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**Italy in Transition: the Long Road from  
the First to the Second Republic**  
*The 1997 Edmund D. Pellegrino Lectures  
on Contemporary Italian Politics*

Edited by  
*Paolo Janni*

The Council for Research in Values and Philosophy

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## Table of Contents

Preface <i>Stephen F. Schneck</i>	v
Introduction <i>Paolo Janni</i>	1
Chapter I. The Electoral Reform in Italy: Towards a Majority System <i>Alberto Pasolini Zanelli</i>	5
Chapter II. How to Redefine Italy's Unity: A Federalist Solution within Europe <i>Piero Bassetti</i>	27
Chapter III. Constitutional Revisions in Italy, the Amending Process <i>Maria Elisabetta de Franciscis</i>	43
Chapter IV. Italy and the European Monetary Union. Why Italy is on the Border Line? <i>Alberto Quadrio Curzio</i>	85
Authors	109
Index	111

## Preface

Guicciardini once described the politics of the Italian peninsula as a "mirror of the world's." To understand Italy, he suggested, is to understand the political itself. However true such a notion may have been in Guicciardini's day, its veracity is certainly true in the present. The collapse of the Cold War order of things has resulted in a political flux of global proportion, wherein the old constitution of things political no longer holds and a new order has yet to emerge. It is at the same time an age of hope and promise, and an age of anxiety and disturbance.

The politics of contemporary Italy reflects what politics is for this historical moment. The issues of regionalism and governance, religion and political vision, constitutional order and democratic legitimacy, state and society, and even the very idea of the nation-state itself in the context of new transnational orders are central issues for the politics of contemporary Italy, even as they now define aspects of the problematic of politics for our age. Italy has become metaphor and, indeed, "mirror" for the world.

With this in mind, the faculty and students of the Department of Politics of The Catholic University of America are profoundly grateful to Retired Italian Ambassador Paolo Janni, Senior Fellow in European Politics at The Catholic University of America, for his efforts in establishing the "Edmund Pellegrino Lectures on Contemporary Italy," given during the winter and spring of 1997. These specialists and scholars, journalists and statesmen, whom we were honored to receive, all served, through their reflections and analysis of the promise of Italian politics, to bring home the truth of Guicciardini's insight of long-ago.

What follows are the collected texts from those lectures.

Stephen F. Schneck  
Chair  
December, 1997

## Introduction

The idea of organizing a series of Lectures on Contemporary Italy has its immediate origin in my first three years of teaching "European Integration" at the Catholic University of America, as well as in my former experience as an Italian diplomat in the United States. I realized, then and now, that a full understanding of the European integration process was made more complicated by at least two factors.

On the one hand, it is complicated by the "nature" itself of the European experiment. The European Union is neither a state nor an international organization, neither a federation nor a confederation, but a "unicum" with an internal decision-making mechanism which has no precedent in world history. It can be better understood if looked at from within, rather than observed from outside.

On the other hand, an understanding is complicated by the history of the European "nations", their centuries old divisions and conflicts, their sometimes striking cultural diversities, and the weight of their national interests.

The cumulative interplay of these factors, along with the persistence of intellectual inertia, lead people especially outside Europe to look at the European Union as an intergovernmental playground for few major European countries. In reality, it is a mechanism having its own internal logic and dynamics, fueled by the common interest of all its member states.

Further, American textbooks on the European Union pay but marginal attention to Italy. Their most current references concern the permanent instability of Italian governmental coalitions, the inefficiency of its bureaucracy or, as one text put it, "its remarkable absence of diplomatic ambition."

Yet Italy has played a crucial political and diplomatic role in the European integration process. This began from the Messina Conference in June 1955, which led to the negotiations for the Treaties of Rome which in March, 1957, established the European Economic Community (EEC) and the European Atomic Energy Community (Euratom). This role continued till the signing of the Maastricht Treaty in February, 1992, which gave birth to the European Monetary Union and the single currency. This is to say nothing about the huge popular support the European experiment always has enjoyed in Italy.

The main goal of this first Series of Lectures is to provide in overview on the kinds of problems through which contemporary Italy is passing and the political and social upheaval it faces in order successfully to take on the challenges posed to it by its membership in the European Union. A better definition of Italy's contemporary problems will help make it easier to understand why its political, economic and cultural dimensions make it a crucial and permanent player in Europe.

The focus is mainly on the two most immediate challenges facing Italy today: to achieve a consensus on the reform of the Italian Constitution in order to give a greater efficiency to the governmental mechanisms; and to restore fiscal order in order from the beginning to meet the Maastricht criteria for its membership to the European single currency.

Success in achieving these two goals is the gateway for the political modernization of the country.

The present volume responds to these challenges, in four steps.

- Chapter I "The Electoral Reform in Italy: Towards a Majority System" by Alberto Pasolini Zanelli provides a broad historical overview of the march from the first to a "Second Republic" in the sense of greater participation by the people.

- Chapter II "How to Redefine Italy's Unity: A Federalist Solution within Europe" by Piero Bassetti treats threats to the unity of Italy and outlines an hypo-thesis of a solution within a united Europe.

- Chapter III "Constitutional Revisions in Italy, the Amending Process" by Maria Elisabetta de Franciscis studies the revision of the Italian Constitution which concerns not the values which constitute its soul, but above all its mechanisms with a view to greater efficiency for governmental action. This must begin with the reform of the electoral system in order that the goal of popular participation be achieved.

- Chapter IV "Italy and the European Monetary Union. Why Italy is on the Border Line?" by Alberto Quadrio Curzio concerns the kinds of economic and fiscal policies Italy needs within the context of the European Monetary Union.

The four lectures recorded in this book reflect these issues as examined and discussed during February-March, 1997. Their style befits a broad range of readers, as did the original audience at The Catholic University of America in Washington, D.C., which included both the faculty and graduate students of the Department of Politics, as well as interested laymen.

At The Catholic University of America we plan to build and expand on this work; hence this first series of lectures will be followed by others.

My warmest thanks and deep appreciation go first of all to Edmund D. Pellegrino, MD, John Carrol Professor of Medical Ethics, Center for Clinical Bioethics at the George-town University Medical Center and former President of The Catholic University of America, for having accepted that this initiative be named after him.

My gratitude goes also to Alberto Pasolini Zanelli, a journalist and author living in Washington; to Piero Bassetti, a distinguished personality of the Italian political, economic and cultural landscape; to Maria Elisabetta de Franciscis, Professor of Constitutional Law at the University of Naples; to Professor Alberto Quadrio Curzio, the Dean of Political Sciences at the Università Cattolica del Sacro Cuore of Milan for their willingness to be part of the project and for having contributed so much to its success.

I wish to acknowledge also my colleagues, fellow professors and students, of the Department of Government of The Catholic University of America, Washington located at that center of democratic practice and of world concern. They were quick to recognize the importance of this project for Italy and for the world, and generous in their interest and support.

Finally, I wish to express special thanks to The Council for Research in Values and Philosophy which has been creatively devoted to the work of uncovering, enriching and applying the foundations of social life in our times. Its Secretary, George F. McLean, O.M.I., Professor Emeritus of Philosophy, provided valuable advice and invested the personal effort essential to the publication of this project.

Paolo Janni  
Senior Fellow in European Politics  
The Catholic University of America  
Washington, D.C.  
February 1998

## Chapter I

# The Electoral Reform in Italy: Towards a Majority System

Alberto Pasolini Zanelli

This chapter is intended to introduce the problem of electoral reform in Italy, but certainly not to offer a solution. Let the statesmen, the politicians and the pundits of Italy discuss the solutions, fight over and wrangle with them as they have been doing for several years -- and without achieving great success. The problem to be defined here for an American audience, and to be redefined for myself at the same time, is very important for Italy. Electoral reform may sound like a technicality, but it is far from being just that. On the contrary, many very substantial decisions on political and economic matters depend upon the choices we have to make: to adopt this or that electoral law. Much depends also on the way we choose to achieve that decision.

### Origins

All of this can cause a friendly foreigner, above all an American, to think to him- or herself that this kind of problem would be more relevant for a newborn democracy, for instance one of the many countries recently liberated from the Soviet Communist totalitarianism, but not for an old nation such as Italy. Well, Italy is a new nation. It is a very old country, a very ancient civilization, but a relatively young nation. To begin with, it is much younger than the United States. Though America feels young and new, it is actually older than many nations of Europe: Germany, for instance, or Belgium, Norway, Finland, the Irish Republic, Iceland, the Czech Republic and Slovakia, Romania and Bulgaria, even Greece. Greece, the "mother of democracy," was not on the map when the United States was founded. Consider the nations which until recently were parts of Yugoslavia, and all the former Republics of the Soviet Union. It is the rule rather than the exception that most countries in Europe were born after the United States, with quite few exceptions: Britain, France, Spain and Portugal, the Netherlands, Sweden and Russia. This, incidentally, is one of the reasons why America has more stable institutions than so many countries on the "Old Continent."

Certainly, Italy is no exception. It was not unified formally until 1859, and not actually until September 20, 1870, the year Rome was recovered from the secular power of the Papacy. This was 90 years, two months, and 16 days after the Founding Fathers went to press with the constitution. It took Italians some wars to achieve this end, and a couple of Lafayettes and allies who fought with and won for us some decisive battles against France in 1859 and Prussia in 1866.

All the while it was achieving territorial unity, newborn Italy was trying to give itself a Constitution, including an electoral system. It looked for examples in Europe as America was then really far away. It found two: France and Britain. Germany had very little to offer in that regard, first, because it was even younger than Italy, having achieved national unity 12 years later, and second, because it had a very different structure. Like Italy, Germany had long been divided, to the point that it consisted of 374 more or less sovereign states. But while most of Italy had been under the domination of foreign countries, Germany's fragments were in the hands of German kings, princes, dukes, etc. For Germany to be unified could mean only the coming together of these fragments under a federal state. The reunification of Italy, on the contrary, had been a kind of "*reconquista*" similar to that of Spain several centuries earlier.

What was needed was to build a unitary, centralized state like France or Britain. France was nearer, culturally and geographically, but its institutions had wildly oscillated since 1789 among

different forms of government: monarchy, revolutionary Republic and the Empire, then back to the monarchy and a Republic and an Empire, then Republic again and Empire, and then Republic. But Italy was born as a monarchy and had to stay that way because, among other reasons, Italy had been conquered by a dynasty, the House of Savoy. Thus, it became a constitutional monarchy much like Britain, with a hereditary king at the top and legislative power in the hands of an elected Parliament.

How was Parliament elected? Here we return to an important point. The world's political geography offers only two ways to elect a legislative body: either to divide the country into a number of constituencies, each choosing its own representative(s) to form a Parliament; or to count the total popular votes and allot the seats accordingly, in a word achieving a proportional representation. This last system was adopted immediately by Germany as the most apt for a federal state. But the rulers of Italy wanted their country to be a centralized state, and accordingly they chose the single constituency system, like that in Britain and the United States. However, they did it the French way: i.e., they stipulated that a candidate must get more than fifty percent of the votes in order to be elected. If no candidate reached that goal, those obtaining the most votes had to face each other in a run-off.

With these rules, Italy started its itinerary into democracy. Of course, at that time the country did not have the universal franchise; in other words, not everybody could vote. Such was the rule throughout Europe. Britain, France and Germany did not have universal suffrage. Women could not vote, and neither could men with less than a minimum of income or property.

Italy was born, though, with an additional problem: if the poor were denied the right to vote by the state, devout Catholics were denied it by the church. From 1870 until 1929, the Pope vetoed participation by believers in the Italian political process. The country was, in a way, excommunicated. The main reason for this policy was the conquest of Rome. It had belonged to the Papacy since the fall of the Roman Empire some fifteen centuries earlier. As united Italy had taken Rome by the force of arms, the Italian state was considered illegal and Catholics were not to take any part in its activities.

This combined exclusion resulted in a rather low level of voting. For several decades this meant that the monopoly of parliamentary power was in the hands of the liberals. This term "liberal" has several, often contradictory, meanings. In this country and in this era, it denotes the left wing of the political spectrum, whereas in nineteenth-century Britain, it indicated those who were most devoted to free enterprise, or today's "conservative."

Being "liberal" in Italy at that time meant a couple of things. Liberals were, above all, patriots. They had fought for the independence and unity of the Fatherland against foreign occupants and Church. Second, a liberal was faithful to the king and to the dynasty that had "made Italy." Third, liberals belonged mostly to the middle-to-upper classes. Fourth, they stood for the separation of power between church and state, for public schools and against the influence of the clergy in education. Being nearly alone in power, those liberals could afford to divide into several factions, the fight among which was the essence of daily political life in Italy.

In due time, however, change was forced by events, in Italy as in the rest of Europe. Industrialization gave birth to the industrial workers, the proletarian class, and its organizations: the labor unions and the Socialist Party. The demand for universal suffrage grew ever louder and step by step it was adopted. When this electoral reform was about to be enacted, the middle class which was vastly outnumbered at that time in Italy grew increasingly worried that the Socialists could win. The same concern was felt by the Church, albeit for different reasons for the socialist

ideology in the Marxist version which was prevalent in Italy was openly anti-religious and loudly atheistic.

In order to avoid such a danger, the Church and the Liberal ruling party came to a compromise. It was decided that the Catholics would be permitted to go to the polls in constituencies where the candidate was ready to give personal assurance, both to the bishops and to the clergy in general, that if elected he would do nothing against religion and its values. Needless to say, nearly all members of Parliament readily accepted the clause, got the Catholic votes, beat the Socialist competition and won reelection.

On the whole, the Liberal forces managed to hold their own until World War One when the nation was put to a very hard test, and the burden of sacrifices was heavy for every-body, including the poor. Promises were made during the war, among them real electoral reform. When Italy won that war, the promises had to be kept -- including that made to the Socialists for proportional representation. So the Italian Parliament gave away the single constituency system and introduced proportional representation.

The power also shifted from single candidates to the political parties who, from the 1919 general elections, became the main depository of popular will and power. The oldest party in Italy was the Socialist Party, which came out of the polls with good results, followed closely by the newest political movement, the Popular Party, which appealed to Catholic voters. The Socialists and Populists had broken the Liberal monopoly on power, but they were not strong enough, even if joined together, to build a new majority. But they did not want to come together because of their ideological hostilities and because they were courting the same electors in the poorer strata of society. The result was a succession of hung parliaments, very weak executives, and fascism.

## **The Post World War II Period**

The dictatorship lasted 20 years, and when it went to its grave, it brought down the monarchy itself. In 1946 a Republic was proclaimed and the Italian political class had completely to renew its institutions, to give the country a Chief of State, a Parliament, a government and new roots. The experience with Mussolini bred suspicions against too strong an executive. So the new Italian constitution, which remains till now, tended to guarantee that the executive branch could not become that strong again. Toward that purpose, proportional representation was the ideal philosophically, because voting under the single constituency system usually renders a rather stable and powerful government. With proportional representation the electors do not choose a Prime Minister; they are actually "polled," and the Parliament becomes the "mirror of the nation," a faithful portrait of the political landscape.

Since that time, the real political power in Italy has laid, consequently, with the parties. It was up to them to build the coalition governments and to bring them down. Governments put into practice decisions made by the leaders of the parties; and ministers actually represented the parties as their delegates. There was no "Premier", but only a *primus inter pares*. Since the end of World War II, Italy had more than fifty governments: which left foreign observers with the entirely justified but wrong impression that Italy was "politically unstable." The truth is that Italy was far too stable, because the so-called governmental crises were nothing but reshuffling and redistributions of ministerial seats between the same parties, the same factions and the same men. The electors were never presented clear choices or alternatives, but only different shades of the same color.

