the 1990s. They encountered sectoral diffusion patterns by which governments strengthen control, instead of expanding delegation over regulatory agencies (see also Prado, 2017; Silva, 2011). Countries have also introduced accountability measures and the requirement for agencies to use better regulatory practices, as prescribed by the OECD (Perales-Fernández & Dussauge-Laguna, 2023).

Other authors have explored central aspects of regulatory agencies. González and Verhoest (2018) studied the delegation of regulatory decisions to regulatory agencies. Pavón (2020) tested different levels of formal independence of regulatory agencies for different sectors in eight Latin American countries. Trillas and Montoya (2011) studied the telecommunication sector in 23 Latin American and developed a measure to capture de facto independence. On this same topic, Post and Murillo (2013) have also studied the relation between ministers, regulators and operators in the Argentinian water and electricity sector, when concession contracts needed to be renegotiated after the economic crisis of the early 2000s (see also Murillo, 2009). In the case of Mexico, several studies have discussed the challenges faced by newly established or recently reformed regulatory agencies (Faya, 2011; Grunstein, 2011; Valdés, 2011).

In relation to formal agency independence, prominent regional studies have analyzed institutional characteristics of regulatory institutions and their linkages to sectoral outcomes, focusing on the development of network sectors. Gutiérrez (2003) and Gutierrez and Berg (2000) established a correlation between telecommunication regulators' features and positive sector outputs. Andres et al. (2009) developed a similar research agenda for the energy sector, where regulatory independence and performance of utilities are correlated. Prado (2012) analyzed both sectors, electricity and telecom, and explained variations observed in between them. In addition, several studies focused on issues such as horizontal and vertical unbundling, efficiency, and competition (Estache & Wren-Lewis, 2010).

González (2017) has focused on another crucial aspect of regulatory agencies in his assessment of the coordination and decision-making arrangements that exist between regulatory agencies and governments in the region. This work adds to existing research on the interaction between regulatory agencies and other national or international organizations with regulatory functions. For instance, González (2018) and González and Verhoest (2020) have argued that in the telecommunication sector of Colombia there are several *de facto* interactions among organizations with regulatory functions, between them and market operators. From another perspective, Aydin (2019a) has studied how Mexico used regulation to interact with established powers in the global economy.

Lastly, another set of studies have analyzed the broader infrastructure of regulatory agencies. Together with a group of colleagues, Elizondo and Dussauge-Laguna (2018, 2019) have assessed the experience of one Mexican regulatory agency in the energy sector, including topics such as capacity, coordination, and risk-management. Cunha et al. (2017) have surveyed the "regulocrats" in the transport and energy sector in Brazil to assess their technical capacity and sector-based experience. Peci et al. (2020) have studied the careers paths of regulators in Brazil and have also observed how the differences of the Brazilian and Chilean regulatory context are reflected in the work of Supreme Audit Institutions (Peci & Rudloff, 2018). Parrado and Salvador (2011) have analyzed the meritocratic patterns of 72 regulatory agencies in 18 Latin American countries. Alketa Peci and her colleagues (Neves & Peci, 2011; Peci & Sobral, 2011) have studied the potentialities and difficulties of the implementation of regulatory impact analysis in Brazil.

These works show that regulation is an important and growing area of research. This special issue seeks to develop and consolidate this emerging knowledge to place the study of regulation in Latin America at the heart of regulatory scholarship.

4. Contributions in this special issue

The articles in this special issue build on existing work, but they also try to advance our theoretical understanding about the multiple and complex relationships between regulation and development. Table 1 illustrates that all articles address the three main research questions which we have been discussing throughout this paper: How does a country's "developing" features affect regulatory design and regulatory performance? How does regulation

TABLE 1 Regulation and development: Key insights from contributions in this special issue

Article in special issue/ Theoretical debates	How does a country's "developing" features affect regulatory design and regulatory performance?	How does regulation affect development?	How does internationalization affect regulatory choices in developing countries?
Donadelli & van der Heijden, The regulatory state in developing countries: Redistribution and regulatory failure in Brazil	• Redistributive pressures impede a sole focus on efficiency considerations. • Presence of capacity constraints increase chances of regulatory failures.		• Transfer of regulatory models (e.g., "the regulatory state") to developing countries is not straightforward.
Elizondo & Mejía, Regulatory policy choice in post-reform contexts: The case of industrial safety regulation in Mexico's oil and gas industry	• Capacity constraints, on both the side of the regulatory agency and the regulated businesses, affect the choice of regulatory strategies. • Legacies from the past influence the definition of instruments, even in new regulatory settings.	• Links between regulatory outputs and regulatory outcomes are hard to detect in the short term.	• Regional diffusion patterns are more varied than usually considered. • Countries which have missed international reform waves face different challenges when introducing regulatory reforms, but also have advantages at implementing tools that have already been tested in other contexts.
González & Peci, Regulatory reforms, normative changes, and performance: Evidence from the electricity sector in Latin America	• Latin American countries have experienced several changes in their agencies' design and practices that could be related to specific country features.	• Regulatory agencies in developing contexts can have a positive influence on regulatory outputs, but this varies according to specific agencies' characteristics and practices, as well as across sectoral outputs.	• Imported regulatory practices (e.g., better regulation) do not always have a clear positive effect on regulation.

affect development? How does internationalization affect regulatory choices in developing countries? Furthermore, the fresh empirical material provided by the authors helpfully broadens our knowledge about regulatory experiences in the Latin American region.

