

## PARLIAMENTARISM IN SOUTHERN EUROPE: STUDY OF ITALIAN STYLE<sup>1</sup>

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### PARLIAMENTARISM ITALIAN STYLE

Since 1948 the Italian Republic has had a form of parliamentary government. From a purely constitutional point of view, no changes have taken place throughout the sixty years of its existence. From a political point of view, however, several important changes have occurred so much that, especially, in the past fifteen years recurrent tensions and conflicts have characterized the working of all governments and their relationships with Parliament and with the different Presidents of the Republic. Proposals for reforming the Constitution have proliferated, but so far nothing has followed. The most important transformations have affected the Italian party system and, as a consequence, the working of the governments and the role and power(s) of the head of the government. Little or no change has taken place neither within Parliament nor in the relationship between government and parliament.

In this paper, I will first provide a description of how the Italian form of government should work according to the Constitution. Then, I will explain how it has worked in practice from 1948 to 1993. The collapse of the Italian party system and the reform of the electoral law have created an entirely different ballgame which I will duly analyze. Therefore, a lot of attention will be given to the post 1993-1994 period. My paper will end with an assessment of the present situation and with few predictions on the near future.

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## **ACCORDING TO THE CONSTITUTION.**

The paramount preoccupation of almost all Italian Constitution-makers was forever to avoid that one person could succeed in concentrating in his hands too much institutional and political power. At this point, it is not of particular importance to ascertain whether the Constitution-makers were right or wrong in their assessment of the past. What counts here is that, what was dubbed the “complex of the tyrant” referring to Benito Mussolini’s rule, was duly translated into the wording of the Italian Constitution. First of all, the head of the government was deliberately defined “President of the Council of Ministers”, that is, not Prime Minister, in order to stress that he is supposed to be a only *primus inter pares* and definitely not a *primus super pares* , not above his ministers. Second, the vote of confidence is given separately by both branches of Parliament to the *entire* government and not specifically to the head of the government. This means that the motion of censure will have to affect the President of the Council of Ministers together with all his (not a single Italian woman has obtained the highest governmental office) ministers. It has also meant that no individual Minister could be obliged to resign by Parliament and that, when the relationship between the President of the Council of Ministers and one or more of his Ministers became tense, the entire government would resign. Third, the President of the Council of Ministers has the power to suggest the names of his ministers to the President of the Republic who officially appoints them. Fourth, not even the power of dissolution of Parliament is in the hands of the President of the Council of Ministers. According to the Constitution, Parliament is dissolved by the President of the Republic who has previously “heard” the Speakers of the House and the Senate. This means that the President of the Council of Ministers may ask the President of the Republic to dissolve Parliament, but the President of the Republic has the discretionary power, some would say the “constitutional duty”, to explore whether there is another parliamentary majority willing and capable to give a vote of confidence to a new government and to sustain it in an acceptable/appreciable manner and extent.

The articles of the Constitution concerning the government and its power(s) contain some deliberate vagueness, but most certainly they have been considered as indicating a profound constitutional weakness of the Italian government and its head vis-à-vis Parliament. Even though the practice was miserable, the weakness may not be necessarily found, as I will argue later, in the Constitutional norms. On this point, I leave aside all possible comparisons with the British Prime Minister, the German Chancellor, the Spanish Presidente del Gobierno, because the most similar case is represented by the French Prime Minister of the Fourth Republic, and we all know how that story came to a quick and traumatic end. There are some reasons, then, to encourage the scholars to look more deeply into the reasons why the first phase of the Italian Republic, characterized by weak governments, lasted, nonetheless, forty-five years.

## **IN PRACTICE.**

The period from 1948 to 1993 can be subdivided into four different coalitional phases: centrism DC, PSDI. PRI, PLI (1948-1960); centre-left DC, PSI, PSDI, PRI(1962-1976); national solidarity DC (1976-1979); *pentapartito* (five party governments) (1980-1993). From the point of view of the way in which Italian governments came into being and were replaced and of their relationships with Parliament and the Presidency of the Republic, there are no peculiar differences throughout the entire period. Practically, it was never the President of the Republic who decided whom to appoint to the office of President of the Council of Ministers. The procedure was slightly more complicated. Following consultations with all potential coalition partners, the secretary of the party polling the relative majority of votes, that is to say, of the Christian Democrats, submitted the name of the person to be appointed to the President of the Republic who, after having received a persuasive communication from the secretaries of the various coalition parties, would duly appoint him. In very few cases, mainly when the Christian Democrats and their potential allies had been unable to reach a consensus on one single person, the President of the Republic was given a roster of names, a shortlist out of which after having consulted the secretaries of all the governmental coalition partners he would

choose and appoint one. As to the choice of Ministers, it has never really been in the availability of the President of the Council of Ministers nor, even less, of the President of the Republic. Having decided how many and which ministries were going to be allocated to the coalition partners, it was up to the secretaries of the parties to choose their own Ministers. If a party was divided into factions, which was always the case of the Christian Democrats and of the Socialists, their faction leaders chose their Ministers and the President of the Republic would almost always (only one exception is officially known, but there may be few others) ratify and sign the entire list. This selection process is both the consequence and the cause of the power of faction leaders because they could blackmail their party leaders and shake any government not including their potential Ministers.

As to the dissolution of Parliament, first one myth must be dispelled. It is true that there was a lot of governmental instability between 1948 and 1993, but the first four Italian Parliaments (1948-1953; 1953-1958; 1958-1963; 1963-1968) all completed their term. Italy was blessed (as was Germany thanks to Konrad Adenauer) by the long uninterrupted tenure of the first President of the Council of Ministers, the Christian Democrat Alcide De Gasperi (1946-1953) which certainly contributed to the consolidation of Italian democracy in a most difficult phase. In a way, all the governments (eight) led by De Gasperi were unstable, but the fact that the President of the Council of Ministers repeatedly re-acquired his office softened the negative consequences of governmental instability. The various governmental crises, then and after, appeared to be just a way, admittedly, somewhat costly in terms of time and energy, to proceed to the reshufflings of Ministers and to the re-allocation of power among the governing parties.