This had several reasons. The first is the great strength of the Communist Party. Its percentage of the popular vote was unequaled elsewhere in Europe, growing gradually from around twenty percent in the first post-war election to thirty-four percent in 1976. Labor unions, and many local administrations, particularly in the big cities and in Central Italy were controlled by Communists. The Italian Communists, led by Palmiro Togliatti, a former official of the Comintern in Stalin's Russia, took an ambiguous stand, renouncing revolution for democracy but siding with the Soviets in international affairs against NATO, the United States, and European integration. Every election in Italy from 1946 until the 1980s was fought under fear of a Communist takeover.

The main beneficiaries of the Communists' strength were the Christian Democrats. Born during the war, this was the party of the Catholics. It took the place of the Popular Party of the post-World War I years, but with a big advantage. Dictatorship and war had destroyed the political representation of the "moderates," or liberal parties. The right wings of these parties which had taken part in the fascist experience in the name of patriotism and nationalism were discredited, and the left wings had no nationwide popular support.

This situation in the 1946 elections caused nearly all moderate-to-conservative electors to vote for the Christian Democrats in 1948, the year the Communists made their strongest bid for power. The Popular Party's strength averaged twenty percent; the Christian Democrats, after swallowing the Right, achieved forty-eight percent. Since then, all efforts to rebuild a political force to the Right of the Christian Democrats have ended in failure. The latter made very effective use of their governmental power and of the old recipe, *divide et impera*. They always managed either to coopt their competition or to banish them in the ghetto of "neofascism." This happened to the monarchists, to the free enterprise southern populists of the *Uomo Qualunque*, and to the briefly resurgent Liberal Party in the 1960s. The only survivors were those most similar to the neofascist specter, so vividly evoked by both Communists and Christian Democrats. Calling themselves MSI, or the Italian Social Movement, they were actually a small group holding around five percent of all votes, totally isolated and without an economic message. They were kept together by a generic nostalgia, without a real political goal. Though they did not want to remake fascism, they refused to condemn it. They had been on the losing side, and were proud of it. They felt, more or less as did the former Confederate soldiers in the decades following the American Civil War.

As a result of such developments, from the late 1940s until the 1990s, Italy was the only country in Europe without political representation of conservative ideas or interests. The Christian Democrats could easily pursue their tactic of wooing conservative voters with the anti-Communist imperative and yet using their ballots to make bargains with the Communists who maintained a stronger hand. In fact, the Christian Democrats never wanted to govern alone. They refused to do so even after the 1948 election, when they received an absolute majority in the Parliament. They chose rather to rule in a coalition government with the smaller parties of the Center. After a while, having gradually lost strength, they began to look for cooperation from the Left. They took an even softer line toward the Communists as the tensions of the Cold War diminished.

Proportional representation was the ideal incubator for that politics of consensus, which actually is in the grain of all Italian politicians, not only of the Christian Democrats. Confrontation is good for electoral meetings, but after the elections cooperation and compromise are the rule. As laws had to be enacted, they had to be discussed with the Left opposition. The Communists usually voted against these laws in the end so as not to lose face, but in exchange for significant revisions they did not block them in the Parliament or through labor union activity.

The greatest reward the Communists achieved was in the field of culture, which always had been their strongest suit. Antonio Gramsci, the founder of the Party who was to die in prison during

Mussolini's dictatorship, had the right idea at the beginning: the pursuit of cultural hegemony was even more important, more fruitful, and its rewards longer-lasting, than the attempt to achieve direct political hegemony. Italian Communists never acted like their French comrades, who kept themselves isolated by preaching class struggle: the Italians always looked for wide alliances, calling themselves, at first, the Popular Front and later the *Compromesso Storico* or "Historical Compromise."

The result of all this maneuvering was a politically unbalanced Italy. On a map with no Right, but only the Left and the Center, the Center must end up taking the place of the Right in the spectrum, leaving space for a new Center. This space was occupied in the 1980s by the Socialist Party, which should have been a party of the Left, and had allied itself with the Communists in the first decade after World War II. But gradually the Socialist Party moved into the open space and became the pivot of Italian politics, nearly always choosing the side of the Christian Democrats.

### **The Political Earthquake of the 1990s**

The Communist Party was by far the largest force in the opposition. The Far Right was represented, as always, by the minuscule neofascist MSI, whose strength was around five percent. The proportional representation guaranteed stability and a reliable picture of the political preferences of Italians. However, by comparing the electoral results in 1992 with these in 1996 one finds the extent of the earthquake: the Christian Democrats no longer existed as a party; the Communists had split into two factions, neither retaining the name; the Socialist Party also was dead, and Republicans, Liberals, and Social Democrats had practically no representation in the Parliament. The dominance of the political Center had given way; indeed, the Center as we knew it had disappeared.

The map now reveals an entirely different articulation of trends and forces. Italy now has three large parties of about equal strength (around 20 percent each): the Democratic Party of the Left (PDS) made up essentially of reformed post-Communists; "Forza Italia" (meaning, loosely, "Go, Italy"), a free-enterprise Center-Right movement created in 1994 from nothing seventy days before the election; and the National Alliance, a reassembly of the Right led by former neofascists of MSI. Then there are two mediumsized parties (in the 10 percent range): the Party of Communist Refoundation (PRC), i.e. the "unreconstructed" Communists; and the separatist Northern League. Further down (around five percent), we see four more political entities: three divisions of the Christian Democratic diaspora -- the Popular Party (left of the Center), the Christian Democratic Center, and the United Christian Democrats (both right of the Center) -- and, finally, Italian Renovation, a personal platform for a former, non-political economic expert, who started with the Center-Right and ended with the Center-Left.

No stone, you may conclude, has been left unturned. A look at who rules what, however, suggests an entirely different reading. The "deceased" Christian Democrats occupy two of the three most visible positions in the nation, namely, Head of the State, President of the Senate, and Prime Minister. The ex-Communists, who were supposed to be swept away by "the tide of history," are by far the most influential party in Italy. Most Italians voted for the Right or the Center, but are governed by a Center-Left coalition where the Democratic Party of the Left plays a crucial role.

How or why did this happen? Mostly because of the stones we were talking about were not only turned over, but were thrown. The "revolution" in Italy was made essentially by half-a-dozen stone-throwers in a very unlikely succession and combination.

The first one was no less than the Chief of State, Francesco Cossiga, direct predecessor of today's President Oscar Luigi Scalfaro. Mr. Cossiga was (and probably still is) a Christian Democrat, elected by the Parliament as dictated by the present Constitution and with the very limited power that charter gives him -- no more than is granted a constitutional king. But he was appalled by the rampant corruption, whose roots he found in "immobilism," the continued power of the same parties and men through "consensus" along with the paralyzing contribution of the old Communist apparatus. Cossiga recommended as a solution constitutional re-form providing more power to the Chief of State, who was to be directly elected by the people, as in France and the United States.

Cossiga was speaking from above. The second stone-thrower came from below. In the 1980s, this total newcomer, Umberto Bossi, started the Lombard League, the first important regional party in the history of modern Italy. It embodied a protest that had been long in coming. For well more than half a century, Italy had developed a kind of "welfare state," taking away money from the "haves" to give to the "have nots."

But the country has always been starkly polarized geographically: the North being increasingly wealthy and the South remaining poor, mostly because it has very few private enterprises and a high rate of unemployment. In the South the overwhelming source of income is the government. The South has a near monopoly on the bureaucracy, on most of the public works, many pensions, and makeshift poorly producing jobs. This is paid for by the wealthy North who in fact are mostly the workers who see their real salaries cut down to very low levels, while the costs to the enterprises stays high. The balance goes to the South.

The solution proposed by the Lombard League, soon to become the Northern League, was "fiscal federalism," meaning that northern tax money should stay in the North. In order to achieve that, constitutional reform would have to be enacted: transformation of the unified Italian state into a Federal Republic. If that were not achieved, then secession and independence would be necessary.

The flame of this revolt spread rapidly. Though totally non-violent, it was still very radical. In the 1992 election -- the last one held under proportional representation -- the Northern League became the strongest party in the North, eating away all of the old parties, though mostly the Christian Democrats and Socialists. Regionalism was the engine, but since the economic views of the League are strictly free-enterprise, it caused a strong shift to the Right of the Italian political spectrum, the first since World War II.

Still, Christian Democrats, Socialists, their minor allies, and the Center-Left coalition which shrunk mightily, commanded a narrow majority in Parliament. This could have been strengthened by more open cooperation with the Communists, who were busy at that time transforming themselves into a modern force on the Left. In 1992, the old parties still had a strong hold on the rest of Italy, in the Red Belt of Central Italy and in the South, where the system of patronage by the Christian Democrats appeared intact. At the end of the mandate of Mr. Cossiga, another Christian Democrat, Oscar Luigi Scalfaro, was selected for the office by a combination of all the traditional parties.

But the third stone was already flying. It came from the ranks of the Christian Democrats themselves. Mario Segni, a distinguished member of the new crop, had been thinking aloud for a while in consonance with Mr. Cossiga. He found the origin of most evils in Italy to be proportional representation. "The political system is not working!" he said. "There are corruption and scandals because governments are too weak and rely too much on consensus!" He wanted to change the

electoral system, and since all the big parties and leaders were against this, Segni found a way in by the institution of referenda.

Popular referenda are permitted under the Italian constitution, but not for enacting laws -- only to repeal them. They were certainly not conceived as an instrument for changing the electoral system. But Segni and his friends found a very ingenious way of using them toward that goal. They proposed to the people only to delete certain parts, phrases and single words in the electoral law, in order to entirely change its meaning. That brilliant move found support among insurgents in all parties, including the post-Communists, who were trying hard to associate themselves with the future rather than with their embarrassing past. The Christian Democratic leadership also came on board at the end, for one big reason: they were reading the polls. They knew that in 1992, with the Communists weakened and divided, the Northern League isolated, and the oppositions of negligible strength, the Christian Democrats were still number one. They knew too that, even after losing votes in the North, they would win enough seats in the rest of the country to hold a majority. They never liked to rule in splendid isolation, but if this was the only way to survive, they were ready to do so. So they formed, with the other parties in the Parliament, an ad hoc committee in charge of reforming the entire electoral system.

However, there was a fourth and heaviest stone in flight, thrown by the judges in Milan. The weakening of the system of local political patronage, which depended upon heavily by the Socialist Party, gave them an opening. They started an offensive of arrests, preventive detention, plea bargains and "judicial terror" many times greater than Watergate and even more destructive. The Socialist Party was swept away, many of its leaders were in jail, others indicted, and Bettino Craxi in volutary exile even before being sentenced. Next hit were Christian Democrats all over the country. Giulio Andreotti, their most powerful leader, was summoned to court for alleged business with the Mafia. The entire machinery of patronage was trembling and crumbling while the Parliamentary commission worked on changing the electoral law. It was something like the French Revolution, that broke out in the streets while the *Etats Generaux* were working on the reforms the king had asked them to prepare in order to save the monarchy. The Bastille fell in Italy the day the Segni referendum was approved overwhelmingly by the voters. Now there was no way back. Proportional representation had to go, and Italy was faced with the same choice as in 1859, the year of its birth: a single constituency, yes, but the English way or the French way? The English won this time, though a British politician or voter most certainly would not recognize the complicated compromise that was reached in Rome. Seventy-five percent of all seats were to be filled by a single constituency, "first past the post" with no run-off elections. The remnants were to be saved through partial preservation of proportional representation, a move intended to guarantee the survival of the minor parties.

The problem was that it was not clear at that time who was to be minor and who was to stay major. Destroyed by scandal, the Center-Left coalition had lost power in Rome and been substituted with a government of "technicians" supported by the post-Communist PDS. It was to be a period of transition until the formation of a government after the elections, with PDS participation in full title, together with the Christian Democrats more or less in place of the Socialists. Polls supported this generally-accepted provision: the North was going to the League, Central Italy to the Left, the South to the old Center. On this basis, an agreement was reached in the fall of 1993 to hold a general election in the spring of 1994.

Again, a new stone was in the air. Local elections in November, also held under a new system, confirmed the strength of the League in the North, as well as its limits: a giant among the single competitors, Bossi's party could be beaten by a large coalition of opponents, since it had no allies.

But the earthquake happened this time in the South. Undermined in its grip on the patronage, the Christian Democrats were deserted by their voters. A few went to the post-communist Left, but -- and here was the surprise -- most found a home in the MSI (Movimento Sociale Italiano), now about to be renamed the National Alliance. The young leader of the former neofascists, until now marginalized and ghettoized, took forty-seven percent of votes in the run-off for mayor of Rome. Alessandra Mussolini, the dictator's granddaughter and niece of Sophia Loren, did nearly as well running for mayor of Naples.

Still, the National Alliance had the same problem as the Northern League: they had no allies. They were urged to join forces, but their activists and leaders mightily despised each other -- at least until the advent of the next surprise, the sixth stone.

After the President, came the secessionist; after the secessionist, came the reformer; after the reformer, came the judge; and after the judge, came . . . the entrepreneur. Silvio Berlusconi, a self-made success story and king of commercial television, entered the field in January, 1994, just seventy days before elections, with a brand new party, "*Forza Italia*." His strategic stroke was to enter two different alliances: one in the North with the League and one in the South with the National Alliance. In both areas, Berlusconi presented himself as the only possible alternative "to a majority of the Left with a minority of the votes." The Left put a common candidate in every constituency, the Center ran alone, and the hastily arranged *Polo* -- as the Center-Right coalition was named -- won handily, Berlusconi becoming Prime Minister.

But his power was to last only seven months. Formed in May, his government was already at risk by July and had to quit by December. Berlusconi had made several mistakes. Though a very well known entrepreneur, he had very little political experience. He has a very brilliant mind and can learn fast, but he started off on the wrong foot. Even as a businessman he did not have the experience of years of board meetings, dealing with share holders, and so on, because he was the sole owner of a huge company. As Prime Minister, he no longer had that kind of power. He would have had something similar if he were the premier of Britain, who gives orders to his or her Ministers, fires them, and calls elections, being responsible only to the voters. But the Italian government, at least under the present constitution, is more of a collegial body. The Prime Minister is only a *primus inter pares*; he must discuss every decision with his own party, with the coalition partners, with the opposition, with the head of State, with the labor unions, and nowadays even with the judiciary. Berlusconi learned this too, when his government issued new regulations for investigations and more guarantees for the accused. The highly popular judges went on strike against the law, threatened to resign, and forced the cancellation of the new rules.

Berlusconi may have been right in issuing those rules, but he made a mistake due to lack of experience and gave his enemies the occasion they were waiting for. Umberto Bossi, leader of the Northern League, was particularly afraid of being devoured by his ally and broke the pact; Berlusconi had to resign after only seven months in office.

There being no other majority in the Italian Parliament, the country went back to rule by "technicians." Before Berlusconi, there was Ciampi; after Berlusconi, there was Lamberto Dini, nominally non-partisan but increasingly supported by the Left. The Right kept calling for new elections, which they felt they would win. So, when the PDS proposed a coalition government of all parties (save the Northern League and the unreconstructed Communists), Berlusconi was ready to accept. However, his partner, Gianfranco Fini, leader of the National Alliance -- brilliant, telegenic, and rising in the polls -- chose to veto the agreement in order to push for new elections. The government had been already formed but was never born, and election day came again in April, 1996. But it was too late for the *Polo*. The Right went to the polls, without Bossi, while the

Left allied itself with what remained of the Center, but with a Christian Democrat as candidate for premier. The *Polo* and the League got a majority of the popular vote between them, but the Center Left coalition, the *Ulivo*, got the most seats, thanks to their alliance with the unreconstructed Communists.

