

The constitution and institutional arrangements

Introduction

Italy's first constitution was effectively imposed on the people after unification by the Piedmontese rulers of the Kingdom of Sardinia. In contrast, its second, anti-Fascist and republican constitution was drawn up in the Constituent Assembly by elected representatives and signalled a net rejection of authoritarian rule. Now, following the devastating Italian corruption scandals of the early 1990s, which brought domestic instability and international disgrace, Italy is once more in search of a fresh start.

The major ills of the post-war Italian political system – immobilism and cabinet instability, 'rule by the parties' and the domination of politics by a small and increasingly corrupt caste of politicians – are variously attributed to liberal constitutional principles that guard against an over-centralisation of power in the executive. Pressure has grown for an accountable executive powerful enough to short-cut the lengthy, complex and highly negotiated decision-making procedures. But the Italian constitution has been gradually moulded into its present interpretation by a variety of social forces over almost fifty years. A quick institutional fix may not have the intended consequences. There are many facets of Italy's

present constitution that may be sorely missed in the event of a rush to simplistic and illiberal solutions.

The Constituent Assembly, 1946-8

On 2 June 1946, the Italian people, for the first time ever including women, were asked to participate in the first free general elections for over twenty years. Their opinion was being polled on two issues that would be crucial in shaping the democracy that was to be built on the ashes of Fascism. The first poll was a referendum to decide whether Italy should retain the monarchy, disgraced by its collusion in Fascism, or set up a republic. The second was to elect the Constituent Assembly, whose task was to draw up a new constitution for Italy to replace the Statuto Albertino, which had been imposed on the new united Italy by its Piedmont-based ruling class in 1861. In the referendum, the country voted for the republican form. The vote was fairly close run, as support for the monarchy remained high in the south, where the peasantry had been very dependent on its largesse.

Elections to the Constituent Assembly resulted in a coalition of anti-Fascist forces. The DC (the successor to the PPI), with 35.2 per cent of the vote and 207 seats, emerged as the largest party in the Assembly, but electoral support for the PSI (20.7 per cent) and the Communist Party (Partito Comunista Italiano, PCI) (19 per cent) was strong, ensuring considerable left influence in the framing of the rules that would govern relations between State and citizens in the new Republic.

The constitution was drawn up by a commission of seventy-five, divided into three subcommittees. The party composition of the committees reflected the proportion of votes received by each. For the next eighteen months, the elected representatives of the Italian people set about the task of drawing up a constitution that could enshrine in law the human and civil rights of the Republic's citizens, ensure that the voices of all, including minorities, would be heard, and safeguard the people against the rise of another dictatorship.

The philosophy of the constitution

The formal document that finally emerged from the debates of the founding fathers (as opposed to the *real* organisation of powers that developed in the 'blocked' democracy) has been defined as one of the key documents shaping the democratic identity of the post-war West through the negation of Nazism and Fascism. The intention of the Constituent Assembly was to spread State powers as widely as possible, to ensure the broadest possible access to public decision-making and to guard against the concentration of powers in the hands of the few. The executive was therefore subject to an array of checks and balances, its powers diluted by the need to negotiate its legislative programmes through a powerful, bicameral parliament and gain the approval of a constitutional court. The anti-Fascist philosophy of an inclusive governing process with a wide dispersal of powers went through despite heavy pressure on the DC from the Church to opt for a presidential form of government with a powerful executive.

The constitution and the 'Catho-Communist' divide

Italian social history has been marked by the stand-off between two major forces whose mutual hostility still today scars the Italian body politic. Particularly in the north and centre of Italy, political life has been shaped and grounded within two major camps, the 'red' Marxist and anti-clerical subculture, strongest in the centre and industrial north-west, and the 'white' Catholic and anti-Communist subculture, with its heartlands in the north-east. Although these opposed subcultures have both shrunk and relaxed over the course of time, the clash between them has been central to the evolution of post-war society in Italy.

The constitution seemed – at first – to hold out the promise that the two sides could be reconciled and that one would not have to suffer defeat and exclusion at the hands of the other.

For the first time, Italy had a constitution that was forged through a process of negotiation among a group of people who were broadly representative of the different interests present in the nation as a whole. The result was a document based on compromise, which protected and enshrined the rights of workers and of the Catholic Church and its faithful.