All the subsequent early dissolutions of Parliament, starting in 1972 (then 1976, 1979, 1983, 1987) were requested by the evanescent parliamentary majorities, and not imposed, which would go against the Constitution, by the President of the Republic. What is more important, however, is that the decision to dissolve Parliament, that is, more precisely to ask the President of the Republic for its dissolution, was never taken by the President of the Council of Ministers in a

more or less splendid isolation. Had any President of the Council of Ministers indicated his propensity to do so he would have been immediately replaced by his own party and governmental majority. The decision was taken by the secretaries of the parties making up the governmental coalition, usually, with one exception in 1987, after a wide agreement had emerged on the impossibility to continue the coalition and the willingness to ask the voters to pass a judgment on their performance. It may be interesting to know that until October 1998, no Italian government ever fell because of the approval of an explicit vote of no confidence against it. Also, all governing parties tried to avoid a parliamentary debate in occasion of an early dissolution of Parliament in order not to expose in public their differences of opinions, tensions and conflicts and not to deepen them. After all, they were all almost absolutely certain that, one way or another, they were going to be obliged to (re-)construct a highly similar coalition.

How can we understand the overall concrete dynamics of Italian politics? Which factor is truly responsible for the complex interplay between the formation and the dissolution of the governments and their relationship with Parliament, the role and the powers of the President of the Council of Ministers, the working and the dissolution of Parliament, the role and the exercise of which powers by the President of the Republic? There is no doubt that the central factor explaining all these relationships and their dynamics is represented by individual parties and the party system. The Constitution-makers intention to avoid the “complex of the tyrant” was translated into, the more or less, intentional creation of another extremely, perhaps, excessively, powerful collective actor: the party system. In the light of the overall 1948-1993 experience, one is justified in stating that a new, not totally unexpected “tyrant”, made its appearance in Italian politics: *partitocrazia* (whose difference from the German Parteienstaat can be fruitfully explored). There cannot be any doubt that the Italian parliamentary model can neither be correctly analyzed nor convincingly understood and evaluated without looking closely at the parties and the party system.

Italian parties staffed and controlled all the important political and institutional offices, at the national as well at the local level. The parties were clearly and unabashedly superimposing their personnel and their will on all the institutions, including, of course, the entire network of local governments. Up to 1993 all Italian Presidents of the Council of Ministers and Presidents of the Republic were party men, that is, with a clear party affiliation and a significant political biography. With a handful of exceptions, all Italian Ministers were party members in good standing. Even at the local level, all the mayors of the major cities and later the Presidents of the regions were party members. In a way, one could say that Italy was an almost perfect instance of party government. However, it showed two peculiarities. The first one, debatable and controversial, but extremely significant was the lack, indeed, the impossibility of governmental alternation. The second one, decisive, was the sheer extension of the power of the parties, the Communists included, in a minor version of petty consociationalism, to the economic, social, and cultural spheres. Italian parties did not have to wait for the theorists of the “cartel-party system” to take unbridled advantages from state resources at all levels. It is in this juncture that the Italian variant of party government takes its merry turn towards the dense network of *partitocrazia*. It is important to stress that the power of Italian parties was never just confined to the political and institutional spheres, but it was extended to the economic, social and cultural spheres. After all, as Antonio Gramsci had brilliantly put it few decades before it is through the conquest of social and cultural productions that parties may/will acquire hegemony. His lesson did not go lost, especially on Christian Democratic and Communists politicians. But because it was crystal-clear that, for international reasons, the Communists would never be allowed to get governmental power, party competition in Italy was deployed within undefined, though widely understood, boundaries. Giovanni Sartori’s interpretation of the Italian party system as one case of the model of “polarized pluralism” captured convincingly the decisive features according to which the system worked.

Exactly because the parties controlled both governmental and parliamentary offices, few tensions and conflicts could be considered simply institutional, that is deriving from clashes between the two institutions, government and

Parliament, and their respective office-holders as such. It was never the case that one could pit the government vs parliament, or viceversa. On the contrary, it was always the case that some party or party faction declared its intention to obtain a redefinition of the distribution of offices and resources. As long as this redistribution was not achieved, that party/faction engaged in the production of some turbulence in the government, in parliament, and in the relationships between Parliament and government. Because secret voting characterized the working of the Italian Parliament until 1998, the so-called snipers (*franchi tiratori*) took advantage of this ready-made weapon and frequently resorted to it. From time to time, the consequence was a governmental crisis. Nevertheless, I believe it would be a mistake to speak of a confrontation between Parliament and government. They were all instances of the ongoing war of attrition waged by the parties and by party factions to obtain short term rewards. In any case, secret voting was almost entirely abolished in 1988 producing no significant improvement neither in the working of Parliament nor in the relationships between Parliament and government.

An assessment of the functions of the Italian Parliament in the first phase of the Republic is rather easily reached. Fundamentally, Parliament performed quite satisfactorily the role of a representative assembly. It was successful in representing Italian parties that, on their part, were capable of representing their respective social groups, their interests, and their preferences. It was when the parties initiated their decline that complaints about a crisis of representation became to be heard. The other function that the Italian Parliament performed at least as satisfactorily was the reconciliation of interests through negotiations among the different parliamentary groups, outside interest groups, the bureaucracy. Indeed, from the point of view of interest negotiation and reconciliation, Parliament enjoyed most certainly a central role in the political system also it offered the opposition many opportunities meaningfully and gratifyingly to participate in this activity. All the other functions usually allocated to Parliament were either eclipsed by the parties, for instance, control over the behavior of the government, or taken over by the governmental majority, as we will see has been the case of the legislative function. In some instances, then,

Parliament was not central at all, but an accessory to the governmental majority and the parties making part of it.