### **Reform at the End of the Century**

It was bound to be a weak government, so the leader of PDS, Massimo d' Alema, a very alert young politician, saw the need for the future of a new, more rational reform, not only of the electoral system, but of many parts of the constitutional structure of Italy. A new ad hoc committee was formed, with a strict deadline for the summer of 1997.

The participants are putting their respective proposals on the table with a lot of second thoughts, each ready to make concessions in order to get more concessions from the other side. We are far away, nevertheless, from having just two sides. Were it so, there would be no need of constitutional reform. However, Italy being Italy, it is rather likely that some compromise will be reached, although it is not known how, where or by whom. But in order to strike a bargain, some agreement must be found in three defining areas: the role of the Head of State, the balance of power between Parliament and government, and -- more down to earth -- the electoral system. No party or faction has a coherent answer to all the above questions. On many problems, the division goes right through both the Left and the Right coalition.

The *ad hoc* committee being Parliamentary, it is striking to find a large convergence on the diminishing the role of Parliament itself (absolutely dominant in the present constitution) toward the establishment of a balance of power between the Executive and the Legislative, somewhat in the direction of the United States' constitution. Only the old Center prefers the status quo. Left and Right agree that the chief executive must somehow be elected directly by the people. It could be the Head of State, like in the original project of the National Alliance adopted by *Forza Italia*, or the Prime Minister, following the idea of Mario Segni and favored by many in the Left. In the first case, Italy would become more similar to France, even if it is unlikely that the President of Italy would get the same basic powers as the French President, i.e., that of dissolving Parliament and calling new elections. In the second case, there would be a rather fragile balance of power, with a premier elected by the people and not by the Parliament, but responsible to the Parliament rather than to the people. Only one democracy in the world today has experimented with such a formula over the last year: Israel.

The fight is on, and it can be rather confusing for an observer. The parties of the Center-Left have a razor thin majority in the Committee, but they are far from unanimous on the matter of constitutional reform. The reformed Communists, PDS, wish to consolidate the emerging bipartisan system, a Democratic Left versus a Democratic Right. They would like to do away with the remnant of proportional representation. This would not at all be in the interest of their partners in government (essentially the tiny Popular Party of Prime Minister Romano Prodi, a Left splinter of the Christian Democrats) and its defining supporters, the old-style Communists. Both have a vested interest in opposing every change. Traditionally, Christian Democrats prefer proportional representation, which has been the source of their strength in all the countries of Europe, starting with Germany. Occupying the center, they could maneuver, continue to play the balance between Right and Left, making little adjustments either way. They do it even now, having lost millions of moderate voters who went Right and having split even that fifteen to twenty percent which constituted the Catholic base.

The unreconstructed Communists have different motives to preserve the status quo. With less than ten percent of the votes, they are indispensable for a government of the Center-Left and can conduct their politics of obstruction against the economic reforms Italy needs. Italy always belonged to the West during the Cold War, but its economic structure is really not that much different from those of the countries of Eastern Europe. Nearly fifty percent of the economy is state owned or controlled. Privatization and modernization are a must, but they hurt the marginal and redundant in the work-force, the less skilled, those with the lowest wages. Legitimately, the Communists defend the short-term interests of those people, but in many cases they are a truly conservative force.

The Center-Left also is divided. However, even if it were united, it would not be strong enough. To change parts of the constitution, a two-thirds majority is required in the ad hoc committee; so the Left also needs the Right. The Right prefers a Head of State directly elected by the people and needs to maintain, at all costs, the actual system of voting as a single constituency, "first past the post," one vote, no run-off. Experience teaches that in a second vote, the left, having the most disciplined voters, are nearly guaranteed victory for their candidate. Therefore the Right could, and I think should, make concessions on everything else while defending this fundamental interest.

The Right also has the strength to do so. In order to be enacted, constitutional reforms need a two-thirds majority. Lacking that, the text approved by the ad hoc committee would be submitted to a popular referendum. In referenda the Right usually prevails, particularly if it can count on the votes of the Northern League, which probably would be the case.

Nobody knows all of that better than Massimo d'Alema, leader of PDS and seemingly the most gifted among all Italian politicians. He is young (in his forties), clever, comes out rather well on the television screen, and he can count on the only truly working party in Italy. D'Alema was a perfect Communist when the Communists were Communists; now he is the best, the exemplary, post-Communist. He was elected to lead the PDS after his predecessor, Achille Occhetto, lost the 1994 elections to Berlusconi. It was said at the time that d'Alema was not up to the job, being just a stalwart of the old party. On the contrary, he is open, reasonable, astute, and wants Italy to change -- under his direction, of course. Still, he is not very popular and would lose in a popularity contest to Berlusconi or at least to Fini. But he does not look for that kind of match. On the contrary, while keeping alive a government of the Center-Left, he shows a readiness to cooperate with the Right in constitutional matters, in order to preserve a two party system. D'Alema is convinced that the big game is not the way to choose the Head of State, but the way to elect a Parliament. He recently said, quite openly, that "with a one turn election, the Right wins; with two turns, the Left wins. It is necessary, then, to find something in between."

So it is crucial for Italy whether and how its constitution changes. Fundamentally, it is a question of what the electoral system will be; all hang in the balance. Italy is still on the first steps of a long journey.

## Chapter II

# How to Redefine Italy's Unity: A Federalist Solution within Europe

Piero Bassetti

The main question of this lecture is how to define the unity of Italy, for the risk of Italy's splitting does exist, and it is very serious.

There is a risk of Italy's political unity breaking down because two historic problems -- two great challenges -- are being faced at the same time. The first is that Europe strongly attracts the northern regions of Italy, already very "Europeanized," increasing the gulf between North and South. The secessionist phenomenon, posed by the Northern League, lies in this.

The second problem is the centralized States' inability to hold Italy together and to allow the country to enter Europe and conform with what is, in effect, the European Constitution: the Treaty of Maastricht.

These two problems have become explosive in the present historical context, in which the role of the centralized State becomes inadequate when faced with the profound political, economic, and social changes taking place over the last twenty years.

Let us look at the first of these two challenges: Europe's attracting the North of Italy and accentuating the North-South divide. Twenty years ago, the modes of economic and social development of the northern and southern regions seemed to have begun to converge. Today, however, the split has begun to reopen, and the North is also more aware of this due to its proximity to Europe.

First of all, the gap is widening in economic terms: GDP, investments, consumption, spending on research and development, and the number of companies based on innovation. The gap between the GDP in the South and that in the North and Center of the country widened during the period 1991-95. Capital investments in the South rose only 2.8 percent in 1995, compared with 7.4 percent in the North. If the value of investment per capita is assumed to be 100 percent in the North and Center, the index for the South during the period 1985-95 dropped from 99.8 percent to 66.9 percent in the construction sector and from 52.6 percent to 46 percent in the machinery and transportation sectors. From 1990-95, net imports in the South decreased from 17.5 percent to 12.4 percent of the GDP, while in that region it increased only 1.7 percent compared with 5.8 percent in the Center-North. Only 9 percent of overall national expenditures in Research and Development come from the South, and enterprises which invest in innovation number one in five in the South, compared with one in three in the North.

Assuming the consumption index of families is 100 percent per capita in the Center-North, that in the South in 1995 was only 68.9 percent, the same as in 1970. This is true although, as Alberto Quadrio Curzio has said, the ratio between the public expenditure on the large public sector and the GDP has hovered, in the South, around an impressive 75 percent.

But, economic data alone are not enough to illustrate the gap between North and South; social structures have diverged, as well. Poverty has grown more in the South and the islands than in the rest of the country. The divergence in terms of education and access to school services is also growing. The "active" consumption of elite cultural services (books, theater, classical music, museums) is higher, by far, in the Center-North, while in the South, "passive" consumption of services is growing, illustrated by the continued and exclusive use of television. Unemployment in the South has risen from 19.2 percent in 1994 to 21 percent in 1995, while in the Center-North, it has risen from a lower 7.6 percent to 7.8 percent. The unemployment rate for young people and

women in the South is even more dramatically inflated: in 1995, it was 49.3 percent for young men and women aged 15-24 years and 64.4 percent for women of all ages. That same year, the unemployment rate for high school educated young men and women aged 15-29 was 51.2 percent in the South and 19 percent in the Center-North. For university graduates in the same age group, the figure was 48.8 percent in the South, compared with 26.6 percent in the rest of the country.

However, the problem is not only one of economic facts. The social structures of the North and South have also begun to diverge in terms of unemployment and poverty, levels of education, benefits of culture, and availability of jobs for women. The North-South divide has also started to grow again in terms of quality of services (health, infrastructure, etc.), in respect to property rights, and not least in the degree of societal development (associations, political movements, currents of opinion), all of which are less widespread in the South than in the North.

In these conditions, the attraction Europe exercises on the northern regions of Italy is clearly growing. These are the regions whose GDP is above those of more than half the States in the European Union. These are economic regions whose incomes are at the same level as the more advanced European regions, such as the Southeast (London) in Great Britain, the *Ile-de-France* and Paris regions in France, and Bavaria in Germany. The northern regions also hold tens of thousands of firms that are highly integrated with the European and world markets.

Thus, the "Northern question" was not invented by the Northern League, which proclaims that Northern Italy should break away from the rest of the country. The question of whether the North, alone, should enter Europe goes back further than that. In fact, you need only go back two centuries, to when the Nation-States were created by splitting up Europe. It is clear that the trend of Europe to recreate itself tends to split the Nation-States.

But we must not have too many illusions over this idea: Europe will be built not only from among states, but also from among "parts" of states. That is what happened in Yugoslavia when, in effect, the large economic interests (above all, German interests) provided the international cover for recognition of Slovenia and Croatia.

In many parts of Northern Italy, the awareness has long been developing that, at the present rate of progress of the "Italian convoy," so badly organized by the Central State, no ships, or only very few, will be able to reach the harbor of the new European Union. The conviction is growing that it will be unavoidable to break up the convoy so at least some of its ships (the regions of the north) will be able to enter. It may be the various interests of the North-East (from Venice to Trieste) that build an independent area. And it cannot be ruled out that in certain conditions, Germany would not look askance at the entrance into Europe of the North of Italy alone.

The adhesion of "all" of Italy to the Monetary Union induces fear for the stability of the Euro. The exclusion of "all" of Italy might induce fear in Germany industry for the competitiveness of Italian products.

It is within this framework that the second problem arises: the increasing inability of the Italian State to react to these centrifugal forces, to hold together, and to unite a national society that is breaking up. This State that has kept the same structure it had when created 130 years ago, in totally different conditions, against Europe and the annexing of the South of Italy. It is a State that, subsequently, has been unable to modernize itself, unable to decentralize, and has not put into practice what the Constitution, enacted after the Second World War, contains regarding regionalism.

At the same time, the inefficiency of the Italian state machinery has increased across the board, from legislative to executive to judicial powers. The Public administration is by now seen as a repository for all possible inefficiencies (sometimes even more than actually is the case), while its

cost, which affects the citizens in terms of fiscal pressure, is held by one and all to be totally excessive.

To this is added the fact that in the North, the State machine is increasingly seen as belonging to one side: that is, to an alien (the Southerners') state. One must live among the people and among the firms of the North to understand that the "Halls of Rome" are a long way away, and so is the culture, which is seen as pre-modern, non-European. The North no longer accepts the emphasis that the Public administration places on procedures (juridical-administrative "quibbles"), rather than on the efficacy of acts and measures that "work."

While throughout the world, there have been growing centrifugal forces through the expansion of free markets and globalization, the Italian State has thus become ever more rigid, more fragile, more extraneous to an important part of the country. This is to say nothing of the legislation which has been enacted from the Treaties of Rome and Paris up to the Maastricht Treaty which, in the opinion of some experts, amounts to "a Constitution of the European Union."

On the other hand, if the awareness is growing in Italy that the centralized model of the State has worked very badly for over a century of the nation's history, it is also true that this problem is not only an Italian one. Throughout the world the centralized State is undergoing a crisis, under the impetus of globalization and the telematic revolution.

Can the unity of Italy be saved, then? Yes, but only on the condition that two basic questions are faced. First of all, we must explain "why" there is any point in keeping Italy united. Secondly, we must explain "how" to keep it united.

As for the first question -- Why is there any point in keeping Italy united? -- the reasons are many. It is necessary, first of all, because unity has a value in itself, for the evident and important elements that make up "Italianness." Secondly, it is because by staying united we will be able to carry into Europe -- as, indeed, our partners in the Union recognize -- the values and importance of one of the founding states of the European Union.

There also exist reasons that are even more "real" for our Italian co-citizens. We can say to the secessionists of Northern Italy that, if they go to Bonn with only twenty million "Citizens of the Po river" as a market for German products, they will certainly be taken much less seriously than if they went to the Germans showing themselves to have a real ability in organization and intermediation for all of Southern Europe, thanks to the special and smooth relations they have with those areas. Going into Europe as a smaller entity, even the North therefore would not protect its own best interests properly.

Moreover, we can explain very carefully to the South of Italy, to its entrepreneurs, to its politicians, to its people, that if they want to take part in a Mediterranean that is developing along the lines of the great ports of Barcelona, Marseille, Genoa, and Trieste, and with the hinterland of the large industrial cities of Europe and of Brussels, they will have to develop a strong Southern proposal claiming a role for themselves in Europe.

The rationality of all this derives from the European framework. If Europe is that of the grand design in which the Italian nation aspires to enter together, to bring to the new European fatherland all the values of our centuries-long tradition of cultural and economic pluralism, of our hundred cities. . . . If we want to get the most sense and advantage for ourselves and for Europe out of this great historic opportunity . . . then we must convince the North and the South of Italy that it is possible to give life to something valid for both these areas "together."

Thus, to go into Europe united does not necessarily mean to operate all together in the Union, as in the classic approach of the central government. To enter a pluralist Europe with a pluralist

Italy means to be able to expect different things of the different parts of the country, but to do so together with a view of the whole.

As for the second question -- How to keep Italy united? -- we must stress that the unity of Italy can no longer be within the centralist model of the Nation-State, nor in the weak projects for regionalism that are taking shape in Italy. The remaking will have to take place in other terms because, if the country breaks down under the pressure of Europe, we will have to use European "glue" to fix it and to make it enter Europe politically united. In a word, we must tackle and redefine the question of the unity of Italy, giving it a European dimension.

A new political proposal must, then, start from the convergences that can be found in Europe and from the vision of Europe that we have. But this is not in the sense of the alternative too often evoked between a Europe of the merchants and a political Europe. Rather, it is between a Europe tilted towards the North and North-East of our continent, and a Europe balanced around the Mediterranean. All of Europe would gain advantage from this rebalancing act to include the Mediterranean, in particular a Germany no longer flattened along the East-West axis. This implies a concrete diversification of public and private European investments and of the funds allocated for the less developed regions of Europe. At the same time, it implies dynamic policy on the part of the EC to cooperate with the Southern Mediterranean countries as is already happening, in part after the 1995 Barcelona Conference.

This is the first true response to the risk of Europe losing its North-South balance, which is the real and pressing "question" for today and for tomorrow. A Europe that is less Northern and more Euro-Mediterranean is not now only in the interests of the southern parts of Europe because very serious problems are developing in that area: the strategies and geo-economic problem of relations with the Islamic Middle East and with the Turkish Central-Asian area, the problem of an exploding population and immigration, and the environmental problem of the Mediterranean area.

The problem of the South of Italy, like that of the South of Europe, of Spain, and of Greece, is not, then, a problem limited to the Northern parts of the countries directly involved. It is a problem for the whole of Europe, for the continental and Nordic countries, and in particular of Germany. In this framework, the South of Italy, like other Southern parts of Europe, must be placed in a position to be able to mobilize all its resources and potential to build a true role for itself in the Mediterranean area.