A Republic founded on labour

The imprint of the left on the constitution is seen especially in the prominence afforded to the citizen as employee and the special protections given to workers. The constitution states in its opening passages that 'Italy is a democratic Republic founded on labour'. It goes on to affirm the right to work, to guarantee trade union rights and to enshrine employee rights to a voice in the management of the workplace.

The progressive substance of the institutional arrangements set out in the constitution and the ideals embodied especially in its first part help explain why the PCI, unlike some other West European Communist parties of the time, adopted a gradualist strategy towards the achievement of socialism, in which the framework of liberal democracy would be accepted. The PCI took considerable pride in the constitution it had helped to frame. The leadership retained a profound faith in the possibility of socialist development within the constitutional framework, even through the long period of DC domination of the political system.

The constitution, and the part played in its drafting by the left, strengthened the Communist leadership's claim that they were not a danger to democracy and would abide by the democratic judgement of the people should they ever be elected to government. However, this claim was not everywhere believed.

State and Church in the constitution

The constitution also contained generous concessions to the Catholic Church. It will be remembered that the Vatican had

denied participation in the political life of the nation to the faithful with the *non expedit*. Although the admonition had been relaxed in the first decades of the twentieth century to allow the formation of Don Sturzo's PPI, the Church gave its formal recognition of the secular state only under Fascism. The Church's full adherence to and participation in the democracy established with the constitution of 1948 was secured by the inclusion within it of the Concordat signed between Church and Mussolini in 1929. This gave the Church very important powers in Italian affairs. It ensured continued Church control over marriages and gave it special financial concessions and a monopoly over religious education in State schools. The Concordat was included without amendment and with the support even of the supposedly anti-clerical PCI, in what was perhaps a gesture of goodwill by a leadership hoping for an extension of the experiment with tripartite government including the PCI and the PSI. If this is so, it was a forlorn hope.

In May 1947, the left was ejected from the cabinet. In the general election of April 1948 the DC gained an absolute majority in the Chamber of Deputies, but decided to govern with the help of the lay parties. The pattern of coalitions excluding the major party of the left was now established. With the partial exception of the governments of national unity of 1976–9, the left would have to wait until the historic election of April 1996 before it could take its turn in government.

The completion of the constitution

On paper, the 1948 constitution is an impressive testimony to the liberal, anti-Fascist and even progressive values on which the emergent democracy was founded. However, hopes in the progressive elements of the constitution were dealt a mortal blow by a Supreme Court decision in February 1948 to make a distinction between parts of the constitution for immediate

implementation and a 'programmatic' part, to be realised at some time in the future.

Following the ousting of the PCI from the tripartite government in 1947, the DC began its long-lasting domination of Italian politics. From its position of power, the party, and especially its right wing, was able to resist and delay the establishment of important institutions and rights that could have been used to mount effective challenges to its authority. The Constitutional Court was not established until 1956 and regional autonomy and the right to hold referendums were put on hold until 1970. The Workers' Statute, passed in 1970, can also be seen as a final enactment of constitutional principles concerning the protection of trade union rights. The eventual enablement of parts of the constitution that had been for so long suspended was in large part the product of the growing power and anger, especially from the 1960s, of social movements representing sectors of the population who were not the natural constituencies of the DC and who suffered most from the DC's prolonged domination of the political system.

The institutions of the 1948 constitution

The electoral system

Italy's electoral system is not technically established in the constitution, but will be treated here for convenience.

Before important reforms in 1993, Italy's system of proportional representation (PR) was very pure. Even parties gaining a share of the vote as low as 2 per cent could take up that proportion of the seats in parliament. These rules facilitate (although they do not create) a multi-party system, by giving an incentive to vote even for small parties. In a PR system every vote counts and electors have a real chance of electing members of parliament (MPs) of the party that most closely represents their views, even if that party is small.

A multi-party system with PR is often associated with coalition governments, as no single party gains enough parliamentary seats to govern alone. Under certain circumstances this can give considerable or even undue power to a party that obtained a relatively small percentage of the national vote. It may, for example, be necessary to include the small party in the coalition to ensure a governing majority in parliament. In this way, the smaller 'lay' parties of liberal tradition, and later the PSI, were regularly included in Italian governing coalitions. In Germany, too, the small Liberal Party is a normal component of governing coalitions of the right and left. Even when a small party is not actually included in the coalition, the government may still need its votes to ensure the passage of legislation. The small party's support may then be offered in return for concessions. Systems in which a very large number of parties compete can also give rise to instability, as withdrawal of support by one party can lead to the collapse of the government. Although this has been a problem in Italy, it is not necessarily the case, as a number of multi-party systems with relative cabinet stability attest.