In the Italian political debate, the phase that ended in 1993-1994 is often referred to as the First Republic. In practice, if one does his/her political science homework and correctly defines the regimes with reference to the Constitution, the institutions, the rules and the procedures, then in Italy there has so far been just one single Republic. However, it is legitimate and, even, useful to divide the history of the Italian Republic into two quite different phases. The first phase started in 1948 and ended in 1993-1994 when, following a referendum on the proportional electoral law, Parliament was obliged to draft a new non-proportional law and when new elections ushered in an almost entirely new party landscape and a new type of party competition. I apologize for using four times the adjective new, but after more than forty years of political (not governmental) stability bordering with (political) stagnation, the events of 1993-1994 amounted to almost an overhaul of the traditional political dynamics of the Italian Republic.

#### **AFTER 1994.**

From a purely political point of view, the post-1993-1994 situation was characterized by several changes that can be considered traumatic for the old party leaders, but also for their traditional voters. The new electoral law, three fourth of the seats to attributed in single-member constituencies by a plurality method, opened a window of opportunity for the appearance of new parties and new political actors. At the same time, old party leaders who had lived and thrived well beyond their share of the votes, but especially those who had grown accustomed to behaving according to the logic and principles of proportional representation, proved unable to grasp the new electoral grammar. Thus, not only did Berlusconi create his own political vehicle, but he also immediately understood the need for the building of pre-electoral coalitions. And he did so in such a successful way that he won the first elections held in March 1994. In fact, the entire structure of party competition and government formation was invested by the incentives and the constraints shaped by the new electoral law.



Compared with the pre-1993 phase, two most important phenomena made their appearance that did significantly affect the formation of the government. First, the largely plurality electoral law applied in single-member constituencies made it compulsory for the parties to create as encompassing a coalition as possible in support of their candidates. Almost as a consequence, these coalitions extended over all the national territory and, after the electoral results came in, they were quick to transform themselves, respectively, into the government and the opposition. This put an end to the long processes of negotiations among the parties that had characterized the first phase of the Republic when all the parties, even those that had shared a governmental role would compete against each other. Once the votes had been counted a long process of negotiation started for the identification of the political leader to become President of the Council of Ministers and for the conditions at which the parties were willing to enter into a coalition. Now, with minimal variations, the electoral coalitions would transform themselves rapidly and entirely into governing coalitions. Second, the parties that had joined in a coalition were visibly led by a personality who became automatically the candidate to the office of President of the Council of Ministers. If negotiations had to take place for the selection of the candidate to that top office (but, in the Italian case this need has existed exclusively for the divided, litigious, and volatile center-left), they had to be held before the vote. Therefore, to some extent, the voters had also the possibility of passing a judgment on the personality who had been chosen by the parties to lead the government. This personality might have a value-added element, as most surveys suggest has always been the case with Berlusconi, that is some voters were attracted to a coalition because of its leaders (and not because of the parties and of their manifestos). In a way, the power of the President of the Republic to appoint the President of the Council of Ministers immediately after the electoral results were in appears somewhat curtailed, though only with reference to the formal article of the Constitution and not as I have described it in its practical working during the first long phase of the Italian Republic.

At this point, it may be of some interest to remark that the new electoral law produced unintended consequences regarding the personalization of Italian

politics. The Constitution-makers had fought against the complex of the tyrant. Now a candidate who had been encouraged by the new electoral mechanisms to personalize his politics would claim the office of head of the government and would, of necessity, obtain it in the wake of the electoral victory of his coalition. Automatically, this chain of events was bound to authorize him to believe that he would enjoy not only significant political powers, but also great institutional powers. Not so, because the Constitution having not been transformed it was still designing a traditional model of parliamentary government in which the equilibrium of powers between Parliament and the government remained unaffected. From the moment Berlusconi took office for the first time in May 1994 up to now, tensions, conflicts, reciprocal accusations, proposals for reform, and even a constitutional reform, approved by the centre-right, but defeated by the voters in a 2006 referendum, followed. So far to no avail.

The fact that there had to be a recognizable and visible leader of the coalition of groups and parties putting up joint candidates in single-member constituencies was of course a political novelty with probable institutional implications. Some, especially, but only, the supporters of Berlusconi, equated this widespread recognition by the voters of the leadership of the major alignments with a quasi popular election of the President of the Council of Ministers. This somewhat stretched interpretation was immediately put to test by the crisis of Berlusconi's first government in December 1994. When offering his resignation to the President of the Republic, Berlusconi claimed that, having been "elected" by the people, he could not be replaced through the decisive votes of some disloyal parliamentarians who represented only a tiny minority of the voters at large. Therefore, he asked for an immediate dissolution of Parliament and new elections. Sticking to the time-honored formal interpretation of the Constitution, the then President of the Republic Oscar Luigi Scalfaro (1992-1999) rejected Berlusconi's request after having explored and ascertained the existence of a parliamentary majority in both branches that was willing and capable of sustaining a new government. Curiously, but absolutely consistent with his behavior (and with an interpretation of the Constitution that I consider substantially correct), President Scalfaro had to reject a similar request for the dissolution of Parliament advanced by Prodi when he was defeated by a vote of

no-confidence in October 1998. Another, slightly different, majority was possible and willing to support another President of the Council of Ministers. Hence, in both instances President Scalfaro's decisions were not simply justified, but, what is more important, constitutionally appropriate and legitimate.

The point to be stressed is that, in the Italian model of parliamentarism, what is constitutionally imperative for the formation of a government, any whatsoever government, is that it must receive the confidence from both houses. At this point, one may legitimately admire the flexibility of the model and/or blame the Constitution-makers for their, in all likelihood deliberate, vagueness. Both cases, 1994 and 1998, prove that the President of the Council of Ministers enjoys no autonomous power of dissolution of Parliament. This power is and remains in the hands of the President of the Republic. Nevertheless, when fully backed and supported by his disciplined and convinced parliamentary majority, there seems to be no doubt that the President of the Council of Ministers would be in the position of asking and obtaining a dissolution of Parliament, even when that dissolution is justifiable only because of partisan goals. In a way, the parliamentary majority would declare its strategic dissolution. No case of this type has so far occurred (though the 1987 dissolution of Parliament came very close to being the product of the will of the parliamentary majority).