And here lies the very function of unity, in which the North and the South of Italy must both collaborate: that is, the function of redefining a new type of involvement of the North, in the South, and not only in the Italian South. An involvement made up of intermediation, of brokerage of economic opportunities, of advanced services that make a contribution to accompanying the North into the Mediterranean and the South of Europe not only towards European markets, but anywhere in the world.

All this may come about by channeling capital and resources, national and international, to contribute to making the South into a real opportunity for economic and social growth for the whole of the Euro-Mediterranean area.

Only a deep commitment of the entire European Union over the next several years on the problem of the Mediterranean may avoid the worsening of the crisis in Southern Europe and the marginalization of the contribution that countries such as Italy, Spain, and Greece bring to the unification process of Europe.

As far as Italy is concerned, how to keep the country united requires further measures. We must present, to Europe and to the governments of Central Europe, a new national alliance to remake the State, in the North as in the South. But this new national unity will not fit within the

rationale of the schema of the Italian Nation-State alone. We will have to design a new national unity, right from the start, for Europe and not against the other states of Europe. The new statehood that we will be able to redefine in Italy must interest Europe, with whose institutions it will have to be closely linked.

Yet, how can the new Italian unity link up with Europe and interest Europe? In a word, to reach this aim we must achieve a new *federalism* able to link, to net-work, different categories of political, institutional, and economic actors: the regions and the cities, the growing number of organisms that constitute the so-called "functional autonomies," the network of firms, and the social autonomies. This federalism must be able to integrate the North and the South of Italy more effectively, and at the same time be able to interlink Italy and Europe.

Federalism as we mean it, and as the country wants to achieve it, cannot limit itself to weak projects of regionalism like the devolution of some functions, however important, to the local authorities (regions and cities). That might have been enough twenty or thirty years ago, but now the degree of inefficiency and of disarray of the centralized Italian State has gone too far. Above all, it is the globalization of firms and the new networking technologies that require a very different institutional construction. Europe has been forced to understand this and has guided the European States to integrate themselves by functions.

This new situation requires a different type of State that links the plurality of interests and the powers which make up Italian and European societies from the bottom up. This must be done through clear pacts, concerning specific things which can be done together, and which can provide the reasons for a true unity, and for entering strongly into Europe.

This new federalism will involve many elements. First and foremost it will imply that a modern State must be organized around the new role now being played by the territorial autonomies, both within the old Nation-State and in the relations with the territorial autonomies of other European States. We are talking about a Europe of the regions, of the Länders, of the Departments.

Regionalism, whether within or across national borders, is Europe's current and future dynamic. But, increasingly, it will be a Europe of the cities and of the metropolitan areas. Among these poles, a huge "network" of relations and of dynamic cooperation is rapidly being created. This phenomenon does not only concern the creation of Euro-regions with common borders (Franco-German, Dutch-German, among Germany and the countries of central Europe), as John Newhouse rightly points out in "Europe's Rising Regionalism," published in *Foreign Affairs*. It concerns the increasing cooperation between regions and cities in Italy and in Europe that, beyond the territorial contiguity, finds reasons for convergence in the multiple areas of financing, information, exchanges of knowledge and know-how, innovation.

But in modern societies, it is not only the territorial autonomies that are requesting a different statehood. Other subjects are growing in importance and include, first and foremost, the functional autonomies. These structures are rapidly increasing in number and have deliberately been made independent, in Italy and else-where, to ensure a more responsible and effective government. This plurality of organisms are: the Universities and the Chambers of Commerce; technical and independent bodies like the Central Banks; the administrations that regulate and control the stock exchanges; the Antitrust authorities; organisms like the Health Authorities and the Port Authorities. It is the banking system. They are Economic and Social Councils, national and European.

In this way, two State structures are actually being organized:

- the State organized by the transfer of responsibilities of general interest to the regions, to the cities, and to the departments;

- the State organized by a rationale of function, that allows the Public administration to operate with great management flexibility, on the basis of differentiated responsibilities.

All of this occurs, moreover, within a framework in which, with the expansion of the market, it becomes essential to ensure what political scientists call "governance." That means to enhance the rules of the market and to ensure they are followed by the economic actors, which requires the organization of the necessary tools.

Thus, in fact, a new Nation-State is emerging, subject to two profound modifications. It is a State that has been released of some of its responsibilities upwards (that is, towards international institutions) as well as downwards (to the regions, the cities, etc.). But it is also a State that dilutes its authority "horizontally" towards the functional autonomies, the associations, etc. This new statehood is being organized as "network state-hood," with the transfer of many responsibilities onto trans-national networks.

The true key thus becomes knowing how to integrate through a new federalism made up of a network of pacts (*foedera*) of territorial and functional autonomies. Firms, small as well as large, now are invited, when they are not forced, to interaction through this type of specialized and functional statehood. This is required in order to deal with a European state that is already, at one and the same time, both functional and meta-national.

Here another point emerges: a new statehood must be organized so as to be able to regulate and interlink with not only the traditional populations, but also with the networks of firms and the functional system of institutions that the firms themselves require, within borders that are clearly indifferent to national or even to European boundaries.

This networked federalism of territorial autonomies and of functional autonomies is rapidly spreading in Italy and in Europe. One example of a network of functional autonomies is the Milan Chamber of Commerce. Three years ago it created a stable collaboration in several different sectors with the Chambers of four other large European metropolises: Amsterdam, Frankfurt, Madrid, and Paris. We want to facilitate the creation of networks among firms and to help bring about more effective regulations concerning companies in such innovative sectors as multimedia, new services, transport, etc. At the same time, what we have created is a network that links functional bodies, specific networks of firms organized by the Chambers of Commerce, and sub-networks of functions of large metropolises that are interlinking among them.

In Italy, too, similar dynamics are being developed by increasing relationships between the Chambers of Commerce and firms, between regions and cities in Northern and Southern Italy. These relationships are direct, not mediated by the center, and thus are more capable of creating occasions for real cooperation among interests.

Obviously, this interlinking process will be all the closer if it supported by strong visions and programs in which each part places its best resources. That will constitute the new "glue" for a new Italian unity. In the same way, this new "federalism of networks" may allow a united Italy to enter the European unity.

But there is an important additional point concerning what can hold Italy together. In order for this "federalism from the bottom up" between the different networks of subjects to become a concrete factor for unity, more radical transformations of the present central political system is needed, at all levels and in all sectors. In Italy, as in Europe, there is need for a new global

institutional framework. There is need for a new Constitution that defines the new roles and the new rules coming into being. Without this, the redrawing of the unity of Italy is still incomplete and the unification of Europe precarious and reversible.

In Italy, this process has only just started, with the institution of a Joint-House Committee to draft far-reaching institutional reforms. Europe is a strong point of reference for the Joint Committee to achieve practical and, hopefully, far reaching results.

Europe, too, feels the need to improve its own "Constitution" -- the Treaty of Maastricht -- by developing a "Maastricht 2." Negotiations are underway to allow the European Union to be enlarged to include other countries and to launch a common security policy. And work is also in progress to strengthen the functional aspects of integration: e.g. in the collaboration between the courts and police forces of different countries over problems relating to immigration, etc.

Certainly, Europe at this time is not in a political mood to enter into profound institutional reforms, with the effort and the tension caused by implementing the single currency. But, after the Euro, the European Union will have to relaunch the process of political integration in order to avoid the monetary union's entering into crisis. Unless there should be an arrest of the European integration process, the centrality of Europe in redefining our national unity remains, in any case, fundamental. Just as fundamental, on the other hand, is the role Italy can carry out for Europe, if we enter with the first tier of countries to adopt Economic and Monetary Union.

In order to put forward a political proposal, I would sum up what appear to be the main advantages of the ideas mentioned above and elaborated in my recent book, *Is Italy Broken? A Federalism for Europe*.

These ideas are:

- a new national Unity, conceived right from the start for Europe;
- a Unity that makes the idea of the European Father-land an explicit democratic reference point;
- a Unity that knows how to make Italian political and institutional action into a chapter of European political and institutional action;
- a Unity built on exalting our various kinds of autonomies and their link, direct and without central mediation, to networks of European autonomies;
- a Unity that makes participation in the European Common Market and the global market occasions for true political protagonism, including among firms;
- a Union, lastly, that builds solidarity and a new "Southernism" around a re-proposal of the Euro-Mediterranean's central importance to the continent's history.

## Chapter III

# Constitutional Revisions in Italy, the Amending Process

Maria Elisabetta De Franciscis

### Premises

The turbulent political and institutional moment through which Italy has been passing in the last twenty years has generated a lively debate, albeit not always scholarly, on reforms and on the provisions for constitutional revisions. Proposals for changes can be found in the agenda of many political parties<sup>1</sup> since the early 1980s, yet the time for innovations came only in 1990 with the new administrative<sup>2</sup> and electoral law for town councils.<sup>3</sup> Furthermore, a popular *referendum*<sup>4</sup> in 1993 resulted in the abrogation of the existing proportional electoral law<sup>5</sup> and set in motion what has been called by the media "the peaceful revolution" and by politicians the "Second Republic" of Italy. In fact, when in 1994 Italians were called to renew both houses of the Parliament with the new quasi-majoritarian electoral law, the result was an almost complete turnover. Most of the 945 elected legislators were freshmen who were to begin to look more seriously to the necessity of implementing sections of the constitution which had been ignored and/or only partially and pathologically executed, and to revise entire segments in order to improve its standing with the people.

In addition, pressures brought about by the deadline and provisions of the Maastricht Agreements have spurred a Northern separatist movement, while the operation led by many prosecutors to avert corruption, the operation known as "Clean Hands", has brought into focus two rather conflicting objectives: the desire for a more active role for Parliament and a more efficient executive. The "revolution" which was initiated by the people through *referenda* could not be brought to its full completion only through article 75 of Constitution concerning when a popular referendum is allowed. The XIIIth legislature, which began with the general elections in 1996, could not ignore the unrest of the people and formally placed on its agenda changes in both the form of state and of government.

Thus, in order to appease the increasingly strong popular demand, Italy is now set to amend the constitution. Yet, the 1948 constitution has been defined by jurists as rigid since it provides for an aggravated amending procedure<sup>6</sup> which is necessarily slow and therefore a new device had to be taken into consideration.

The procedure to be followed in order to achieve these goals and the changes which will likely take place in Italy will be analyzed. But first a summary description of the constitutional framework set by the 1948 fundamental law seems necessary for those who have not dedicated their scholarly endeavors to Italy.

### The System of Government

Throughout the Mussolini regime, the legislative branch had been the most hindered of the branches of government. It is understandable therefore that the Constituent Assembly opted for a system which would strengthen Parliament while weakening the executive. Thus the relationship between the executive and the legislative sanctioned in the constitution<sup>7</sup> qualifies the Italian system of government as parliamentary, albeit it does not fall among the systems which implement the "pure model". In fact, some of the powers characteristically attributed to the executive and to

the majority as well as many of the provisions for stability typical of parliamentary systems were not included in the 1948 constitution since such measures were considered limiting the freedom and the power of Parliament in the aftermath of the dictatorship.<sup>8</sup>

The necessity of a vote of confidence by the legislative branch in order for the executive to be invested in the powers of office was meant to make the Council of Ministers "responsible to" and not "dependent on" Parliament.<sup>9</sup> Yet, the constructive vote of no confidence, adopted a year later in Germany, was one of the tools discarded by the Italians for fear of infringing on the freedom of Parliament.

Multipartism was guaranteed by the selection of the proportional electoral law by which each competing party obtains a percentage of the total seats in either House proportional to the popular vote obtained by the Party in the election). Also there was no *Sperrklausel*<sup>10</sup> or provision that the seats in the Lower House will be attributed only to those parties which received at least 5 percent of the total popular vote, which was considered to be a limitation on the freedom of expression<sup>11</sup> and of association.<sup>12</sup> Furthermore, citizens were granted "*the right to freely associate in parties*"<sup>13</sup> whose function in a democratic regime was also sanctioned in the constitution. Unlike the German *Grundgesetz*,<sup>14</sup> the Italian constitution allows parties of all ideologies to compete in an election provided they "contribute through democratic processes to determining national policies".<sup>15</sup> Once again the desire to avert the reoccurrence of a dictatorship prevented the Constituent Assemblymen from introducing measures aimed at limiting the absolute power of the parties thus differentiating Italy from Germany and Spain. Indeed, the new constitution of Spain (1978), admittedly inspired by the Italian and German, in addition to the *Sperrklausel* and to the sanctioning of political parties, has provided for a preventive control on the nature, scope and charter of the parties, but also for a subsequent control as a safeguard from possible un-democratic takeovers.<sup>16</sup>

The dependance on the policies of the political parties manifestly demonstrated by the innumerable governmental crisis was further evidenced by the absence of freedom attributed to the President of the Republic<sup>17</sup> in nominating the President of the Council of Ministers, since the former can only appoint a personality who can obtain the support of both Houses. However, not one of the far too frequent governmental crises was initiated according to the procedure established by the Constitution.<sup>18</sup> Rather, they all fell in the category of the "extra-parliamentary" crisis. Regardless of multipartism in order to obtain the support of a majority, the government could rely on very few parties. For, as the Christian Democratic Party (DC) was becoming weaker while remaining the strongest, the smaller parties were placed in the position of either bargaining for more leverage and visibility or "pulling-out" of the majority and provoking a crisis.

It is an understatement, then, to affirm that the Italian parliamentary system has developed along pathological lines attributing too much power to political parties<sup>19</sup> which, in order to maintain their control, concentrated all decision making in the highest levels, and thus slowly transformed Parliament into a passive legislature. The negative effects of *partitocrazia* gave impulse to the process of amending the constitution. Therefore, the present "revolution" of Italy is physio-logical, rather than pathological. In fact, after fifty years of participatory democracy, Italians have come to learn and appreciate the potentialities of the fundamental law and, at the same time, have ceased to ignore the deficiencies and the pathological evolution of some institutions.

The financial pressures brought by the Maastricht Agreements and the growing economic division between northern and southern Italy have reawakened the former's dormant separatist

feelings while generating awareness of a partially unfulfilled constitution on matters of decentralization.

The 1948 Constitution "*recognizes and promotes local autonomies*"<sup>20</sup> while sanctioning the unitary state.<sup>21</sup> The intentions of the Constituent Assemblymen were clearly stated further in the fundamental law which notes that "*the Republic is divided into regions, provinces and municipalities*".<sup>22</sup> Notwithstanding the resolution to establish the Regions "*as autonomous bodies having their own powers and functions . . .*,"<sup>23</sup> decentralization in any truly effective way came too late and in much too weak a manner because of *partitocrazia*.<sup>24</sup> Only in 1968 did Parliament define the electoral procedures<sup>25</sup> for the regional councils, ending the convention of appointing the members of this body and instead allowing the people to exercise their right to vote.<sup>26</sup>

It is further evident that the intent of the drafters of the 1948 constitution was to acknowledge the geographic, historical, cultural and economic peculiarities <sup>27</sup> by establishing two categories of Regions, those created by Special Statute<sup>28</sup> and those by Ordinary Statute.<sup>29</sup> The determination to decentralize is moreover confirmed by the establishment of provinces and municipalities as "*autonomous entities within the limits of . . . the law . . . which determine their functions.*"<sup>30</sup>

Accordingly, Italy was to be administered by four levels of government.<sup>31</sup> Yet, obstruction by the bureau-crazy<sup>32</sup> and opposition by political parties<sup>33</sup> were matched by Parliament which, reluctantly and only partially, established by law the limits to those powers to be enjoyed by the segments and yet not enumerated in the Constitution.<sup>34</sup> And while, legislative,<sup>35</sup> and fiscal competences were granted to the regions, these were not only predetermined in nature, scope and extent, but also residual.<sup>38</sup> Notwithstanding the intentions of the Constituent Assembly, the pathological development of decentralization has voided this section of the 1948 fundamental law of any serious meaning. The requests of the *Lega Nord* to reform the system at first from a highly centralized to a federal system, then to a merger of regions<sup>39</sup> and finally to a confederate state through a secessionist process is a pattern that reflects this reality.