Systems of PR contrast with plurality or 'first-past-the-post' systems such as that in the UK. This sort of electoral mechanism is often associated with party systems in which there are only two potential parties of government, as only one candidate in a constituency, the one with the most votes, can win. Small parties cannot win seats unless their support is concentrated in a particular geographical area, as in the case of the UK nationalist parties. Because of this, many potential supporters of small parties give their vote to the 'least bad' of the two main parties. A pure two-party system would give rise to government by a single party that would have no need to negotiate or compromise with its defeated rival.

The President of the Republic

The President is indirectly elected by both houses of parliament (see below) and three delegates from each region. Thus

the President does not have a direct popular mandate and the authority of the post is consequently limited. Under normal circumstances, the President's main job is to carry out the ceremonial tasks of the head of State. However, the President is not entirely a figurehead and is more powerful than a constitutional monarch such as the British.

The powers of the President include:

- The designation of the Prime Minister. The President must, of course, choose someone who will be able to form a government, in other words a leading politician from a major party who is capable of putting together a coalition that will have the support of the majority of MPs. Normally, therefore, the President does not have a real choice. But despite this very important limitation, the power to designate the Prime Minister can give the President some influence in the complex negotiations that precede the formation of a government.
- The power to dissolve parliament and call elections when a government loses its working majority and cannot continue in power. However, the President must consult with both houses before dissolving the legislature. Once again, the decision to dissolve parliament is not really made by the President.
- A suspensive veto. This means that the President can send a law back to parliament unsigned, accompanied by an explanation of why approval is being denied. This veto can be overridden by parliament with a simple majority vote, but can mean a bill's death.
- The nomination of five (of fifteen) judges to the Constitutional Court and five life senators.

The real influence of the President depends a great deal on both personality and circumstance. The office of Presidency has a high profile and is generally revered. The President's public speeches and addresses receive a great deal of attention in the media and have weight with public opinion.

Although the President is chosen by the usual process of negotiation among party influentials, he or she is expected, once elected, to be *super partes*, or above party politics. However, Presidents have sometimes used their influence to give voice to their own political opinions. In the 1980s, for example, President Francesco Cossiga became famous for his controversial outbursts.

Especially in times of difficulty, the President can wield a power that goes well beyond the ceremonial and purely figure-head role of head of State. As the President is theoretically above politics, he or she will not automatically be supportive of the executive and may even admonish the Prime Minister and colleagues in government and recall them to their constitutional duties. This potential of the office was demonstrated during the short-lived government of the media tycoon Silvio Berlusconi in 1994, which was marked by an increasingly bitter antagonism between the Prime Minister and President Oscar Luigi Scalfaro. In this period, the President emerged as a sort of guarantor and interpreter of the constitution.

The Prime Minister (President of the Council of Ministers)

The Italian Prime Minister, whose office is located in Palazzo Chigi in Rome, does not have to be the leader of the biggest party in parliament. In fact, in the convention of the DC, the Prime Minister was never the official party leader.

The Prime Minister is designated by the President, after the general election, following a complex process of negotiation. At least until the 1993 reforms of the electoral system, the electorate had no way of knowing, at the time of the ballot, who would be leading the next government. This reinforced the importance of the party over the individual, as the electorate had to vote for the party of their choice rather than its leading personalities.

Once the Prime Minister has been designated, she or he must consult the party and faction leaders to canvass their support for the government, and then form the Council of

Ministers, or cabinet. In reality, the Prime Minister's discretion in this exercise is very limited, as the overriding problem is how to secure and maintain a majority of parliamentary votes. Ministerial and other key positions are often allocated to appease potential dissidents by 'buying' their support. In fact, party or faction leaders often stipulate the appointment of individuals to particular cabinet positions as a precondition for supporting the government. As a result, the first allegiance of ministers is often to the party influentials who secured their jobs for them, not to the Prime Minister. Unlike a British counterpart, the Italian Prime Minister does not necessarily have a collegiate and supportive cabinet. Furthermore, the Prime Minister cannot sack a minister. Even if dismissal were possible, it would risk the parliamentary majority that was pieced together through the painstaking process of negotiation. There are, therefore, no effective sanctions against unruly and outspoken colleagues in cabinet.