The 1994 and 1998 replacements of the governments deserve particular attention because they had some dramatic features. The 1994 elections, held with the new electoral system, had inaugurated a new political era. The ousting of Berlusconi's government was a blow to the many expectations concerning the possibility of a government chosen by the voters and capable of lasting for the entire parliamentary term. The 1996 elections had seen the victory of a new type of coalition, l'Ulivo (Olive Tree), led by another (Berlusconi being the first case) non-politician, Romani Prodi, suggesting the possibility of a restructuring the Italian party system by going beyond the *partitocrazia*. Berlusconi had to wait several years before crowning his political adventure by returning to office in 2001. The dream of the Ulivo was broken in 1998, never to be resurrected, when the most traditional leader, Massimo D'Alema, of the most traditional party, the former Communist PDS, became President of the Council of

Ministers, through a most traditional parliamentary realignment that many Italians could associate with their traditional vice: *trasformismo* (parliamentarians elected on a different platform moving to support the nascent governmental coalition made of opposite parties).

On the negative side one may state, as several Italian commentators have complained, that in 1994 and in 1998, the attempt to “rationalize” the “model” of Italian parliamentarism in the direction of neo-parliamentarism, supposedly characterized by the features usually attributed to the Westminster model (having a strong Prime Minister in full control of his/her parliamentary majority), suffered serious setbacks. On the positive side (for what it counts this is my scholarly position), one can justifiably maintain that, in both governmental crises, the Italian model of parliamentarism showed its flexibility. In fact, there was more than flexibility. Looking at these two instances, one can appreciate fully a virtue that Juan Linz has attributed to the general model of parliamentary government. The crises *in* and *of* the government can be solved *within* the regime, its Constitution, its existing rules, and its existing procedures. They do not affect the institutions as such. They affect the role of the political actors. Therefore, all political crises within parliamentary regimes are susceptible of political solutions and will not be shifted to become, as they may in presidential regimes, institutional crises.

For reasons that I cannot explore here, not being part of the Constitution, the electoral law was once more changed in a highly partisan way by Berlusconi's parliamentary majority just few months before the general elections scheduled for April 2006. The return to yet another variant of PR was badly wanted by Berlusconi in order to minimize the size of the all too likely defeat of his coalition. The new proportional electoral law, characterized by an exclusion clause (4 per cent nationally for the House and 8 per cent in each region for the Senate) and by a majority bonus can be subjected to many poignant criticisms (again, not here). But the existence of a significant majority bonus for the coalition that had obtained the highest number of votes made it possible to retain what, according to the polls, most Italians consider a precious achievement, that is, the bipolar competition. Together with this type of

competition, other political goods follow: the construction of pre-electoral coalitions in a position to transform themselves into governing coalitions (and/or parliamentary opposition); the quasi popular mandate to the leader of the victorious coalition to become the President of the Council of Ministers. Somewhat unexpectedly, in 2008, all minor left-wing parties did not succeed in crossing the 4 per cent clause and have been excluded from Parliament altogether. The Italian party system has been drastically simplified since there are now only five parties represented in the 2008-2013 Parliament, in order of size: Popolo della Liberta', Partito Democratico, Italia dei Valori (Di Pietro's political vehicle), Lega Nord, Unione di Centro. For the first time ever, the size of the Italian party system appears comparable with that of several other European democracies, for instance, Germany, Sweden, Austria, and Portugal. At this point, especially after Berlusconi's sizable electoral success in April 2008 and the appearance of a streamlined party system, one could legitimately believe that the overall situation has reached a new equilibrium based upon a significant redistribution of political and institutional power that has been accommodated within the boundaries of the parliamentary model.

In the post-1994 era, in an informal way, the President of the Republic has witnessed his power to appoint the President of the Council of Ministers, though exclusively following new elections, transferred to the voters. Nevertheless, in the case of a crisis of the governing parliamentary majority, there is no doubt that the President of the Republic almost fully recovers the power of appointment. Though this has not yet been tested, it is also likely that the President of the Republic has seen a significant reduction of his constitutional power concerning the dissolution of Parliament. But, leaving aside the fact that he could never impose any dissolution as long as there exists/ed a viable parliamentary and governmental majority, this point ought to be put differently. The President cannot oppose the dissolution of Parliament if and when requested by a cohesive and disciplined parliamentary majority trying to make the most of a favorable political situation. But this kind of phenomenon in the light of the early dissolutions in the first phase of the Republic, prominent among them the highly controversial dissolution of 1987, characterized by the clash between Christian Democrats and Socialists, does not appear a complete

novelty. Moreover, in the light of the partisan dissolutions that are the norm in the British political system, what may be taking place in Italy would not be a betrayal of the principles of parliamentary government. Most certainly it will inspire outcries of indignation from the opposition and it will not be greeted with joy by the very same parliamentarians belonging to the majority who might risk losing their seats. However, because of the nature of the electoral law (long, closed lists), the number of affected parliamentarians will probably be extremely small and the political advantages to be reaped by the victorious majority may look quite abundant. Today, this kind of electoral and political speculations seems somewhat idle. Were the Italian bipolar competition to become consolidated, it is not farfetched to expect both political coalitions to resort, when they would consider it advantageous, to a partisan dissolution of Parliament that can be fully accommodated within the Italian model of parliamentary government.