The first article, by Flavia Donadelli and Jeroen van der Heijden, studies the extent to which the "regulatory state" hypothesis holds in the biggest Latin American country (Brazil). The authors carefully analyze the work of seven Brazilian regulatory agencies, focusing on regulatory failure, defined as "comparatively inferior capacity to deliver pre-established social, environmental, economic, and procedural goals through regulatory interventions by state agencies." Echoing some of the debates noted above, Donadelli and van der Heijden analyze potential causes of regulatory failure (e.g., lack of capacity and resources; institutional features; bad politics). Using a qualitative comparative analysis of regulators in a variety of areas, the authors find that regulatory failures tend to happen among Brazilian agencies with low capacity, low levels of competence, and limited involvement in initiatives for expanding network access. More broadly, Donadelli and van der Heijden's analysis leads them to underline that "distributional considerations" are a constant issue among Brazilian regulators. They further argue that, as regulatory agencies fail, the legitimacy of a "regulatory state" detached from politics and merely focused on efficiency considerations becomes hard to sustain.

Donadelli and van der Heijden's analysis shows how regulatory institutions in a developing setting are constrained by both redistributive pressures and the capacity constraints of regulatory agencies. This contrasts with how regulatory agencies (are supposed to) work in more advanced economies (Rangoni & Thatcher, 2023; Thatcher, 2002), where they are expected to focus on efficiency considerations and market failure correction, at least until recently (see Koop & Lodge, 2020). Their article also speaks to contemporary debates on the internationalization of regulatory institutions, as it shows how a well-known model (e.g., "the regulatory state") needs to face competing values once transferred to a developing context. Indeed, they provide a useful and timely reassessment regarding how regulatory models "transplanted" to developing countries actually work under such political conditions.

The second article by Alejandra Elizondo and Luis Mejía studies how the systemic features of a developing country shape regulatory policy choices. The authors focus on a relatively young agency in Mexico: The Safety, Energy, and Environment Agency, also known as ASEA. Taking the literature on high-hazard regulation as a basis, Elizondo and Mejía categorize the regulatory instruments ASEA has developed to oversee thousands of agents that participate in the oil and gas value chain. They describe how, between 2015 and 2018, ASEA developed a mixture of performance-based and management-based instruments, albeit also employing more traditional prescriptive ones, according to the capacities of the regulator and the homogeneity (or lack of) of the regulated entities. ASEA's flexible regulatory strategy, they explain, is partly related to the agency's risk-based approach, but also to Mexican conditions. After several decades of an energy market dominated by state-owned enterprises, the presence of many "small-scale" and "family-run" actors flagged the risk of their lack of capacity to comply with regulations.

With regard to the contemporary debates on regulation and development, Elizondo and Mejía's article contributes in various ways. First, it shows that, given the characteristics of new markets such as Mexico's energy one, it is sometimes difficult to understand the way regulatory outputs and regulatory outcomes are linked with recently reformed regulatory frameworks (see Guidi et al., 2020). Second, they remark that capacity constraints are a central issue among regulators (as it influences both their enforcement tasks and their regulatory strategies), but they also matter for industry actors, as not all of them are equally prepared to cope with new regulations. Lastly, Elizondo and Mejía also note that Mexico's oil and gas market, which remained under state-control until the late 1990s, was not in synchrony with international regulatory reform waves. This has relevant implications for discussions about the internationalization of regulatory reforms among developing economies: it provides a more nuanced picture about international diffusion patterns; and it flags questions about how the lack of international involvement of developing countries (or a policy sector within them) may affect the design and institutionalization of their regulatory frameworks.

The third and final article in the special issue is that of Camilo Ignacio González and Alketa Peci, which studies the relationship between reforms to regulatory norms and their potential impacts on regulatory performance, with a focus on the electricity sector. By looking at legal changes in formal independence, transparency, accountability, coordination, regulatory instruments, and better regulation practices, the authors assess their relationship with indicators on perception of quality of electricity supply, electricity production, electricity generation, and access to electricity. González and Peci's article achieves two things. At one level, they provide a fine-grained description of the evolution of Latin American regulatory agencies' institutional features. At another, they show that the relationship between such features and performance in the electricity sector of these developing countries is more complex than expected. While economic regulatory instruments seem to have a positive effect on electricity indicators, normative changes in other areas such as accountability or independence seem to matter less.