The Italian Prime Minister is thus very weak in relation to parliament. The loss of the support of a single powerful faction leader may in some cases be sufficient for the government to lose its parliamentary majority, leaving the Prime Minister no option but to resign. This gives a considerable power to party and faction leaders inside and outside the governing coalition. It also means that a Prime Minister's tenure in office may be extremely brief: the average life of Italian governments during the first republic has been about ten months.

The power of influential party politicians, or notables, which is independent of the political executive, is a component of the concept of party rule or 'particracy' – the form of government that has been characteristic of much of the post-war period in Italy. The concept of 'particracy' is more fully explained on page 69.

If the government can no longer command a majority in parliament, the President has to designate another Prime Minister to piece together a viable coalition. In some cases, the same person is designated and the cabinet is simply reshuffled to accommodate the ambitions of the party bosses and the

shifting balance of power among them. Once a government falls, it generally takes about six weeks to negotiate a new one.

The cabinet in Italy tends to be large, including at least twenty ministers with portfolio and a handful without. The oversized cabinets reflect the need to offer something to all the leading politicians whose support is essential for the survival of the coalition.

The legislature (houses of parliament)

Italy has a bicameral system, in other words the legislature is divided into two houses. The upper house (Senate) has 315 members and is located in Palazzo Madama; the lower house (Chamber of Deputies) has 630 members and is located in Palazzo Montecitorio.

The Italian legislature is an example of co-equal bicameralism, the two chambers having equal powers. This contrasts with the situation in the UK, where the upper house (House of Lords) is relatively feeble in relation to the lower house. In Italy, both chambers must pass a bill in an identical form before it becomes law. Unlike in the USA or Germany, there is no coordinating committee to reconcile legislation that has been even slightly amended in one of the houses. This means that both chambers have the power to veto legislation, making it difficult for the government to get its programme through in unamended form.

These difficulties were even more acute before the late 1980s, when voting on bills, and even on their component clauses, was frequently by secret ballot. This meant that neither party leaderships nor citizens could be sure how MPs had voted. It was therefore impossible to ensure a disciplined pro-government vote by all the parliamentarians of the governing coalition. This contrasts very strongly with a system such as that in the UK, where a government with a majority in the House of Commons can rely on disciplined voting, reinforced by the whips, and can therefore steer its programme through the legislature with little fear of unwanted amendment.

The existence of backbench rebels, or 'snipers', voting against government measures increased the difficulties experienced by Prime Ministers in trying to establish discipline within the governing coalition. As loyalty cannot be demonstrated, it cannot be rewarded by promotion. Politicians' careers depend less on reliable service to the elected government they are supposed to be supporting than on the personal support that they can muster, by whatever means, inside and outside parliament.

In 1988, the use of secret ballots in parliament was largely abolished. It is now used mostly for issues involving personal ethical and moral positions.

The committee system

Members of parliament are organised in permanent committees paralleling the government ministries. The president of each house (an office similar to the British Speaker) divides parliamentary work up among the committees. The committees are very powerful as, uniquely in Europe, they can pass a wide range of legislation directly into law, or veto it, without referring it back to the floor of house. In fact, only issues relating to the constitution, voting rights, international agreements and the budget must be dealt with by the full house.

As a result, the Italian parliament's output of legislation is greater than that of any other post-war European legislature and a large part of this output is in the form of so-called *leggine* (little laws), passed in the committees and mostly relating to special interests. This power of the standing committees makes them a focus of attention for private businesses, which can try to influence them to pass 'pork barrel' legislation that will favour their particular interests.

The committee system was also one of the ways in which the PCI was able to influence legislation despite its historic exclusion from government. The PCI could have blocked much of the committees' output of little laws, as their approval requires a majority of four-fifths and Communists made up

nearly one-third of MPs and consequently of committee members. However, the PCI frequently refrained from using its veto power and, in turn, the legislation that it proposed was also not always rejected out of hand.