At the end of the day, though still far to come, the President of the Republic would find that his power to appoint the President of the Council of Ministers is seriously limited or constrained and his power to dissolve Parliament largely expropriated by the parliamentary majority itself. All this said or, better, predicted as a possibility, the President of the Republic will not necessarily and automatically become a purely ceremonial figure, a powerless political and constitutional actor. On the contrary, as the experience of the last three Presidents (Scalfaro 1992-1999; Ciampi 1999-2006; Napolitano 2006-2013) persuasively indicates, Italian President would still retain some important constitutional powers. The President of the Republic authorizes with his signature the introduction of all governmental bills into Parliament. He may refuse his authorization when he nourishes doubts on the constitutionality of the bill in its entirety or of some of its clauses. It is known that some doubts were, unofficially, raised with reference to the 2005 electoral law and on several bills concerning the status and immunity of the President of the Council of Ministers. The President of the Republic may also refuse to sign a bill approved by Parliament if and when he detects problems of constitutionality. The bill is then returned to Parliament accompanied by specific suggestions on what to do. In principle, Parliament could simply proceed to few cosmetic changes, but it is not

perfectly clear whether the President would be obliged to sign it and to enact it anyway. This serious constitutional issue remains both untested and unsolved. However, the constitutional objections raised by the President will most certainly serve those who search for a pronouncement on the bill by the Constitutional Court. Therefore, those comments and reservations should not at all be considered politically and legally irrelevant.

Finding himself both at the beginning and at the end of the parliamentary law-making process, the President of the Republic occupies an important political and constitutional role. He is often informally consulted by wise politicians and lawmakers because he has the power to influence the content of the legislation by the government and, at the same time, to act as a check on the behavior of Parliament, its majority, its members. Once more, due to the fact that in the Italian political system there is an ongoing political and institutional transition accompanied and defined by a redefinition of the powers of all the partisan and institutional actors, the limits of the power of the President vis-à-vis the government and Parliament remain somewhat ill-defined and untested. It is my opinion that the attempt by a Parliamentary majority to challenge and to trim the Presidential powers will be chastised by the Constitutional Court and/or may trigger a constitutional crisis of the Italian model of parliamentary government.

## **CONTEMPORARY PROBLEMS.**

In my opinion, it is possible to detect two types of problems with the Italian model of parliamentarism: contingent and structural. However, it is somewhat difficult clearly to distinguish the contingent problems connected with the presence of Silvio Berlusconi in the office of President of the Council of Ministers from the structural problems of parliamentarism Italian-style. Once more, the indispensable link between the two sets of problems is represented by the party system, but its working is affected by the extraordinary impact of Berlusconi's personality and leadership on the entire party system.

All discussions must start from a fundamental premise. There have been many and significant changes in the Italian parties and the party system and

especially in the type of political competition, now essentially bipolar, but there have followed no formal changes in the constitutional powers of three major institutional actors: the government, the President of the Republic, Parliament. Hence, there surfaces a continuous tension between what is new, that is, the sort of almost popular mandate that all governments and their leaders can claim from a political point of view, and what is old, that is the constitutional allocation of power originally meant to prevent any single person from becoming the dominant actor in the political system.

*Contingent problems.* The contingent problems can be defined as follows. When in office as President of the Council of Ministers, Silvio Berlusconi combines both a lot of political power, because he is the leader the largest Italian party called Popolo della Liberta', together with the institutional power attributed by the Constitution to the government and the President of the Council of Ministers. However, his interpretation of the popular mandate is all too extensive and exaggerated since he believes that all institutions, especially Parliament and the judiciary, ought to bow in front of the popular will represented by him. This exemplary populist statement is widely shared, first, needless to say, by those who have voted for him and for his privileged ally, the equally populist Northern League, but, second, is also entertained by several sectors of Italian public opinion. The idea that different institutions have their own specific spheres of active and power and that, to use a famous/infamous word, in a democratic regime no *Gleichschaltung* (homogenization) is acceptable appears very unpalatable to swallow by Berlusconi and his supporters. The idea that, though in different ways and forms, both the President of the Republic and the Constitutional Court are given by the Constitution the duty to provide some countervailing power to the government and to parliament is often decried as obstreperous. The idea that both Parliament and the President of the Republic can in practice provide a check on the behavior of the government and on its legislative acts is fundamentally rejected with one totally simplistic motivation. The government has won the elections; therefore, it has obtained the popular mandate, to be interpreted both as a constitutional right and a political duty, to translate its electoral promises



into public policies. Parliament is nothing more than the body where this translation will and must take place.

Recently, in the light of the slow, unpredictable and cumbersome functioning of the Italian Parliament, Berlusconi has put forward the proposal that only the heads of each parliamentary group should be entitled to declare the voting decision made by their respective group. His motivation is that this easy reform would save time and prevent parliamentary ambushes, violating the will of the people, against the majority. No need to say that this proposal goes both against article 67 of the Constitution, where it is clearly stated that parliamentarians carry out their representational mandate “without constraint”, and against all parliamentary regulations. Nevertheless, it must not be forgotten that the present electoral law has produced parliamentary groups that are totally subservient to their political leaders. Long and blocked lists of candidates mean that the election of any and all candidates is, not just conditioned, but completely determined by two factors: first, their selection; second, their placement on the list. Therefore, though not impossible in principle, it is extremely unlikely that in practice a parliamentarian would challenge the official position of his/her party leader lest he/she be willing to run the risk of not being re-selected. In any case, so far it has not happened. The rare parliamentary defeats suffered by Berlusconi’s parliamentary majority are due, not to explicit outspoken dissent, but to the absenteeism of several parliamentarians of the *Popolo della Liberta’*.

*Structural problems.* Political problems can rarely be defined structural. Almost by definition they are transient. However, in the Italian case, many scholars have considered the existence of a fragmented multiparty system the most significant of the structural problems because seemingly irredeemable. Moreover, the fragmented multiparty system was most certainly responsible for having given birth to weak, litigious, and short-lived coalition governments. All this had an inevitable negative impact on the effective power of the government and the President of the Council of Ministers. Constitutionally, as we have seen, the President of the Council of Ministers was designed to be weak, only meant to coordinate the activities of the governmental coalition, but not necessarily to

lead in a forceful way. Had he taken the path of incisive governmental activities, he was likely first to be resented, then, to be stopped and, finally, to be ousted by his own party or, in any case, by the other parties of the coalition. Paradoxically, political factors explain why Italian Presidents of the Council of Ministers were very cautious in reaching the limits of their constitutional powers though it is highly dubious, in fact, very unlikely, that they lost office because they attempted to stretch those limits. On the contrary, the President of the Council of Ministers avoided confrontational attitudes and kept a low profile knowing that, following a governmental crisis of any kind, their likely reward would be the immediate reappointment. Even the Socialist secretary, Bettino Craxi, who fully enjoyed his image of *decisionista* (ruthless decision-maker), when he was in office (1983-1987) rarely challenged frontally the Christian Democrats who, in any case, in the end displaced him. Though Craxi cherished having a rough relationship with Parliament, his institutional solution to the problems of parliamentarism Italian-style consisted essentially in the successful abolition of secret voting and in the verbal advocacy of presidentialism that was never followed by any action that might have lead into that direction.