## **The Amending Process**

### *Constitutional Provisions*

For several months therefore, two levels of confrontation could be found throughout Italy. One, more politically oriented, was focused on measures to increase governmental efficiency and on decentralization; the other, more legally oriented, focused on the procedures which would have to be followed in order to obtain the desired reforms. The scenario presented three possible outcomes: a) Parliament (as sole representative of the people's sovereignty) could promote the changes through the enactment of ordinary laws; b) Parliament could follow the aggravated amending process; or c) the President of the Republic could call for the election of a Constituent Assembly.<sup>40</sup> Thus, the debate was to be centered on the provisions for amending the Constitution and on any limitations to the procedure set by the same.<sup>41</sup>

In order to avoid drastic changes of regime the 1948 Constitution established an aggravated amending process by imposing the so-called "double reading procedure"<sup>42</sup> and a subsequent probable *referendum*.<sup>43</sup> However, the provisions contained in article 138 were sanctioned when the composition of Parliament was to be fulfilled through a proportional law. Thus the constitutional guarantee against a takeover which an endorsement "*by an absolute majority of the members of each House in the second voting . . .*" was to provide in a multi-party system,<sup>44</sup> is no longer valid in a bi-polar situation.

Article 138 contains a further provision to require submitting "*the said law . . . to a popular referendum when . . . such request is made by one fifth of the members of a House or five hundred thousand electors or five Regional Councils.*"<sup>45</sup> Such possibility is foreclosed were both Houses to approve an amendment by a majority of two-thirds in the second voting. Again, this would seem to be a guarantee of democratic continuity nullified by the new electoral law.

Last, but not least, pertinent to the process of re-writing the constitution is the aspect of the time which must lapse between the two votes "*Laws amending the Constitution . . . shall be adopted by each House after two successive debates at intervals of not less than three months. . .*"<sup>46</sup> Theoretically, both Houses could have voted in favor of an amendment and then, during the three months interval they could be dismissed. Since the 1948 constitution has adopted "perfect" bicameralism,<sup>47</sup> a new Parliament elected in the bi-polar system, could want that amendment to become an ordinary law through the normative process sanctioned in the constitution.<sup>48</sup> While an ordinary law is inferior to a constitutional law in the hierarchy of laws, it would be in contrast with it and, hypothetically, the choice of amending the constitution could fall on the Constitutional Court<sup>49</sup> and not on the people.<sup>50</sup>

As for the limitations on introducing amendments to the 1948 fundamental law, the constitution is extremely clear.<sup>51</sup> There is only one restriction, and it is understandably in regard to the republican form. That form had been chosen on June 2, 1946 in an institutional *referendum* and it is therefore considered the origin of the same constitution and the expression of sovereignty fully invested in the people.

There is however another part of the constitution which is considered untouchable as the form of republic, and that is the whole first part of the fundamental law which includes civil rights,<sup>52</sup> ethical and social relations,<sup>53</sup> economic issues<sup>54</sup> and the guarantees of political rights.<sup>55</sup> This is so because each one of them is indispensable to the definition of a republic and the absence of one or all of the above rights and guarantees would infringe the precept enshrined in article 139.

### *Constitutional Law n. 1/1997 and the Bicameral Committee for Constitutional Revisions*

It became apparent then that a different legal approach should be undertaken by the XIIIth Legislature if revisions to the constitution were to be achieved. A solution was found in order to avoid the election of a Constituent Assembly with proportional criteria, while guaranteeing the plurality of political ideas as expressed by the people in the last electoral consultation, in addition to safeguarding their sovereignty by holding a mandatory *referendum*. Thus multipartism, minorities and the sovereignty of the people were to be safeguarded with the institution in January, 1997, of a Bicameral Committee for Constitutional Revisions.

This is the third committee of its kind in a decade.<sup>56</sup> However, the expectations are for it to succeed notwithstanding the failure of the previous two. Furthermore, this is the second such committee created with a special constitutional law,<sup>57</sup> establishing a custom which differs from the provisions of article 138<sup>58</sup> while not obliterating it. In fact, the procedure established for the approval of constitutional laws is the same one which constitutional amendments must follow. Parliament fulfilled the mandated provisions of the double voting at three month intervals in both Houses. Therefore, the Bicameral Committee is neither new in concept nor in the manner of its formation.

There are however at least two factors which differentiate this latest committee from its two predecessors which might justify the expectations of success. The first and more apparent factor

is the awareness which politicians have acquired of the determination of the Italian people to revise the constitution.<sup>59</sup> The second factor which makes of this Bicameral Committee a unique institution in Italian parliamentary and constitutional history is that the law instituting it contains not only the subject matters on which the committee is mandated to work, but also a timetable by which it will have to complete the task.

### *The Timetable of the Bicameral Committee for Constitutional Revisions*

The law provides for the committee to be formed by 35 Senators and 35 Deputies appointed by the President of each House within five days from the law's publication in the *Gazzetta Ufficiale* -- all selected proportionally to the individual party's electoral representation in that House.<sup>60</sup> Furthermore, within ten days<sup>61</sup> the Presidents of both Houses were mandated to convene the first meeting of the committee in order for it to elect its executive office: one president, three vice-presidents and four secretaries.<sup>62</sup>

The committee will decide its own internal regulations and the calendar of the meetings. Moreover, it will form as many subcommittees as deemed necessary to thoroughly complete its obligations by the scheduled<sup>63</sup> deadline of June 30, 1997.<sup>64</sup>

Any member of either House will be given the opportunity for thirty days to present to the presiding officer of his/her chamber amendments to the project or projects<sup>65</sup> which the Bicameral Committee will have produced by June 30. The Presidents of both Houses will forward such amendments to the executive officers of the Bicameral Committee by July 30. The committee will, in turn, have one month to give its opinion on the amendments and to decide which ones to accept and include in the comprehensive new project.

Between September 1997 and February 1998 the Houses will examine, in meetings of the whole, the proposals elaborated by the committee. Both the individual legislator and the committee can introduce new amendments which must receive wide circulation, also among the public, before the Houses begin the discussions. The deadline of the former is to be five days prior, while that of the latter will be forty-eight hours.<sup>66</sup>

Each House will deliberate twice on the projects at an interval of not less than three months. The first time, the voting will be article by article without a final vote on each project, but with a comprehensive vote on the whole. In the second deliberation, the project will have to be approved by each House by the absolute majority of its members<sup>67</sup> in order for it to become constitutional law.

The final deadline established by Constitutional Law 1/1997 is perhaps the one which differentiates the procedure to write this constitutional law *vis-à-vis* the provisions of article 138.<sup>68</sup> The law mandates, in fact, that a *referendum* be held within three months from the final vote in the last House,<sup>69</sup> notwithstanding the *quorum* reached by the Houses at final vote. The proposed new section of the Constitution will be considered ratified if the majority of the voters will exercise their right to vote and if the majority of the valid votes will have been expressed in its favor.

While there is a generalized scepticism about the reforms, this seems to be oriented more towards the politicians' true reformist feelings than towards the accomplishment of reforms. Therefore, the doubts are not on whether the reforms will take place, but on the depth and breadth they will have. The doubts find justification in the relevance and great variety of the subject matters on which the law instituting the Bicameral Committee has mandated it to elaborate amendments to the present constitution.

## The Issues to Be Revised by the Bicameral Committee

There is only one limitation in the constitution of 1948 to the amending procedure, and that is that "*the form of Republic shall not be a matter for constitutional amendment.*"<sup>70</sup> It is this provision which generated the fear of an election of a Constituent Assembly which by its own nature would have enjoyed *carte blanche* on the whole text of the constitution.

That Parliament felt the need to specify which sections of the present constitution were to be amended by the committee.<sup>71</sup> This could appear peculiarly limiting on the freedom and sovereignty of the legislators in the committee, considering that the overwhelming *raison d'être* of the committee itself is to propose radical revisions to the fundamental law. However, the transition from the First to the Second Republic which Italy has been experiencing, called for prudence in order to elude the risk of a drastic change of regime at a time when many of the guarantees of democracy and minorities have been weakened by the new electoral law.<sup>72</sup>

Although a superficial reading of Constitutional Law 1/1997 leads to the conclusion that the enumeration of subject matters could indicate a limitation to the activities of the constitutional legislators, the law does embrace issues which are unmistakably among the most relevant sections of a constitution while not excluding potential residual legislative powers for related subjects.<sup>73</sup>

Throughout five months, between February and June, 1997, the Bicameral Committee will have to elaborate revisions to Part II of the constitution "Organization of the Republic" and specifically revise the form of State, the form of Government, Bicameralism and the system of guarantees.<sup>74</sup> The relevance of these subjects may not be underestimated and the success of this amending process will undoubtedly lead Italy into a Second Republic.

*The Form of State.* The question of decentralization and whether the present constitution sanctions or rejects federalism, is perhaps the most urgent and the most debated throughout the nation. How the 1948 Constituent Assembly had envisioned decentralization and how poorly and belatedly it has been implemented,<sup>75</sup> fostering restlessness especially among those who live in wealthier areas of the nation,<sup>76</sup> has already been illustrated. Because of the discontent of the people, the uncertainty of the transition, and the financial deadlines of Maastricht, there is no one political party which will deny the opportunity to, and the imperative implementation of, decentralization whether called federalism or regionalism.

The "peaceful Revolution" of Italy has been characterized by an equal effort in jurisprudence and by constitutional lawyers. Throughout the last four years the scholarly debate has been focused on issues leading to a more elastic interpretation of the constitution<sup>77</sup> in order to provide politicians with a reasonable and constitutionally correct approach to federalism.<sup>78</sup> The nucleus of the debate was on: a) the legal meaning which sovereignty and autonomy have had in Roman Law countries, and b) the typology of the State, that is, whether a federal state is a sub-type of a unitary state or the most commonly espoused form of the composite state.<sup>79</sup>

The traditional doctrine maintained a distinction between the two types of states. In the federal model the segments<sup>80</sup> enjoy the three fundamental functions of the state (legislative, executive and judiciary) and relinquish to the central government their original external sovereignty.<sup>81</sup> In the regional model, instead, depending on the level of decentralization, it is only possible to find a normative and an administrative function and in most cases these will be of a residual nature. Furthermore, a distinction was made between regional autonomy and state sovereignty. The regions, being created *ex novo* enjoy an *octroyè* or granted autonomy while the segments having been sovereign states before forming the union are titular of an original and residual

autonomy.<sup>82</sup> The more flexible approach interprets the federal state as a sub-type of the unitary state.<sup>83</sup> Sovereignty lying necessarily only in the superior system, either because it was delegated to it by the component parts or because the unitary state decided to decentralize in order to better expedite its functions.<sup>84</sup> Thus, a federal state is a unitary state which is organized in the most far-reaching decentralist manner. Regionalism and federalism represent two different levels of decentralization within the same form of state.<sup>85</sup>

Strengthened by this extended debate and supported by the newest doctrine, the Bicameral Committee will be able to look at a variety of models within Europe in addition to Canada and the United States of America.<sup>86</sup> It seems improbable at this stage, that the committee will opt for the Spanish constitutionalization of the regional statutes which would be the easiest means to amend the constitution since it would only elevate the *status* of all Ordinary Regions to that of the five with Special Statute; the last have been granted more autonomy in their everyday policies, while enjoying more residual powers.<sup>87</sup> Presumably, instead, the committee will try to blend the German, Austrian and American models in order to elaborate a division of powers between the center and the segments which would be identical for all Regions; the Constitution would include only one enumeration of powers, the fewest possible to be attributed to the central government while all residual powers would be enjoin by the Regions. Last but certainly not least, the committee will have to decide whether to preserve the option for the Regions to merge in order to obtain larger (yet smaller than the national state) and more cost effective segments.<sup>88</sup>

Accomplishing decentralization in the manner just described will understandably imply modifications to Bicameralism -- as will be discussed below -- in addition to transforming the state administrative and fiscal apparatus to accommodate the new division of powers. There are clearly two correlates to these innovations: a) whether to accept the provocation of the *Lega Nord* proclaiming the lack of usefulness of the Prefects in a federal state;<sup>89</sup> and b) whether to change the provisions for the approval of the state budget.<sup>90</sup>

*The Form of Government.* This question is perhaps the one which has been oversimplified by the media while receiving very little in-depth analysis by the scholarly community -- at least until the Bicameral Committee convened and a few substantial proposals for revisions were introduced. The almost complete shift from the proportional electoral law to the quasi-majoritarian model (75 percent of the seats are attributed through the majority electoral system and the remaining 25 percent through the proportional system) has modified the old balances within Parliament as well as the "confidantary relation" which exists between the Council of Ministers and the legislative branch and which stems from the vote of confidence to given to the government by the Parliament. It was therefore inevitable that the revisionist debate would embrace, in addition to the question of the powers to be attributed to the President of the Republic and to the President of the Council of Ministers and their electoral base, also the issue of the powers of the majority and the role of the opposition within Parliament.<sup>91</sup>

The electoral reform has proven to be effective in reducing the field of political contenders from a multi-party to a bipolar system, although still evidencing the need to reform the procedure for appointing the President of the Council of Ministers.<sup>92</sup> A great variety of parliamentary models, could be taken into serious consideration by the Bicameral Committee. It seems understandable, however, that to favor constitutional productivity the field was narrowed to the German, Austrian and French models with what would appear to be a propensity towards the French semi-presidential model.<sup>83</sup>

Predictably the debate within the committee will be centered between the two models which could give the Italian people a strong, more efficient executive checked by a newly empowered legislature which would have to be the depository of the people's sovereignty. Checks and balances will have to be introduced in order to safeguard Italy from authoritarian or plebiscitarian temptations which could otherwise arise.<sup>94</sup> Both models, that of the chancellor and the semi-presidential one, imply the coexistence of two titulars of policy initiatives, and thus the committee will have to devise a new procedure for the bestowal of confidence<sup>95</sup> on the President of the Council of Ministers as well as envision the direct popular election of the President of the Republic.<sup>96</sup>

As for the President of the Council of Ministers, the new fundamental law will have to contain provisions redefining the role, the powers and the responsibility both to parliament and to the people. In order to comply with the 1993 *referendum* results, the President of the Council of Ministers will have to be "the recognized" leader of a parliamentary majority. To ensure the stability of the executive and prevent governmental crisis, the Bicameral Committee could introduce provisions in favor of a vote of confidence along the lines of the French "presumption" which does not require an active vote of confidence for the government to be invested with executive power, and it could borrow from either the French or the German models with the introduction of a constructive vote of no confidence (in the German model the House must provide for a new Chancellor when it refuses a vote of confidence in the existing one). Finally, if the President of the Council of Ministers is to be the leader of the majority, he/she must be given not just the power to appoint the Ministers, but also that to remove them.