Relations between executive and legislature

The Italian legislature is extremely powerful in relation to the government. Without a large consensus, a rarity in Italy's fragmented politics, it is extremely difficult for the government to get its planned legislation through both houses of parliament intact. The government's position is further weakened because its bills have no special status over private members' bills. Government-sponsored bills may be amended or rejected by the legislature and there is no limit on the private members' bills that may be introduced by individual backbench MPs.

Finally, there is no protection for government when its majority is lost. This contrasts, for example, to the system in Germany, where the legislature must be able to agree on a new government before the current one can fall (the so-called constructive vote of confidence).

Government difficulties were exacerbated as the dominant position of the DC was progressively undermined from the late 1960s. Increasingly, governments were forced to exploit a procedure that is subversive of the executive-restraining intentions of the constitution. In Italy, as in France, parliament can be bypassed by the issue of decree laws. This constitutional loophole was intended to give the government special powers in times of emergency, but has been used with increasing frequency since the 1970s in a wide range of policy spheres. Decree laws have to be enacted by parliament into ordinary law within sixty days. In fact, parliament often refuses to convert decrees into law, sometimes bargaining with the government to get them modified. However, in a practice that has become increasingly common, decrees can simply be reissued if parliament refuses their ratification.

The judiciary

Another important check on executive power established by the constitution is the judiciary. According to the constitution the judiciary is independent of any other power. It is controlled by an independent body, the High Council of the Judiciary, which is made up of judges, lawyers and legal experts and is presided over by the President of the Republic. Ten members are chosen by parliament and twenty by the magistrates themselves. It is the High Council, not the government's Ministry of Justice, that oversees recruitment, promotion and discipline procedures in the judiciary.

Despite its theoretical insulation from politics, the judiciary is – or was – permeated by the same kinds of party and faction allegiances that run through all other Italian institutions. Promotions within the judiciary were frequently based not on seniority or merit, but on agreements among political factions in the High Council of the Judiciary and in the parties. This, indeed, is part of the reason why systemic corruption continued largely undisturbed by judicial investigation for so long. The networks linking factions in the judiciary and the parties could be used to call in favours and protect the corrupt.

The parties' hold on the judiciary weakened in the early 1990s. Following the fall of Communism in Eastern Europe, the rhetoric of anti-Communism was less compelling. The DC began to lose the automatic support it had enjoyed by virtue of being the main bulwark against Communism and attitudes to it became more openly critical. At the same time, electoral support for the Northern League – then emerging as an alternative party of the middle classes – was rising and corruption, especially within the sprawling, inefficient public sector from which the Rome-based parties fed, became one of its central issues. The rise of this new party helped to provide the political space for independent groupings of magistrates such as those of the so-called Mani Pulite (Clean Hands) team to engage in a sustained effort to expose the corrupt intertwining of business and the State.

Now that the influence of parties on the judiciary appears to have loosened and the magistrates are playing a more independent role, their powers have been coming in for a great deal of critical attention. The powers of Italian magistrates to hold and question suspects before trial have been the subject of particularly fierce debate. In the 1970s, these powers were most frequently used against the left and were an important weapon against the leaderships of the social movements that had seemed to threaten the Italian establishment at that time. But at the height of the corruption scandals of the early 1990s, the typical suspect in preventive custody was from a very different background. Top-level managers of the giant State enterprises, party notables and previously respected business people were now experiencing the hospitality of the police cell and the attentions of the investigating magistrates. For many, the indignity and shame proved too much and a rash of suicides among the illustrious detainees sparked calls for limitations on the magistrates' powers.

There can be little doubt that in some cases the new concern for the civil rights of those held in preventive detention masks a more self-interested desire to see the corruption investigations wound down and the whole issue of corruption allowed quietly to disappear. The magistrates themselves argue that their powers to detain persons who might otherwise tamper with evidence are vital for the continuation of the struggle against corruption. Certainly, the power to hold and question suspects helped the magistrates to obtain the voluminous confessions that implicated ever-widening circles of business and political elites and threatened the rule of the parties in the early 1990s. However, the civil rights aspect is an important one. The magistrates' draconian powers sit ill with a genuinely democratic republic that is respectful of human rights.