I am afraid that there is no way to falsify my following statement, but I think I am justified in maintaining that even cohesive governmental coalitions and politically powerful Presidents of the Council of Ministers would have encountered structural obstacles in the exercise of their constitutional power. The major structural obstacle is represented by the Italian parliament, its nature and its functioning. Unfortunately, too many politicians, but also several Italian scholars, who should know better, define “perfect” the Italian type of bicameralism. On the contrary, if one looks to the way the two Houses work, there is no doubt that the Italian bicameral parliament is not at all perfect, an adjective that should correctly be applied to performance . It would be much more appropriate to define it “imperfect’. If one looks at the powers, the tasks, the composition of the House of Deputies and the Senate, the Italian Parliament must be precisely defined as symmetric. Both Houses are given and share the same type and quantity of powers, namely giving the confidence to the government and withdrawing it. Both Houses perform the same tasks, namely they are supposed to scrutinize, amend, approve all pieces of legislation. As to

their composition, the common element is, of course, represented by the fact that all those who are elected either to the House or to the Senate have been selected by the parties. The differences concern only the age of those who can vote for the House and the Senate, respectively, eighteen and twenty five years, and who can be elected to the House and the Senate, respectively, twenty five and forty years. Among its members, the Senate contains life senators, *ex lege*, all former Presidents of the Republic (there are three of them as of now) plus life Senators appointed by the President of the Republic because of outstanding cultural, scientific, literary, artistic merits (they should be no more than five at any point of time; today there are four). By all counts, age does not make any (political or institutional) difference. Were it not for the existence of life senators, all of them over eighty, the average age of the deputies and the senators would practically be the same. The kind of political representation provided both by the Senators and the Deputies, “mediated” by their parties, is, naturally and inevitably, the same. In addition to the fact that both Houses have to perform the same tasks, the other factor responsible for the malfunctioning of the Italian Parliament is often considered its excessive size: 630 deputies and 315 (elected) Senators. Indeed, these numbers make the Italian Parliament one of the largest in the world, even more so when measured against the size of the Italian population (in 2010 about 60 million people).

Finally, there has been a debate concerning the transformation of the Senate into a House representing the regions. I have to be somewhat vague because the kind of representation the “new” Senate should provide is rather unclear and the kind of tasks it ought to perform remain undefined. The declared goal is the restructuring of the Italian State in a federal form. The German Bundesrat model has been immediately rejected because it would imply the loss of too many parliamentary jobs/positions (the Bundesrat is made of 69 members) and because it would give too much power to the ruling majorities in the appointment of those members. The popular election at large of the regional representatives has also been rejected because it may reduce the power of the parties and allow non-party outsiders to win office. In this case, once more, partitocrazia is defending its territory and privileges.

## **ASSESSING THE ITALIAN PARLIAMENT**

It would be an exaggeration to state that the Italian Parliament is a powerful body. Of course, much depends on how one evaluates the power of Parliament. Much more depends on which are the expectations concerning its performance. For a long period of time, the view formulated by the politicians and the majority of Italian scholars was that the Italian Parliament was (or had to be) “central” in the institutional circuit. In all likelihood, this conception was also shared by the Constitution-makers and had inspired most of them. What was really meant by centrality appeared less clear and has remained quite controversial. The constitutionally correct interpretation was and is that, in any and all parliamentary democracies, Parliament is positively responsible for the inauguration and the functioning of any and all governments. Indeed, parliamentary governments can function reasonably well only if and when they enjoy the continuous and solid support of Parliament, that is, of a relative cohesive parliamentary majority. Those who have been underlining the centrality of the Italian Parliament have entertained and articulated a much wider interpretation of the role of Parliament. Since many of those “interpreters” were left-wing, often Communist, both politicians and scholars, they added that the centrality of Parliament meant not only that all important political decisions had to be taken in Parliament, but that they had to be negotiated between the (Christian Democratic led) governments and the (Socialist) Communist opposition. In spite of repeated, though not solidly backed, requests, the opposition never succeeded, then, in the first phase of the Republic, or in recent times, after 1993-1994, in having a Statute/Charter of the parliamentary opposition specifying its role and powers and offering some appropriately allocated time to its proposals. In any case, it has often been the case that the Christian Democrats and the Communists reached agreements of a consociational nature on several issues. Because of their numerical strength and their political cohesiveness, the Communists could exchange the softening of their parliamentary opposition with some resources, usually funds for local governments and labor policies.

In practice, the Italian Parliament has most certainly not been central, if this term means “powerful”, in control of the law-making process. But, all of us know that the power of parliaments in parliamentary democracies does not consist in “making” the laws. Technically, of course, all bills become laws only after parliamentary approval. However, this does not amount to saying that Parliament makes the laws. Parliament has the constitutional power to analyze and debate the content of all bills. It may amend them, more or less profoundly. It may even reject them. But at the end of the day, the bills that become laws have been drafted and introduced by the President of the Council of Ministers, by the government and/or by individual Ministers. Single parliamentarians retain the power to write and submit their own bills, but the rate of approval of governmental bills vs parliamentary bills is strikingly, though not surprisingly, unbalanced. Out of 100 bills approved by the Italian parliament less than 20 have been one way or another introduced by individual parliamentarians, by bi- or multi-partisan groups of parliamentarians, by entire parliamentary groups. As a consequence, more than 80 of those bills come from the government and its ministries. Again, not surprisingly, the rate of approval of governmental bills approximates the one hundred per cent mark, while the rate of approval of MPs bills is abysmally low.