A system in which the President of the Republic is elected directly by the people and has the policy initiatives would have to include provisions which will make him/her no longer responsible only for high treason or plots against the Constitution.<sup>97</sup> In a highly decentralized state the President will have to be the guarantor of territorial integrity and not just the representative of national unity.<sup>98</sup> In order for him/her to be truly the representative of the people, the eligibility requirements would have to be modified and a primary election of some kind introduced. If the perceived danger is an authoritarian outcome, the Bicameral Committee will have to study the possibility of differentiating not just the term of office of the President from that of parliamentarians but scheduling the elections of both at different times.<sup>99</sup> Finally, the President of the Republic should be granted more powers in foreign policy while some of his present domestic powers would have to be reduced.<sup>100</sup>

*Bicameralism.* The sub-committee which will be dealing with this issue has begun working on the basis of the agreements reached (although not formalized) in 1994 by the previous committee.<sup>101</sup> Acceptance of a quasi-identity between regionalism and federalism will certainly be useful for the subcommittee on the form of state. If the federal option will be agreed upon in that context then bicameralism will have to be modified in that direction as well.

In the early stages of the "peaceful revolution" it became apparent that parliament, as an independent institution in charge of legislative power, had conceded most of the initiative to the executive and before it to political parties. In order to defeat *partitocrazia* the in-House regulations were revised for both the Senate and the Chamber and the electoral law was changed to encourage the bi-polar/ two party system. However major reforms were postponed to a time when they could be studied from a holistic perspective, when both the form of state and of government would be modified. It is precisely for this reason that the issue was enumerated in Constitutional Law 1/1997.

Two major reforms will have to be taken into consideration: the size of the chambers and the representation/ competence of each.

In the aftermath of the Fascist dictatorship, the Constituent Assembly saw it appropriate to guarantee the widest geographic and political representation by establishing a multi-party system and a large legislative body.<sup>102</sup> These in turn were to be the most effective deterrents to a new dictatorial scheme, in addition to being essential to the correct functioning of a representative democracy.<sup>103</sup> The reduction of membership in both Houses has been on the agenda of many political parties for almost two decades.<sup>104</sup> It is probably the most postponed reform in Italy and predictably it will encounter more resistance from the smaller political parties who might see in a reduced size of parliament a proportional decrease of their representation.

On the other hand, if the reforms move in the direction of federalism, a different type of representative body will have to be considered. The Bicameral Committee should contemplate moving from "perfect" bicameralism, which has become obsolete, towards the new model. A variety of options are evident throughout the world<sup>105</sup> since the majority of nations which accept bicameralism have implemented the latter model. The committee could believably pattern the new Parliament after either the United States and Germany or after Great Britain and Spain. If the upper House is to be a chamber reflecting regional representation, then the model to be followed is that of the Senate in The United States of America or of the *Bundesrat* in Germany. If, on the other hand, the transition towards federalism will be smoother, only limited powers could be granted to the new Italian Senate.<sup>106</sup> Predictably the revision of the form of state will be in the direction of very strong regionalism<sup>107</sup> and not yet federalism. Thus it is reasonable to believe that the committee will opt for an elected Senate molded after the Spanish *Senado* rather than a chamber composed of representatives of the regional executives like in the German *Bundesrat*. The Senators will have more power on regional matters<sup>108</sup> and perhaps less legislative initiative.

The Chamber of Deputies could see presumably a strengthening of powers by remaining the sole House to represent national interests like the French *Assemblée Nationale*. In this event, it would become the only chamber granting the vote of confidence. If decentralization occurs, then the new chamber should be in the position to expedite more efficiently its control and legislative tasks since many subject matters will be granted to the sole initiative of the Regional Assemblies.

Moreover, another task of the Bicameral Committee will have to be to balance the power of the majority with that of the opposition, since the role attributed to the opposition becomes an element of evaluation of democratic standards and an essential component of the governmental structure. Should those who lose an election be given a function as comptroller of the majority party or coalition? How extensive should this role be? Is this function better served by the committees within the legislative branch or by an independent *super partes* authority? Should the activities of the committees be highly or scarcely regulated? Should they be granted investigative and or legislative powers? These are just some of the questions which the Bicameral Committee will have to answer most likely in drafting what has already been called the "Opposition Statute."<sup>109</sup>

Furthermore, the committee will have to reconsider the whole issue of *referenda*. The provisions to validly hold one, the *quorum* necessary to have it approved and the typology of it included in article 75 deserve to be modified in order to be more coherent with a majoritarian system. The inflationary recourse to *referenda* which has characterized the last two decades,<sup>110</sup> while acquainting the Italian voter with such an instrument of direct democracy, has also demonstrated the limitations of the abrogative (veto) form. Presumably the committee will consider introducing a positive form of the *referendum* as well as maintaining the abrogative one,

while elevating the required number of citizens requesting that one be held.<sup>111</sup> Because of the extremely elevated costs for the state to hold a *referendum* it would be most appropriate if the Bicameral Committee were to introduce provisions limiting the subject matters which can be addressed through this procedure; raising the *quorum* necessary to request one; and initiating a check on the constitutionality of the question before the process reaches the final stages.

Lastly, it is auspicious that the membership of both Houses will be reduced now that the system of government has shifted towards the bi-polar model and the majoritarian electoral law renders the multi-party system obsolete.

*The System of Guarantees.* Finally, Constitutional Law 1/1997 has charged the Bicameral Committee on Revisions with the issue of guarantees by which the Italian Constitution intends its Supreme Court.<sup>112</sup>

The liberal Albertine Statute had proven deficient when it allowed the Fascist regime to take power legally. An overwhelming concern of the Constituent Assembly of 1946 was to build the new nation with more constitutional guarantees than envisioned by the previous statute. The new Constitutional Court was charged with reviewing the constitutionality of legislation and adjudicating disputes among government institutions and between the regions and the central government. That court also may impeach principal executive officials and, since 1953,<sup>113</sup> determine the validity of *referendum* proposals.<sup>114</sup>

Access to the Constitutional Court is open only formally. In reality questions on the constitutionality of the laws can be raised by any individual, group, or regional government only if relevant to the case in question<sup>115</sup> and only "incidentally"<sup>116</sup> while the same case is being decided by a lower Court. However, many cases are not heard by the Constitutional Court, since a large margin of discretionary interpretation is left to the lower court judge who can prevent a case from reaching the Constitutional Court by issuing an interlocutory judgement noting that the claim is unfounded. Notwithstanding opposition from within the judiciary, the Italian Constitutional Court asserted its prerogative to interpret the meaning of the constitution and the intent of the legislators, and proved to be a strong defender of civil liberties.<sup>117</sup> Much could be improved, however, to render the Constitutional Court more accessible to the Italian people. On this subject the Bicameral Committee could conceivably look at the provisions for direct, albeit limited, access to the Constitutional Court in Spain and Germany<sup>118</sup> and consider its desirability for Italy.

Furthermore, it is understandable that the Italian people will be anticipating fundamental revisions of the powers and competences of this institution especially if true decentralization is to be accomplished. The present constitution, for example, only allows for the Regions and the central State to approach the Court in cases of conflict in the allocation of powers<sup>119</sup> while the Municipalities and the Provinces can submit their cases only to the ordinary and administrative courts. Decentralization will have to be reflected also in the composition of the Constitutional Court which probably will either become a larger body or be nominated by more institutions. At present, the Constitutional Court is composed of fifteen judges of which one third are nominated by the President of the Republic, one third by Parliament in joint voting, and one third by the highest ordinary and administrative courts.<sup>120</sup> It is reasonable to believe that the Bicameral Committee will deliberate a provision to allow the Regions to be represented in the Constitutional Court in addition to the three branches of government.<sup>121</sup>

However, if revisions should occur at the Constitutional Court level they should not be just for this important institution, but also for the judiciary as a whole. The debate on revisions of the judiciary, will necessarily include among others, the issues of the separation of the careers between

judges and prosecutors, the introduction of justices of the peace, the independence and the accountability of the justices, and a revision of the functions of the High Council of the Judiciary.<sup>122</sup> Predictably the judiciary will resist innovations which have always been considered by it as a whole as diminishing their independence and autonomy.

Undoubtedly the Bicameral Committee will also study the feasibility of introducing in the fundamental law of the land forms of guarantees which have already been introduced in the ordinary system without, as yet, having been incorporated in the constitution.<sup>123</sup> Among these, there are two on which the Bicameral Committee will presumably focus its attention: the independent authorities and the *difensore civico*. The latter is an *ombudsman* in charge of supervising and investigating the functioning of the administrative offices with powers to initiate disciplinary actions and make censures when citizens have been improperly denied their rights.<sup>124</sup>

Independent authorities, on the other hand were introduced in Italy in the 1980s based on the model of independent regulatory agencies in the American system.<sup>125</sup> Law 142/1990 while beginning to reorganize the tasks, powers and internal structure of the administrative *apparatus* in order to establish public openness and accountability or "transparency" within the public sector, has attempted also to locate and establish the position and role of these functions at the local and regional levels. It might be hoped, then, that the Bicameral Committee will study this subject among the other guarantees to determine if the independent authorities are to be arbiters of the good execution of the laws or a fourth branch of government and whether the new Constitution should include provisions regulating their creation, performance, tenure, accountability and disciplinary powers in addition to provisions establishing the manner of appointing their executive officers.

## Conclusions

The transition towards a new Second Republic has undoubtedly begun. It should have become apparent that "the peaceful revolution" which Italy has been under-going throughout the last seven years may not be as tranquil as the media have described it. This period has been characterized by two attempts at rewriting the constitution through the creation, by constitutional laws, of Parliamentary Bicameral Committees<sup>126</sup> whose slow and tenacious labour has set the grounds for the overall peacefulness throughout the nation.

Notwithstanding generalized skepticism on the true reformist intentions of the politicians, there seems no doubt<sup>127</sup> that this Bicameral Committee will meet the challenges both in terms of the issues and of the time-tables set by constitutional law 1/1997. The requirements established by the Maastricht Agreements and the pressures of the *Lega Nord* will incline politicians to pursue reforms that will give the nation a highly regionalized (if not federal) character and a much more efficient state. However, the reform process which was begun in January, 1997, does not imply amending the whole constitution nor that the Bicameral Committee has been given the *carte blanche* powers a Constituent Assembly would have been empowered to exercise.<sup>128</sup>

The procedure followed for the creation of the Bicameral Committee was not unknown to the legal system; the device has been implemented previously and unsuccessfully.<sup>129</sup> However, some perplexities do arise from the enumeration of subject matters which this committee is entitled to revise. The reality is that a constitution, any constitution, while being indeed subdivided in parts, titles or sections, is always a systemic law the various components of which constitute a structurally functional whole. If this is true, then to declare parts of a constitution as "untouchable"

provokes two orders of problems. The first functional and the second pertaining to legal doctrine and the theory of the hierarchy of the laws.

The first set of problems, which should be evident to those who are acquainted with the structure of the Italian Constitution, originates in the selection of the sections excluded from the amending process. They are those related to the fundamental principles of the republican regime and the rights and duties of citizens.<sup>130</sup> Modifying Part II will, most likely, imply revising a few of the provisions and statutes pertaining with the issues dealt with in Part I. Altering, however, will not mean revising the reach of those resolutions since they have been found to be, both by the scholarly community and the Constitutional Court, the "genetic code" of the 1948 Constitution. Thus, the mutation of the scope of any or all the articles included in Part I would signify the end of this regime and the beginning of a completely new constitutional system.<sup>131</sup>

Of further interest for law scholars are the implications which Constitutional Law 1/1997 has spawned for the theory of the hierarchy of the laws. In fact, proclaiming that parts of the fundamental law are not to be amended is tantamount to claiming that not all the provisions of the Constitution are equal. Because of the limitations set in Constitutional Law 1/1997 there are now some provisions which are more constitutional than others -- so much so that the latter can be amended and the former cannot. This implies that there will be one more rank in the hierarchy of laws and that constitutional provisions included in Part I will be superior to those in Part II. Thus, the principles and discipline of the former will have to prevail on those of the latter.

Furthermore, this hierarchy of constitutional laws will generate problems for the courts and especially for the Constitutional Court when exercising judicial review. Indeed, it might be asked whether, in order to pronounce a law unconstitutional, the justices will evaluate it against the principles enunciated in Part I or against those in Part II? And, will the justices pronounce laws to be unconstitutional only if they infringe on the rights guaranteed in the "untouchable" constitution? Answers to these and other questions will have to be given by scholars and justices in the near future if the Bicameral Committee is to succeed in meeting its deadlines and if the people of Italy will accept, through *referendum*, the new constitution. By March, 1997, the Bicameral Committee on Constitutional Revisions established in January 24, 1997 had been working on schedule and expressed its conviction of fulfilling its obligation to parliament and to the nation.

## Notes

1. The Italian communist party was one of the first to consider structural changes. These were advocated by Leonilde Iotti in 1979 who succeeded to invest the Central Committee of the PCI and placed the issue on the party's political platform. Iotti proposed modifying "perfect" bicameralism (a parliamentary system according to which both the House and the Senate have equal powers in all matters) by revising the functions and the structure of both Houses of Parliament. She suggested diversification of the fields of competence between the two branches; she proposed that a bill, initiated in one chamber, would have an expedited process in the other; she recommended reducing the number of deputies to about 400 and the senators to about 200. Maria Elisabetta de Franciscis "*Leonilde Iotti*" in Rebecca Mae Salokar and Mary L. Volcansek (eds.), *Women in Law, A Bio-Bibliographical Sourcebook* (Westport, Connecticut: Greenwood Press, 1996), pp. 101-111.

2. Law 241/1990 (August 7) as further integrated by Law 273/1995 (July 11) provides for administrative transparency enforced by instituting at the local level a sort of *ombudsman* called *difensore civico*.

3. Law 142/1990 delegated more powers, specifically financial autonomy, to the towns and provided for a new electoral law for both the mayors and their town-councilmen establishing direct responsibility between elected and electors.

4. The Constituent Assembly did not deem it safe for the democratic regime which had just been established in Italy to sanction the possibility for the people to propose legislation through a referendum. Only a referendum to abrogate, totally or partially, a law was contemplated. "*A popular referendum shall be held to abrogate, totally or partially, a law . . . when requested by five hundred thousand electors. . .*" Italian Constitution, article 75.

5. The new electoral law which established that seventy-five per cent of each House would be elected with the majoritarian system while the remaining twenty-five per cent would be attributed to the political parties, proportionally to the votes expressed by the people and provided they received more than 4.5 per cent.

6. The Aggravated Amending procedure is the one indicated in article 138, section 1 of the Italian Constitution. "*Laws amending the Constitution and other constitutional laws shall be adopted by each House after two successive debates at intervals of not less than three months, and shall be approved by an absolute majority of the members of each House in the second voting. . .*"

7. Italian Constitution, article 94 "*The government must have the confidence of both houses*".

8. The opposite approach was chosen only a year later in the Federal Republic of Germany "*The Bundestag may express a vote of no confidence only when it elects by a majority of its members a successor and when it asks the Federal President to withdraw the powers to the Federal Chancellor. The Federal President must conform to the request and appoint the elected. Between the motion and the election must pass forty-eight hours*". German *Grundgesetz*, article 67.

9. This was done since the legislative branch is the only organ of the state which is directly elected by the people. Thus the Council of Ministers is indirectly responsible to the people.

10. It is the provision included in the German electoral law (May 7, 1956 BWG) which limits the actual presence of political parties in the *Bundestag* to only those which have obtained at least five per cent of the votes expressed throughout the nation.

11. Italian Constitution, article 21 "*All have the right to express freely their thought. . .*" Articles 13 through 28 of the Constitution are the Italian equivalent of the Bill of Rights in Common Law countries and are considered non emendable.

12. Italian Constitution, article 18 "*Citizens have the right to form associations. . .*"

13. Italian Constitution, article 49.

14. "*Those political parties which, either in their platform or through the behaviour of their membership, attempt to weaken or to eliminate the fundamental democratic order or to threaten the existence of the Federal Republic of Germany are unconstitutional. Competent to decide the unconstitutionality is the Federal Constitutional Court.*" German *Grundgesetz*, article 21.2. The Federal Constitutional Court in two separate decisions proclaimed unconstitutional both the Neo-Nazi (1952) and the Communist party (1956).