The Constitutional Court

The Constitutional Court, which was only established in 1956, has come to be seen as a chief defender of the values of

the 1948 constitution. Its main task is to judge the constitutionality of existing law. Before the Court was set up, this responsibility fell to the notoriously conservative Court of Cassation, the highest court of appeal for matters of ordinary law. The Court of Cassation was often unwilling to find pre-Republican law unconstitutional and the result was a backlog of Fascist legislation that has not been removed to this day. Attacking this backlog took up most of the Court's time in its earlier years.

Like all Italian institutions, the Constitutional Court is not entirely free from political influence. Five each of its fifteen judges are chosen by the President of the Republic, parliament and the ordinary and administrative high courts. The parliamentary nominees, especially, tend to be party political. The range of parties included in the distribution of seats on the Constitutional Court widened over time with the widening of the range of parties included in the governing coalitions. From the 1960s, the PCI was also included in the distribution. Despite this politicisation and its very large workload, the Court has proved an effective check on the executive, overturning or forcing the reinterpretation of laws it judges incompatible with the constitution.

The Constitutional Court has acquired some new functions since 1956 and especially since the implementation in 1970 of the ordinary regions (see chapter 5) and of referendums. The Court must resolve conflicts of competence between different branches of the State and is frequently called on to adjudicate disputes between region and State as to which level of government is responsible for what. The Court must also rule on the admissibility of questions to be put to referendum.

Referendums

Provision for referendums was made in the 1948 constitution, but was not enabled until 1970. Referendums in Italy are normally abrogative. In other words, they can repeal laws or

parts of laws, but they cannot propose new law. This negative power of referendums can make them a rather clumsy instrument. For example, the 1993 referendum intended to reduce the importance of PR in all parliamentary elections, but approved only changes to the Senate. This was because elections to the Chamber of Deputies have different rules that could not readily be adapted to reduce the importance of PR through a mechanism of repeal.

However, referendums are a powerful expression of public feeling and politicians must take note of the general intention behind them. The 1993 referendum on electoral reform, which was combined with other referendums expressing dissent towards the system, forced the resignation of the Prime Minister, Giuliano Amato. Amato had understood that the referendums were a death sentence for the regime. Before this, in 1991, the referendum on preference voting had signalled the beginning of a mass, cross-party movement for electoral and system reform.

Referendums have been promoted on a wide range of issues. Some of the most important of these include divorce, public order legislation, public financing of parties, abortion, wage indexation, nuclear power, field sports, electoral law and drug decriminalisation. Referendums tend to be associated with anti-establishment themes, in which the promoters' intent is to liberalise law or defend permissive legislation. As such, they were a major tool of the Radical Party, with its concern for civil rights, and later the Greens. More recently, as noted above, referendums have been used to express public outrage at the corruption and inefficiency of the regime. However, referendums are not always anti-establishment. The 1974 divorce referendum – the first to be held since the establishment of the 1948 constitution – was promoted by militant Catholics who wanted the repeal of a law permitting divorce.

Referendums can be called at the request of 500,000 voters or five regional councils and must then be allowed by the Constitutional Court.

Electoral and institutional change: the 'Second Republic'

Italy is currently undergoing a major process of institutional reform. New electoral rules have already been established, although further amendment of these is possible. However, the impact of the 1993 electoral reforms on the underlying philosophy of the constitution was so great that many already speak of a 'Second Republic'. Actual constitutional reform, which is more difficult to achieve, is in progress.

Although the reform of Italy's constitutional arrangements and electoral system has long been debated, it was not until the corruption scandals of 1992-3 and the mass shunning of the traditional parties by the electorate that much was actually done. Until the crisis of the 1990s, those who had the power to change the rules were on the whole served well enough by the existing ones.

Electoral reform

This section will be limited to a description of the rule changes brought in in 1993. The social and political movement that led to the reform is described in chapter 4, on the old regime, while the effects so far of the changes on the political system are analysed in chapter 8, on the 1990s.

In the referendums of April 1993, the electorate decided that the use of PR should be vastly reduced in elections to the Senate. However, it was understood that a vote for the reform of the electoral rules for the Senate was in fact a vote for wider change, as the referendum question was limited to the Senate for technical reasons (see above). The government of Giuliano Amato resigned and was replaced by a caretaker government, which for the first time included non-MPs in the cabinet. The new government, headed by Carlo Azeglio Ciampi, director of the Bank of Italy, had the specific task of carrying through the reform.