The results obtained by González and Peci offer useful insights for debates on independent regulatory agencies, particularly across developing countries. They show that imported regulatory institutions (e.g., regulatory agencies) have certainly spread across Latin America and can function as part of this kind of countries' institutional frameworks. Moreover, they illustrate how such institutions have a positive effect on the performance of regulated sectors. At the same time, González and Peci's contribution paves the way for future research on other policy sectors. It also puts into question the true value that certain imported practices, such as better regulation, may have on regulatory outputs and, eventually, on regulatory outcomes.

5. Conclusions

This introductory article has aimed to contribute to the existing literature on regulation and development in two ways. First, we have integrated existing debates around three main questions: How does a country's "developing" features affect regulatory design and regulatory performance? How does regulation affect development? And, how does internationalization affect regulatory choices in developing countries? We have put together the disparate literature across different fields (e.g., political science, economics, public administration, and regulation itself) and we have introduced an analytical framework to offer a point of entry to those interested in these questions. While lacking the immediate urgency of some topics (e.g., crisis management in times of pandemics and war) or the novelty of others (e.g., artificial intelligence), questions about regulation and development are of fundamental relevance because of their wider theoretical relevance (do regulatory issues happen equally across groups of nations with different economic, political, and institutional features?), as well as because of geopolitical reasons (e.g., most countries are not "developed," but "developing").

Second, we have focused our attention on Latin America. We have discussed the literature on regulatory developments in the region and have underlined how regulation and regulatory institutions have disseminated across Latin American countries. However, we have also noted that academic debates have lagged behind the changing political landscape. We then discussed the three articles that form this special issue. While underlining their contributions to what we know about regulatory developments in the region, we have also mentioned how each one of the articles sheds light on broader international debates on regulation.

As the articles in the special issue show, regulation and regulatory institutions are nowadays part of Latin American states as much as they are part of developed states. Yet beyond important parallelisms (and even isomorphic traits), we have also stressed that things have unfolded differently in this region. The levels of contestation around the "regulatory state" model, the implications of existing capacity constraints among both regulators and regulated actors, and the difficulties to assess the contributions of normative (i.e., formal) changes to regulatory outputs and outcomes in markets which were liberalized just recently (but with traces of significant state intervention) are some insights that could be drawn from this set of articles.

Despite these important insights, the study of regulation and development clearly remains a territory ready for further exploration. Indeed, there are numerous avenues for further research:

- *Tensions around the "regulatory state" model*. We already know most Latin American countries have established a regulatory state of some kind. Yet we also know, as the articles in this special issue show, that its insertion in the region's politico-administrative systems have caused some tensions, mainly around the original efficiency/market failure corrections ambitions of such a model *vs*. the developmental/social equity pressures that exist in these nations. How have these tensions unfolded in the region? Do they take place across the whole subcontinent or just in some countries? Are these being solved by the creation of "polymorphic states" (Levi-Faur, 2013)? Which features of the "regulatory state" are being particularly problematic and why? Additionally, as pointed by Pavón and González (2022), there is still need for further longitudinal studies that address how this relation has unfolded across time, and beyond economic and utilities sectors.

- *Influence of administrative traditional features/legacies over regulatory policies*. Our discussion and analytical framework suggest that Latin American countries inherited a set of administrative features which constrain current policymaking processes, regulation included. Patrimonialism, patronage, corruption, and low-trust in government institutions are some of these legacies. While articles in this special issue do flag some of the effects that limited administrative capacities have over the design and functioning of regulatory regimes, neither their authors nor the existing literature fully discuss how other administrative features, such as those mentioned here, affect the making of regulatory policies or the performance of regulatory frameworks.
- *Varieties of regulatory styles across the developing world*. Both this article and the others in the special issue have argued that regulation in the developing world is different from regulation in the developed world. However, the developing world is too broad and what happens in Latin America may not reflect regulatory realities in other developing regions, such as Africa or some parts of Asia (e.g., Levi-Faur, 2004). Thus, much work remains to be done regarding how we can characterize the regulatory traits of each one of these regions, including how they compare among each other and *vis-à-vis* the regulatory style of developed countries.
- *Theory refining and theory building*. We believe the literature on regulation and development presented in this article, as well as the exemplary contributions to this special issue, provide important elements to refine current theoretical debates. However, we also think most of the literature on regulation and development has remained at a theory refining level. Despite the rich empirical experiences of regulatory developments in Latin America and other developing regions, exercises on theory building and conceptual innovation have been limited (see Lodge et al., 2017). There clearly is room for enriching our international debates with original theoretical statements based on how regulation is taking place across the developing world.

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Data availability statement

Data sharing is not applicable to this article as no new data were created or analyzed in this study.

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