15. Italian Constitution, article 49.

16. By 1978 the negative consequences provoked by the lack of procedures regulating the activities of political parties in Italy was already evident; thus it seemed wise that for the implementation of procedures aimed at insuring a truly democratic role of the political parties, the Spanish Constitution is closer to the *Grundgesetz* (art.21) than to the Italian Constitution. The last sub paragraph of article 6 of the Spanish Constitution "*their internal organizations and their procedures must be democratic*" was further developed by an organic law (54/1978) whose article

2 disciplines the procedures to be followed by the political parties (i.e. registration, statute, finances) in order to be considered *persona giuridica*, procedures which are comparable to those followed for registration by business corporations. This organic law represents the only such regulation in western democracies and sets Spain apart from its neighbors. For an analysis of this law and its implications for democracy see, Gabriella Duranti, "*Personalità giuridica dei partiti: originalità del sistema Spagnolo*" in «1989» *Rivista di Diritto Pubblico e Scienze Politiche*, Anno VI, n.1, 1996, pp. 71-93.

17. Italian Constitution, article 92 "*The President of the Republic nominates the President of the Council of Ministers and, on his proposal, the Ministers.*"

18. Italian Constitution, article 94.5 "*A motion of no-confidence must be signed by at least one tenth of the members of the house and cannot be debated earlier than three days of its presentation.*"

19. This phenomenon has been known as "*partitocrazia*" (a government system in which the main decisions are taken by the leadership of the parties which are members of the governing coalition, with the government acting essentially as a ratifying body) and has been studied and discussed widely by the international scholarly community for the last twenty years. For all see, Joseph La Palombara, *Democracy Italian Style* (New Haven: Yale University Press, 1987); and *Political Science Quarterly*, Special Issue: *Presidential and Parliamentary Democracies: Which Works Best?*, vol. 109, n. 3.

20. Italian Constitution, article 5.

21. Italian Constitution, article 5 "*The Republic, one and indivisible. . . .*"

22. Italian Constitution, article 114.

23. Italian Constitution, article 115.

24. Cfr. footnote 16.

25. Law 108, February 17, 1968.

26. Italian Constitution, article 122 "*The electoral system, . . . of regional councilors shall be established by a law of the Republic.*"

27. Italian Constitution, article 116 "*To Sicily, Sardinia, Trentino-Alto Adige, Friuli-Venezia Giulia and Valle d'Aosta are attributed forms and particular conditions of autonomy. . . .*" Soon after the death of Franco, Prime Minister Suarez and his government followed the Italian model, set in article 116 of the Italian Constitution which provides for special statutes for five regions, and established the *status* and powers of the "*pre-autonomy territorial entities*" granting them to the Basque, Catalonia and Galicia regions. On the development of these special territorial autonomies and on the decentralization in the new Spanish Constitution see, Gabriella Duranti, "*Il Caso Spagnolo*" in Silvano Labriola (ed.) *Il Decentramento Politico negli Stati dell'Unione Europea* (Rimini, Maggioli Editore, 1997), pp. 75-109.

28. Italian Constitution, article 116.

29. Italian Constitution, article 123 "*Every region shall have a statute which . . . is passed by the regional council by absolute majority of its members and is approved by a law of the Republic.*" This procedure applies to all remaining regions while for the Special five the Statute was granted directly by Parliament.

30. Italian Constitution, article 128.

31. Italian Constitution, article 129 "*The provinces and municipalities shall also be units of state and regional decentralization.*"

32. The passive resistance of civil servants had also impeded the functioning of the Constitutional Court for almost a decade after the implementation of the Constitution. On this

subject, Maria Elisabetta de Franciscis and Rosella Zannini "*Judicial Policy Making in Italy: The Constitutional Court*" in Mary L. Volcansek (ed.) *Judicial Politics and Policy-Making in Western Europe* (London, Frank Cass & Co. Ltd., 1992), pp. 68-79.

33. These feared a growth of power by the segments (which being smaller in size, would be establishing a direct line of responsibility with the people) and a potential decrease of their own.

34. The term "segment" is used here with the same meaning given to it by Max B. Thatcher: "... where the term segment applies to the parts of the whole, i.e. the states, provinces, or cantons ..." in "*Toward a Theory of Federalism*" in «1989» *Rivista di Diritto Pubblico e Scienze Politiche*, Anno IV, n.3-4/1994, pp. 547-564.

35. Italian Constitution, article 117 "*Regions may legislate within the limits of the fundamental principles established by the laws of the State. . . .*"

36. Italian Constitution, article 118 "*Regions have responsibility for the administrative functions in the areas listed . . . except in those . . . which may be allocated by the laws of the Republic. . . .*"

37. Italian Constitution, article 119 "*The Regions shall be financially autonomous in the forms and within the limits established by the laws of the Republic. . . .*"

38. Italian Constitution, article 132 "*It shall be allowed . . . to decide the merger between existing regions or the creation of new regions. . . .*"

39. Italian Constitution, article 132 "*It shall be allowed . . . to decide the merger between existing regions or the creation of new regions. . . .*"

40. The 1948 Italian Constitution, like those of other countries, does not contemplate procedures for a Constituent Assembly whose purpose would be that of overturning the existing regime. However, article 87.3 mandates the President to "*call elections for the new Houses and fixes their first meetings.*" Those who advocated more guaranties to protect the present Constitution saw an election, purposely and exceptionally called with the proportional system, as allowing the formation of an Assembly more representative of the people and therefore were willing to delegate constituent powers to such an Assembly. This was not a very viable route and was advocated only by the *Lega Nord*.

41. Italian Constitution, articles 138 and 139.

42. Italian Constitution, article 138 "*Laws amending the constitution and other constitutional laws shall be adopted by each House after two successive debates at intervals of not less than three months, and shall be approved by an absolute majority of the members of each House in the second voting.*"

43. Italian Constitution, article 138.2 "*The said laws are submitted to a popular referendum when, . . . such request is made by one fifth of the members of a House or five hundred thousand electors or five regional councils. . . .*"

44. The eventuality of the occurrence that almost all parties in Parliament would agree on the proposed amendment being useful and opportune was to be rare and could not be abrupt.

45. Italian Constitution, article 138.2.

46. Italian Constitution, article 138.

47. This is a unique and extreme interpretation of bicameralism by which both Houses duplicate each other on legislative matters and competence. Italian Constitution, article 70 "*The legislative function is exercised collectively by both Houses.*"

48. Italian Constitution, article 72 "*The regular procedure for examination and approval directly by the House is always followed for bills on constitutional . . . matters. . . .*"

49. Italian Constitution, article 134 "*The Constitutional Court shall pass judgement on controversies on the constitutional legitimacy of laws. . . .*"

50. Italian Constitution, article 137.3 "*Against the decision of the Constitutional Court no appeals are allowed.*"

51. Italian Constitution, article 139 "*The form of Republic shall not be a matter for constitutional amendment.*"

52. Italian Constitution, articles 13 through 28.

53. Italian Constitution, articles 29 through 34.

54. Italian Constitution, articles 35 through 47.

55. Italian Constitution, articles 48 through 54.

56. The first Bicameral Committee dates to the mid 1980s and it was created by a joint decision of both Houses of Parliament, while the second one was instituted in 1993 with the same procedure followed in 1997.

57. The first one by constitutional law 1/1993 (August 6,1993) and this one by constitutional law 1/1997 (January 24,1997).

58. See paragraph 4, pp. 6-8.

59. The protests organized by the *Lega Nord* are not the only ones to take place, although these are the most emphasized by the media because of the movement's extreme boldness on the subject of decentralization.

60. Constitutional law 1/January 24, 1997, article 1.

61. This took place on February 5, 1997.

62. Constitutional law 1/1997, article 1.3.

63. Constitutional law 1/1997, article 2.4.

64. The Bicameral Committee has been keeping a very tight schedule and all its members have declared willingness to respect the calendar mandated in the instituting Constitutional Law.

65. The law-makers in fact having foreseen diversity of opinions and their probable impossible reconciliation, have provided, in this initial stage, for both a majority and a minority project. Constitutional law 1/1997, article 2.4.

66. Constitutional law 1/1997, article 3.3.

67. Constitutional law 1/1997, article 3.4.

68. Italian Constitution, article 138.2 "*The said laws are submitted to a popular referendum when . . . such request is made. . . .*" The following comma however precludes the possibility of a *referendum* if "*the law has been approved in the second voting by each of the Houses by a majority of two-thirds of the members.*" On the contrary, this special constitutional law instituting the Bicameral Committee for Revisions mandates for the sovereign people to express its decision to ratify the new section of the Constitution through the *referendum*.

69. Constitutional law 1/1997, article 4.

70. Italian Constitution, article 139.

71. Constitutional law 1/1997, article 1.4.

72. See paragraph 4, pp. 6-8.

73. For example, the electoral law has not been included in the enumeration of issues subjected to revision. Yet, the new Constitution must, as a whole, be functional. Thus, if a new system of government is to be implemented, this might necessitate correctives on the electoral law. The Committee will be sole in judging the opportunity to modify those parts of the present electoral law in order to reach the desired result.

74. Constitutional law 1/1997, article 1.4.

75. See paragraph 3, pp. 4-6.

76. The *Lega Nord* is only one of the many leagues which have developed since the late 1980s throughout northern Italy. Among the others are the *Liga Veneta* and the *Lega Toscana*. All together have proclaimed the existence of a northern state called *Padania* for which they have elected a Parliament and have appointed an Executive Council.

77. Especially of article 5 which has been seen as the stumbling block for decentralization where it reads "*The Republic, one and indivisible. . .*"

78. Advocated by northern Italians.

79. Maria Elisabetta de Franciscis, "*Federalism in the United States: Sovereignty vs Autonomy*" in «1989» *Rivista di Diritto Pubblico e Scienze Politiche*, Anno IV, n. 3/4, 1994, pp.779-801.

80. Cfr. footnote 33.

81. For all cfr. Temistocle Martinez, *Diritto Costi-tuzionale* (Milano Giuffrè, 1992), p. 158 et segg.

82. cfr. A. La Pergola, "Regionalismo, Federalismo e potere estero dello stato. Il caso Italiano ed il Diritto Comparato" in *Federalismo, Regionalismo ed Autonomie Differenziate*, Atti del Convegno Internazionale, Palermo-Taormina, 24-28 settembre 1985, p. 352.

83. Along these lines are, Lucatello, Crisafulli, Mortati and Paladin.

84. G. De Vergottini, "Modelli Comparati di Auto-nomie Locali" in *Organizzazione e Diritto delle Regioni*, Supplemento n. 4 del bollettino di legislazione e documen-tazione Regionale, 1982, pp. 73-102.

85. S. Labriola, "Progetto di Legge di Revisione della Parte Seconda della Costituzione" in *Atti della Commissione Parlamentare per le Riforme Istituzionali*, (Constitutional Law 1 /august 6, 1993) pp. 32-33.

86. The models of decentralization which the Bicameral Committee will most likely study within Europe are Germany, Spain and Austria.

87. This solution would solve only apparently the secessionist requests of northern Italians, and therefore although technically the easiest it would be politically the most dangerous.

88. Italian Constitution, article 132 "*It shall be allowed . . . to decide the merger between existing regions or the creation of new regions. . .*"

89. Italian Constitution, article 124 "*A government commissioner, residing in the regional capital, shall oversee the exercise of State administrative functions and shall coordinate them with those exercised by the region.*"

90. Italian Constitution, article 81 "*The Houses approve every year the budgets and expenditure accounts submitted by the government.*" If, indeed, Bicameralism will change, then too the role of both Houses in approving the budget should be modified.

91. Maria Elisabetta de Franciscis "The British Committee reform and the opposition: a viable model for Italy? " in *Rassegna Parlamentare*, Anno XXXVII, n. 4, ottobre-dicembre 1995, pp. 523-548.

92. Italian Constitution, article 92 "*The President of the Republic nominates the President of the Council of Ministers and, on his proposal, the Ministers*"; article 93 "*The President of the Council of Ministers and the Ministers, before entering on his duties, shall be sworn in by the President of the Republic.*"

93. The majority of political parties are in favor of the French model, against it are the *Partito Democratico delle Sinistre* (PDS: ex Communist Party), the *Partito Popolare Italiano* (PPI: ex Christian Democratic Party) and the *Rifondazione Comunista* (PRC: Communist Party).

94. The manner in which the President of the Republic will be elected, perhaps with a run-off between the two highest vote getters, could represent a bulwark against both authoritarian and plebiscitarian schemes.

95. Italian Constitution, article 94 "*The government must have the confidence of both Houses. Each House grants or withdraws its confidence. . . .*" This will probably have to change if the federal model will be followed and Parliament modified in order more fully to mirror the territorial division of powers. In the majority of the European countries the vote of confidence is granted by only one House.

96. Italian Constitution, article 85 ". . . *The president of the Chamber of Deputies shall summon a joint session of parliament and the regional delegates to elect the new President of the Republic.*" For an analysis of the electoral process and the powers of the President, see Maria Elisabetta de Franciscis "*Electing the President: Italian Style*" in *Presidential Studies Quarterly*, Volume XVI, n.3, Summer 1986, pp. 451- 459.

97. Italian Constitution, article 90 "*The President of the Republic is not responsible for the acts performed in the exercise of his duties. . . .*"

98. Italian Constitution, article 87.

99. Cfr. footnote 93.

100. Italian Constitution, articles 87 and 88 especially the latter, "*The President of the Republic can . . . dissolve the Houses or any one of them. . . .*"

101. See *sub a*, pp.11-13 and footnote 84.

102. Italian Constitution, article 56 (as amended by article 1 of Constitutional Law 2/ 9 February 1963) ". . . *The number of Deputies is six hundred and thirty . . .*"; and Italian Constitution, article 57 ( as amended by article 2 of Constitutional Law 3/ 27 December 1963) ". . . *The number of Senators to be elected is three hundred and fifteen. . . .*"

103. The intentions of the Constituent Assemblymen were correct from the constitutional engineering perspective based on an established political doctrine. In The United States this concept belongs to the political tradition as well, ". . . extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens." James Madison, *The Federalist Papers*, n. 10. However if this scheme had proven its validity throughout the centuries and in various countries, in Italy it failed because of the pathological evolution of *partitocrazia*.

104. Cfr. footnote 1.

105. As it has been already pointed out (cfr. paragraph 4, pp. 6-8 especially footnote 46) Italy is the only country to implement "perfect" bicameralism which implies not only a perfect duplication of competences but also of representation. The objective of this archetype being that of establishing a second chamber to decant, or cool, issues and avoid the "spread of a general conflagration". James Madison, *The Federalist Papers*, n. 10.

106. As it is for the House of Lords in Great Britain or the *Senado* in Spain.

107. Which will probably be called federalism.

108. A new approach to the acceptance in the Italian Codes of laws approved by the Parliament of the European Union seems inevitable at this stage. Perhaps the latest developments within the German model of cooperation and participation of the *Länder* in the decisions of the Union on matters of their pertinence, could be taken in consideration for the new Italian Senate. Talitha Vassalli di Dachenhausen, " I Länder tedeschi e l'integrazione europea " in «1989» *Rivista di Diritto Pubblico e Scienze Politiche*, Anno IV, n. 3-4/1994, pp. 803-818.

109. Maria Elisabetta de Franciscis "The British Committee Reform and the Opposition: A viable model for Italy?" in *Rassegna Parlamentare*, Anno XXXVII, n.4, ottobre-dicembre 1995, pp. 523 - 548.