Electoral rules were not written into the 1948 constitution and this made them more amenable to change than the

institutions of the constitutional order. Even before the referendum that led to the reform of the parliamentary electoral rules, a new, first-past-the-post electoral system and the direct election of mayors had been brought in for local elections. In August, new electoral rules were approved for both houses of parliament. Under the new rules, 475 of the 630 members of the Chamber of Deputies are elected in single-member constituencies. In this part of the election, the constituency candidate with the largest number of votes in that constituency wins. The remaining 155 seats (one-quarter of the total) are allocated by a system of PR in twenty-six multi-member constituencies. Only parties obtaining at least 4 per cent of the vote in the PR part of the election can be allocated seats.

Voters have two ballot papers. One is used to vote for a constituency candidate and the other is used to vote for a party list. This allows voters, if they wish, to vote for one party in their constituency and another in the party lists. In the competition for the 75 per cent of seats that are elected in the single-member constituencies, parties are forced to cooperate in alliances or blocks to stand a chance of winning the seat. The new system therefore has the effect of forcing the formation of alliances or coalitions to fight the single-member constituency elections and in theory should create pressure for a simplification of the multi-party system and movement towards a two-party system.

Italy's very pure system of PR had been seen as a major cause of the lack of clear lines of governmental accountability. The multi-party system led inevitably to bargaining among the parties, as no one party could impose its choice of office holders or legislative programme on the others. Because of this, the electorate could not judge the parties of power on their individual merits. Multi-partyism was also held responsible for cabinet instability and the long-term domination of politics by the DC. Ultimately, then, the system of PR was perceived by many as deeply implicated in rule by the parties and political corruption.

Whether or not the electoral reform is a remedy for Italy's ills will not be clear for some time. The electoral reform will probably take several electoral cycles to settle in, as parties adjust to its implications for organisation and strategy in the electoral competition. In the meantime, reforms of the constitution itself are being prepared.

Constitutional reform: the 'presidentialist' project

There have long been complaints, especially from the right of Italian politics, that Italy is 'ungovernable'. In this view, parliament is over-powerful and the opposition (which until the 1990s effectively meant the PCI) has too much power to thwart government plans and prevent the executive from pursuing a coherent course: the elected government should be allowed to govern and Italy's wide array of liberal institutions are a deterrent to effective decision-making. One of the most important strands of this sort of thinking held the Gaullist-inspired Fifth Republic of France as a model for constitutional reform. General de Gaulle abhorred the excessive powers of the French National Assembly. The 1958 constitution, drawn up in accordance with his preferences, was intended to locate authority primarily in the person of the President, the office he himself would assume, and subordinate prime ministers and their cabinets to decisions emanating from the presidential palace. In an amendment of 1962, the President was to be directly elected by the people. Direct election conferred on the office the authority of popular mandate and intensified the personal relationship between the head of State and the people.

The analogies between the Fourth Republic of France and the fractious multi-partyism of Italy made de Gaulle's solution an obvious template for Italian constitutional reform. Outside the extreme right, the presidentialist project in Italy was most famously associated with Francesco Cossiga (President of the Republic 1985-92), and Bettino Craxi (leader of the PSI and the first Socialist Prime Minister, 1983-7). Cossiga often used

the charisma of the Presidency as a platform for his views, especially on the excessive power of the parties. Craxi's premiership seemed for a while to put institutional reform in a presidential direction firmly on the political agenda. But Craxi and the PSI were not able to overtake the PCI to become the main party of the left. The PSI – which by this time had lost any meaningful claim to being socialist – remained the much smaller party and, although an important party of government, it did not gain decisive influence over the political agenda. Craxi himself was later disgraced in the corruption scandals.

The theme of executive empowerment again emerged strongly during the brief premiership of Silvio Berlusconi in 1994. The story of Berlusconi's battles with the power-dispersing institutions of the 1948 constitution is recounted in chapter 8.

The left's alternative to the project of presidentialism, with its sometimes despotic undertones, has been far less clear. Historically, the PCI was defensive and even proud of the liberal constitution it had helped to forge. But as the corruption scandals emerged to rock Italy in the early 1990s, it became easy to confuse defence of the old institutions with a defence of the corrupt old order. Increasingly, a popular will for accountable, efficient and clean government has been perceived to converge with a call for reform along the lines proposed from the right. As a result, the leadership of the main party of the left has become deeply ambiguous on the issue and the case for restraining the executive in a politically fragmented society has not been made clear.