As suggested by all those who have had governmental responsibilities, the problem with the Italian parliament has not much to do with its *positive* power, that is, its capability to act independently of the government. Left alone, by itself, the Italian Parliament cannot do and does not do very much. The problem has to do with its *negative* power. Parliament is in a position to obstruct the activities of the government, especially to prevent it from having the legislation it wants in a reasonable amount of time. Incidentally, in Italy a governmental bill having an average importance will become law in approximately nine months time. What can now be considered a structural response by the government consists in the enacting of decrees. Indeed, governmental decrees, that must be approved by both branches of Parliament, serve two purposes. On the one hand, they bypass the slowness of Parliament and go right to the target. On the other, they oblige the parliamentary majority to behave in a highly disciplined way. But the relationship between the governments and parliament has deteriorated so much

that many decrees provide a only temporary precarious solution. Nevertheless, some of those “solutions” may last for months because several decrees are reiterated many times against the objections of the President of the Republic (who has the power not to sign them, but exercises it in few extreme instances) and of the Constitutional Court.

Many of the factors negatively affecting the functioning of the Italian parliament have their source in the very structure of bicameralism Italian-style. The simple fact that legislation must be approved in the same wordings by two Houses whose members show a significant inclination to exhibit both their alleged technical knowledge and their political clout, but also transmit the preferences of some powerful lobbies, automatically and unavoidably creates the likelihood of delays and clashes. The existence of coalitional governments made of several parties provides additional instances for the manifestation of differences of opinion and conflicts. This is not to say that the transition to a unicameral Parliament, an option rarely taken into consideration in Italy, will be panacea for parliamentarism Italian (or any) style. A bicameral asymmetric Parliament with clear-cut appropriate specialization of both branches may offer similar opportunities for improvement. In any case, some, though timid and tentative, discussion around this type of solution has been going on for a while and will continue if the Northern League succeeds in imposing its view of a federal State.

## **SUMMING UP.**

In the light of the previous description and analysis of the powers of the government and of Parliament and of their reciprocal relationship, it is quite tempting to state that the Constitution-makers made a wise allocation of powers and responsibilities. They desired a government dependent on a not too powerful Parliament. They also shaped the figure of a not too strong President of the Council of Ministers, obliged to coordinate the activities of his/her Ministers, but never in a position to be a driving force while Parliament was not endowed with those mechanisms allowing it to become a check on the behavior of the government. All this is exactly what the Italian political system has obtained and has preserved for sixty years. Since, however, there have been

many dissatisfactions with the overall working of the politico-constitutional system, the observer is obliged to understand them, to deal with them and to explain them. Usually, the complaints refer to three different clusters of inadequacies: 1) governmental instability; and 2) governmental performance/effectiveness; 3) parliamentary ineffectiveness. More recently, not a new complaint, but a new preoccupation, has arisen concerning 4) the personalization and possible presidentialization of the office, the role, and the figure of the head of the government.

It is quite easy to evaluate governmental instability. The number of governments is a clear and non-controversial indicator. From this point of view, the two phases of the Republic are strikingly different. Governmental instability was very high indeed between 1948 and 1993, the average tenure of the governments being about 10 months and a half. The pattern of governmental instability is less pronounced in the second phase of the Republic because two important changes have materialized. On the one hand, the average tenure has almost doubled reaching approximately twenty months, and it is likely to increase. To be more precise, in the sixteen-year period between 1994 and 2010, there have been ten governments. On the other hand, not only has Silvio Berlusconi already become the longest lasting Italian President of the Council of Ministers, but he is well on his way to accomplish an extraordinary, by Italian standards, performance: to remain in office for one entire parliamentary term (2008-2013). Also, the most important ministries, especially, those of the Economy, Internal Affairs and Foreign Affairs have been given to the same persons who had already occupied them in the 2001-2006 period. Indeed, even between 1948 and 1993 there was a remarkable rate of ministerial tenure in the top offices.

It is much more difficult to evaluate governmental performance/effectiveness. Precise and reliable indicators are lacking. Most Italian governments cannot be pinned down to their electoral promises or to the statements contained in their inaugural speech to Parliament because they usually cover everything in rather bland declarations and vague commitments. In any case, it would probably not be entirely appropriate to attribute the lack of performance to institutional structures and relationships rather than to the capabilities of the governments

and their leaders. Generally speaking, I feel it would be possible to say that performance and effectiveness, insofar as they are affected by the institutional arrangements, depend from the stability, the cohesiveness, and the discipline of the governing parliamentary majority(ies). There is no doubt that in the second phase of the Republic the underlying institutional factors have proved to be conducive to somewhat improved performance and effectiveness. But it should also be clear that the cohesiveness and the discipline of a governing majority are the product both of the electoral mechanisms and the qualities and capabilities of the political leaders and their parties.

As to parliamentary effectiveness or lack of it, again it is not easy to find decent indicators and satisfactory measures. If the fundamental task of a Parliament is, in the famous words of Walter Bagehot, with reference to the English Parliament, “to elect well a government” which I take to mean to choose and support a government, then the performance of all Italian Parliaments has had ups and downs. In the past decade, however, Italian Parliaments have significantly improved their performance on this count. The governments that have received a vote of confidence have also been, to the exception of Prodi’s second government (April 2006-January 2008), sustained in their activities. The criticism of ineffectiveness is grounded in a serious dissatisfaction with the (lack of) speed of Italian Parliaments in transforming bills into laws as well as in the exposure of the parliamentary process to special interests that may “interfere” with the proposals coming from the government and, not least, in the limited space provided for the role and activities of the opposition. Paradoxically, all international statistics show that if parliamentary effectiveness is measured with reference to the absolute number of bills approved, then the Italian Parliament is by far more effective than its British, German, Spanish, and French counterparts. This means that we need more sophisticated indicators and better measures, perhaps evaluating the quality and the importance of the approved legislation. In this case, I am afraid one would come to measure not so much parliamentary effectiveness, but the combined effect of a powerful government and a cohesive parliamentary majority: generally speaking, a rare occurrence in Italy. The Italian Parliament appears also more effective than the other four



European parliaments if we count the number of bills of non-governmental origin that have been approved.