Despite the domination of the debate by the language of the right, a presidential system involving a massive concentration of powers in the office of a directly elected President seems unlikely in Italy. Even de Gaulle was unable to impose such a system in its purest form, and presidentialism in France is increasingly tempered, for example by frequent periods of 'co-habitation' when the Prime Minister and President are from different parties and decisions must be shared and negotiated

between the two offices. What is more, Italy in the 1990s is not France in the 1950s. De Gaulle brought in his constitutional project in the context not only of internal political blockage but of massive internal and external crisis in the form of the Algerian war. He was greeted as a hero by the people and had a very free hand in the resolution of the crisis. Constitutional reform in Italy is taking place under very different circumstances. It cannot be imposed by a single 'author' mandated to lead at a time of crisis and the reform package will have to be negotiated among the various parties.

The special procedures of constitutional reform

In Italy, constitutional reform is a special case of legislation. Constitutional changes have to be passed with a two-thirds majority in both houses of parliament, or they may be submitted to the people in the form of a referendum. Part of the underlying philosophy of the constitution is that it should not be readily changed. The constitution lays down the rules that govern the relationships between the political decision-makers and the people and places formal constraints on what the executive can decide and how the decisions are to be made. It has therefore been put out of reach of the executive it is there to restrain. It is not possible, in other words, for government to change the rules of the game without the support of a good part of the opposition. This contrasts with the more ancient democracy of the UK, in which the constitution, which is not written as a single document, may be changed by ordinary law. Because of the special rules governing constitutional amendment in Italy, before the establishment in 1997 of the bicameral reform commission, alterations to the constitution had been rare and limited to rather minor areas.

The bicameral commission of 1997

The left-of-centre government headed by Romano Prodi assumed the extensive reform of constitutional arrangements as

one of its central tasks. A bicameral commission was established on 22 January 1997 to draft proposals for change. The commission comprised thirty-five deputies and thirty-five senators, who were nominated by the presidents of the two houses on the advice of the parliamentary parties. The composition of the commission thus reflects the proportions of the different political groupings in parliament. Its task is to draft a reform of part two of the constitution, which governs relations between the different branches of the State. Four main areas of reform have been discussed in three subcommittees. These are:

- 1 *The form of the State.* Here the debate focused on proposals for further devolution towards a federal State.
- 2 *The form of government and bicameralism.* This subcommittee was concerned especially with the relations between the executive and parliament.
- 3 *The system of guarantees.* The emphasis here was on the powers and independence of the judiciary.

The bicameral commission also discussed proposals for further changes in the electoral system.

The bicameral commission reported in summer 1997 after six months of deliberation. Its proposals are outlined below. However, it should be remembered that they may undergo considerable alteration during the process of ratification in parliament.

- 1 *The form of the State.* The commission has made rather timid proposals for increased taxing and spending powers for the regions. The Northern League is unlikely to be satisfied by the degree of devolution involved.
- 2 *The form of government.* The commission recommends the direct election of the President. However, the commission does not propose that this office be equipped with a full array of executive powers, although it will clearly have a much enlarged role, for example in foreign and defence

policy. As before, the President must appoint a Prime Minister from the largest party or coalition. Such an arrangement, if retained, is likely to result in periods of cohabitation. The commission has also proposed a reduction in the size of parliament. Under the commission's proposals, seats in the Chamber of Deputies would be reduced from 630 to 400, and in the Senate from 315 to 200. A smaller, third chamber would be added to give specific representation to the regions.

- 3 *Judicial reform.* This has been deferred and must be debated in full parliament.
- 4 *Electoral reform.* The committee proposes the retention of the present 75 per cent to 25 per cent mix of first past the post and PR. However, a 'bonus' of seats would be allocated to the coalition winning the most votes.

The commission's proposals must be returned to parliament and in some cases submitted to referendum. Even in the absence of major crises such as the fall of government, the process of ratifying the reforms is unlikely to be completed before 1998.

Further reading

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Hine, D. and Finocchi, R. 'The Italian Prime Minister', *West European Politics*, Vol. 14, No. 2 (1991).

For the 1993 electoral reform see Lo Verso, L. and McLean, I. 'The Italian General Election of March 1994', *Electoral Studies*, Vol. 14, No. 1 (March 1995).