As to the processes of personalization of politics and presidentialization of the office, role, and figure of the head of the government, the Italian experience offers much interesting material. If personalization means that political leaders use and emphasize their personal qualities to achieve power, then contemporary Italy offers both a case of extreme personalization and several cases of almost total lack of it. Leaving aside that it is undeniable that, in the first phase of the Republic, some political leaders were towering personalities, such as De Gasperi (DC) and Togliatti (PCI), and later Craxi (PSI), it is impossible to deny that Berlusconi represents the extreme case of deliberate and joyful personalization of politics. Also because of his anti-political attitudes and sentiments, in a way from the very beginning he was obliged to stress his personal qualities, his successful career and his many achievements. He enjoys to put his persona the center of attention and he thrives on this attention. It would be exaggerated to say that we are witnessing the feared reappearance of the tyrant, but most certainly a powerful showman has made his irruption onto the Italian political scene. On the opposite side of the political alignment, the center-left has both ideologically rejected the personalization of politics and, in any case, it has been practically unable to make good use of it. Both, for reasons having to do with their idea of politics, the former Christian Democrats and the former Communists are opposed to the personalization of politics because they consider politics a collective exercise and nourish some misgivings concerning the role of individual political leaders. In any case, the center-left has never produced flamboyant and attractive political leaders. To make the point more clearly, within the Italian center-left no leader resembling Felipe Gonzales or Tony Blair has emerged (and I venture to say that it will not emerge in the near future). Totally deprived of rhetorical capabilities and of personal charm, Romano Prodi has represented at best what not only party leaders, but, apparently, also the voters for the center-left desired in terms of leadership: someone offering a sober and reassuring image of competence and decency. Prodi went against all trends and most of the time he was inclined to engage in a sort of “de-personalization of politics”.

All this said, the issue of the presidentialization of the office, the role, the figure of the head of the government has clearly made its appearance in the Italian case, but its concrete translations are ambivalent. The centre-left is still subliminally influenced by the complex of the tyrant, and in any case as much unwilling as unable to find and to select someone endowed of extraordinary personal qualities coming and going beyond his(/her) party affiliation, biography, and career. On the other hand, there is no doubt that Berlusconi wants definitely and aggressively to proceed into that direction and to increase the powers of what his supporters have been always calling simply “Presidente” (of course, Presidente Berlusconi). One thing is a preference, quite a different thing is the institutional reality. The Italian President of the Council of Ministers has most certainly acquired a sort of presidential visibility, but his office has not acquired absolute dominance over the other Ministers and, even less, over Parliament. Obviously, Berlusconi has always enjoyed more power than, for instance, Prodi, but his power was essentially personal and political, not institutional, power. He was (and is) more powerful than previous Presidents of the Council of Ministers because he is the true, uncontested, undisputed leader of his own party. This self-conception explains why he has utterly resented some statements by the Speaker of the House of Deputies Gianfranco Fini meant to redefine the structure of power and the functioning of the *Popolo della Liberta'* as well as defending the role of Parliament. On his part, one of the reasons why Prodi could not, even had he wanted to, personalize his politics, is that, making a fatal mistake, he twice, in 1996 and in 2005, rejected the opportunity to become the leader of a party and of the centre-left coalition.

At the end of my exploration of the role and powers of the President of the Republic, of the President of the Council of Ministers, of Parliament and their interrelationships, I have come to the reasoned conclusion that there is nothing wrong in the *constitutional* design of the Italian model of parliamentary government, to the exception of asymmetric bicameralism and the exaggerated number of parliamentarians. Moreover, there now exist in the Italian political system most of the *political* conditions susceptible of giving strength to the parliamentary model. The party system has been simplified. Though the existing

proportional electoral law endowed with an exclusion clause and containing a majority bonus can be criticized from many points of view, it provides a strong incentive to a bipolar competition. In the past fifteen years, the Italian political system has also witnessed governmental alternation, something that had perennially been absent, indeed, impossible between 1948 and 1993. All things considered, then, the impartial analyst cannot avoid to come to the conclusion that political factors have to be given much more weight than institutional structures and mechanisms in order to explain the persistent dissatisfaction with the Italian model of parliamentarism.

On the one hand, one should not forget that the Italian political culture has harbored anti parliamentary and anti political feelings for a long period of time. And Berlusconi has appealed to them and with his declarations and behavior constantly provides justifications and incentives to strengthen antipolitics. But one should not draw automatically the inference that once Berlusconi's has left for whatever reason the political scene, there will immediately follow an improvement in the performance of the political system and in the quality of government. After all, not the entire pre-Berlusconi phase (1948-1993) is to be considered a golden age of Italian politics. On the other hand, all the criticisms addressed against the Italian political class, especially against the former Christian Democrats and the former Communists, seem largely convincing. Not only have they not renewed their ideas. They have destroyed their party organizations replacing them with a poorly structured and politically unattractive Partito Democratico. Their energies seem fundamentally devoted to the protection and advancement of their political career. In the past ten years, aware of the growing criticisms concerning their selection and promotion procedures, the center-left has introduced primary elections. An analysis of the outcome and consequences of the primaries goes beyond the scope of this paper. But it is clear that the primaries have not improved the quality and the leadership of the center-left. At the end of the day, my assessment is that it is the quality of the political (and anti-political) class that is responsible for the malfunctioning of the Italian political system and its parliamentary model. But, of course, one should not refrain from blaming the voters too for their lack of a civic culture, their behavior and their choices. In the end, it may be true that the

voters deserve the kind of government they get (but, not only because I have not voted for Berlusconi's government, I feel I do not really deserve it!).

Zaragoza, 17 y 18 de marzo de 2010