110. The first *referendum* was held in 1974 (12 May, 1974) on divorce. The recourse to this instrument has increased during more recent years. In fact, 2 questions were asked in 1978; 5 in 1981; 1 in 1985; 5 in 1987; 3 in 1990; 1 in 1991; 8 in 1993; and 12 in 1995. The committee on *referendum* lead by Marco Pannella has been preparing more questions. We do not yet know, how many of these will be accepted by the Constitutional Court; it should be safe however to say that another ten questions will be asked on *referendum* ballots this year.

111. Italian Constitution, article 75 "A popular referendum shall be held . . . when requested by five hundred thousand electors. . . ."

112. Italian Constitution, Title VI, articles 134-139.

113. Constitutional Law 1/ 11 March, 1953.

114. Maria Elisabetta de Franciscis and Rosella Zannini "Judicial Policy-Making in Italy: The Constitutional Court" in Mary L. Volcansek (ed.) *Judicial Politics and Policy-Making in Western Europe* (London: Frank Cass & Co. LTD, 1992), pp. 68-79.

115. This is what Italian jurists call a Court *a quo*. The Court *a quo* is the Court from which a cause has been removed to a higher Court, which is then called *ad quem*.

116. The judge of the lower Court who is hearing the case in which the question of a law's constitutionality has been raised has the discretion to accept the issue and refer it to the Constitutional Court.

117. Maria Elisabetta de Franciscis and Rosella Zannini, "Judicial Policy-Making in Italy: The Constitutional Court", *op. cit.*, p. 72.

118. For the redress of civil rights denied or hampered by a public officer or institution Spanish citizens have the *Recurso de Amparo* to the *Tribunal de Garancias Constitucionales*, to which Court, however they have access only after all other "normal" recourses have been attempted. Gabriella Duranti "Il Caso Spagnolo" in Silvano Labriola (ed.) *Il Decentramento Politico negli Stati dell'Unione Europea* (Rimini: Maggioli Editore, 1997), pp. 75-109. The same limitations stand for German citizens who want to approach the *Bundesverfassungsgericht* through the *Verfassungsbeschwerde*. Silvano Labriola "Il Caso Tedesco: La Grudgesetz del 1949" in Silvano Labriola (ed.) *Il Decentramento Politico negli Stati dell'Unione Europea*, pp. 27-74.

119. Italian Constitution, article 134 ". . . Conflicts arising from allocation of powers of the State and those allocated to the State and regions, and between regions. . . ."

120. Italian Constitution, article 135.

121. Also on this subject, as for previous ones, the experience of foreign countries could inspire the revision of the Italian Constitution. In Canada, for example, the judges of the Supreme Court are chosen proportionally on the basis of their Provincial origin, of their ethnic extraction and of the faith they profess. Québec enjoying a predominant role over the others. Maria Elisabetta de Franciscis "Il Caso del Québec" in Silvano Labriola (ed.) *Il Decentramento Politico negli Stati dell'Unione Europea*, pp. 157-189. In Belgium, the *Court d'Arbitrage* is appointed in a fashion which will represent evenly both the French and Flemish groups. Rosella Zannini "Il Caso Belga" in Silvano Labriola (ed.) *Il Decentramento Politico negli Stati dell'Unione Europea*, pp. 111-155.

122. Italian Constitution, articles 104 and 105.

123. This is an Italian version of Common Law.

124. The *difensore civico* was introduced in Italy with the new administrative powers and electoral law for town council (Law 241) in 1990, integrated in 1995 by Law 273. The functions,

appointing procedure and extension of his powers differ slightly from those of his equivalent in other countries.

125. In Italy there are just a few Independent Authorities such as the Authority on media; the Authority on free competition in the markets; and the Authority on Stock Exchange (CONSOB) to name the most important ones. However, it is not an easy task for law scholars to place such institution in any one category. Since they do not fall in either of the three classic branches of government. The legal debate which has just began in Italy on the specific *genus* of these institutions focuses on the question commonly asked in The United States of "Who guards the Guardians?"

126. Constitutional laws 1/1993 and 1/1997.

127. March 25, 1997.

128. Constitutional law 1/1997 article 1.4 "*The Committee shall elaborate proposals to revise the Second Part of the Constitution, especially those dealing with the Form of State, the Form of Government and Bicameralism, and the System of Guarantees.*"

129. The procedure is not even unknown to the Constitution itself, since the course which was followed was the one prescribed in article 138 to approve constitutional laws. Cfr. paragraph 5, especially pp. 8 and 9.

130. The Italian Constitution is preceded by a section headed "Fundamental Principles" (article 1 through 12). Part I of the same is headed "Rights and Duties of Citizens" and is subdivided in four Titles: Civil Rights (the Italian Bill of Rights, article 13 through 28); Ethical and Social relations (family policies and subsidies, article 29 through 34); Economic relations (labour, unions and monopolies, article 35 through 47); and Political Rights (article 48 through 54).

131. This does not seem to be in the intentions either of the people or of the majority of the political parties, with a cautionary doubt about the *Lega Nord*.

**Chapter IV**  
**Italy and the European Monetary Union:**  
**Why Italy Is on the Border Line?**

Alberto Quadrio Curzio

This chapter\* will address three issues.

First, it will argue that fulfillment of the criteria for the European Monetary Union (EMU) does not imply the capacity of Italy to become and remain part of the EMU itself, because Italy needs not only sound management of its governmental budget, but also wide-ranging institutional reforms.

Secondly, it will contend that Italy must be rebuilt through an extensive reduction of central state intervention and through a new system of levels of government based on territorial and functional federalism, especially through agencies. This means a strong application of the "principle of subsidiarity" which was totally neglected in Italian institutional post-war experience.

Thirdly, it will maintain that Italy must found its new institutional system on the pillars of European Union and in accordance with the model of such most advanced federal European countries as Germany.

The necessity of broad institutional reforms must not lead us to forget the remarkable successes achieved by Italy in the post-war period. The economy has grown very fast and the welfare of its citizenry has increased dramatically. The change has been impressive if we remember that Italy was destroyed by fascism and the war.

In fifty years, Italy gained the position of the fifth most industrial countries in the world. Its per capita GDP (gross domestic product) in purchasing power parity is near to 75 percent of the USA, higher than that of the United Kingdom. Life expectancy at birth is 78 years, higher than that of USA which is 77 and Germany which is 76. Italy's GDP is equivalent to 1024 billion USA dollars. In comparing Italy to other European Union countries with regard to the problems of progress toward the European Union itself, the dimensions of EU economies must not be forgotten. Spain, for example, has a GDP which is less than half that of Italy; the Netherlands stands at about one third.

Conclusively, Italian post-war economic growth has been impressive. And, it is even more impressive if one takes into account that Italy had the strongest communist party of the free world. Only in the Eighties did it start to think that Western democracies were better than the soviet system. These "old" facts now are forgotten, but they happened. At the same time, moreover, state intervention in the economy was excessive and since the end of the Sixties the government mismanaged the budget to the extent that there resulted an enormous national debt.

In order to overcome this situation, furthermore, a constitutional reform is necessary as the constitution of 1948 was too much influenced by a dirigistic approach according to which the government plays a central role.

In the presentation of these theses I will follow mainly an essay of mine, *Noi, l'Economia e l'Europa (We, the economy and Europe, 1996)* to which the reader is referred for a more complete analysis and for extensive bibliographical references.

In view of the title of this chapter, some may think the approach taken here to be too broad. But the closer we get to the official date for starting the European Monetary Union, the more apparent it is that, alongside the arithmetic of convergence criteria, it is the institutional situation

of each country and the "perception" of that situation in other European countries which really matters.

In other words, Italy could satisfy arithmetically four out of five EMU convergence criteria, but if its institutional situation appears uncertain then there will be political difficulties (especially in Germany where there will be elections in October 1998) for Italy's acceptance into the EMU.

In other words, the EMU itself is a problem not just of numbers but of politics. While I am convinced that the work of fifty years towards this monetary union will not be abandoned, at the same time I think that the date or the convergence criteria will receive at the end some political interpretations which now are very uncertain as regards the entrance of Italy now set for the first of January, 1999.

## **The Criteria the Timetable for the European Monetary Union**

Let us recall briefly the criteria and the timetable for the EMU which are now in the forefront of discussions.

### *Criteria*

The criteria are quite well-known; two concern fiscal and budgetary matters; two concern the conduct of monetary policy; and, one concerns the "management" of currency exchange.

The fiscal criteria establish that the ratio of gross government debt to GDP must not exceed 60 percent and that of public deficit or general government balance to GDP must not exceed 3 percent.

The monetary criteria establish that: first, inflation as measured by consumer price must not exceed 1.5 percentage points of the average of less inflationary European Union countries. Therefore, for example, if the average of the three countries with lowest inflation is 1 percent, then the maximum allowable inflation for each of the other countries would be 2.5 percent. Secondly, the long-term interest rate on government securities for each country must not exceed by more than 2 percentage points the average of the three countries with the lowest inflation. Hence, if the long-term interest rate of the best performing countries is 3 percent then the maximum allowable interest rate on government issues for the other countries could be no more than 5 percent.

The currency exchange criteria establish that the currency of each country must remain inside the limits of the European exchange rate mechanism (in the strongest case, this would be plus or minus 2.25 percent of central parities of the EMU) for at least two years before the starting of the final stage of EMU; that is, in other words, during the years 1997 and 1998.

### *Timetable*

The previous conditions are connected to a timetable. In the first half of 1998 it will be determined (on the basis of the foregoing criteria for the year 1997) which countries will participate in the EMU during the first round which is presently set to be inaugurated on January 1, 1999.

In the same period the European Central bank will be established. In the second half of 1998 there will be the determination of exchange rates for national currencies as linked to the "Euro," the new European currency. On January 1, 1999 these exchange rates will become irreversible exchange rates for all the currencies which will participate and the operations of the new European Central Bank will commence. With this, the management of European monetary policy by the

European Central Bank will be conducted in the new Euro currency. New governmental securities and bonds for those countries participating in the Euro will be denominated in this currency. The process will proceed until July 1, 2002 when all national currencies will be replaced by the Euro.

## **The Position of Italy**

Let us consider now how Italy stands *vis-a-vis* the criteria for the Euro.

### *General Government Fiscal Balances and Debt*

*Public Debt:* The ratio of gross government debt to GDP was very low up to 1982 with a level below 60 percent. This is now the maximum allowable by the Maastricht Treaty on the European Union. Since 1982, however, that ratio of debt to GDP has increased quickly, reaching 120 percent at the end of the Eighties. The ratio is now double the allowable maximum for entry into the EMU. Yet, it must be pointed out that the fulfillment of this criterion is not considered crucial for EMU participation.

*Deficit of General Government Budget, Revenues and Expenditures, Interest Rates:* The national budget deficit (expenditures minus revenues) rose from 2 percent of GDP at the end of Sixties to 14 percent in 1982 and remained very high (over 10 percent) up to 1992. Since 1992, however, a decline started and accelerated bringing the ratio to nearly 4 percent by 1996. For 1997 it is expected to approach 3 percent, which is the maximum allowable for the EMU. The remarkable improvement experienced since 1992 came from the primary balance (that excludes the interest on debt) which has shown a remarkable surplus since 1993.

The long term evolution for the total and primary deficit and for that of total expenditures and revenues is well illustrated by the following long term view.

Both total government expenditure and revenues grew over the thirty-five years in a dramatic way. In the period 1960-1969 both total expenditure and total revenue were about 30 percent of GDP which is a low level. In the period 1970-79 total government expenditure stood at 37.3 percent of GDP, while total revenue remained at 30 percent. At this point, however, taxes increased very quickly. One result of the tax increases was that total government revenues reaching 44.4 percent of GDP in 1990-94.

It should be noted, moreover, that with gross government debt it is entirely appropriate partially to finance investments, inasmuch as these will produce incomes which can repay the interests on the debt itself. On the other hand, it is against sound rules of governmental monetary policy to finance consumption by debt. Indeed, if a state is running a permanent deficit, then it has four choices: inflation, the expansion of debt, a radical increase of revenues and taxes; or, a decrease in expenditures.

Italy has followed in temporal sequence three of these solutions. In the Seventies the choice was inflation which reached as high as 18 percent on a yearly basis. In the Eighties inflation was reduced through the application of better monetary policies and ending the policy of paying government debt by expanding the monetary base. At the same time taxes increased significantly, about ten percentage points in ten years.

However, the payment of interest on government debt also increased significantly: from 3.3 percent of GDP in the Seventies to 7.6 percent in the Eighties. In the Nineties the taxes continued to grow, reaching 44.4 percent of GDP. Through the same period, government expenditures

declined significantly, thus, creating a remarkable primary surplus -- even though outlays for interest payments continued to grow, reaching a high of 10.8 percent of GDP.

Let us consider now the other convergence criteria for entry into the EMU, keeping in mind that monetary criteria referring to inflation and interest rates are not fixed.

### *Monetary Criteria*

*Inflation:* The benchmark figure for inflation for EMU countries should be about 2 percent. In 1997 Italy ought to reach that figure as the conclusion of an historical change.

We must in fact remember that Italian inflation reached peaks of 18 percent between 1973 and 1982, then remained near 10 percent up to the end of Eighties. Now inflation is around 2.5 percent, but the declining trend is quite clear. Indeed, the forecast is that Italian inflation will fall quickly to 2 percent thus reaching the lowest level in forty years.

This is due principally to the effort of the Bank of Italy, but also to the end of wage indexing *vis-a-vis* inflation and to the agreement on labor costs in 1993, both of which made important contributions to this result.

*Interest Rates:* The difference between Italian interest rate on long-term government securities and that of Germany has also declined in the last months to 1.6 percentage points.

Italian interest rates remain rather unstable as the lira remains a weak currency. Therefore, any rumor or suggestion that Italy could remain outside EMU at the first round or that EMU will be postponed generates immediate negative consequences on Italian interest rates.

### *Exchange Rate Criteria*

Since November, 1996, the lira has been in the exchange rate mechanism of the EMU. From 1992 to the present, in comparison to the German mark, the lira has been undergoing a devaluation that has now reached about 25 percent. Presently, the lira is quickly improving, but its stability or its amelioration depends on many factors.

Reflecting, then, on all these factors, it would seem that at least as to arithmetic criteria Italy is very close to the requirements prescribed by the Maastricht Treaty. Only the ratio of government general debt to GDP is totally out of line, but that criterion is out of line also for other countries, like Belgium, which certainly will be admitted to EMU.

We must ask ourselves, therefore, why there are so much resistance in Europe to the entry of Italy in EMU at the first round.

To answer this question we must consider both the European Stability Pact and the Italian institutional situation.

### *The Stability Criteria*

It is well known that in addition to the convergence criteria, in 1996 stability criteria were approved. This stability agreement compels the countries which will enter into EMU to keep severe budget policies in order to maintain the convergence criteria over time. This implies an obligation to reach in the medium term a surplus or a balance of the general government budget. In any case 3 percent of general government deficit cannot be violated; the obligation to submit every program with a forecast regarding deficit; if the general government deficit exceeds 3 percent of GDP, a

country will be subject to a sanction which goes from 0.2 percent to 0.5 percent of GDP. For Italy this would mean sanctions between 2.5 and 7 billion dollars. These sanctions will not be applied only if the violation is due to exceptional situation like natural catastrophes or an exceptional recession which is defined as a decline of GDP equal or greater than 2 percent. In this case the sanctions can be avoided, but this decision must be taken with a qualified majority by the Council of Ministry of Finances of European Union Countries.

If the violation of the 3 percent deficit parameter is due to a country recession with a fall of GDP between 0.75 percent and 2 percent the council of Finances Ministers of European Union must evaluate with a qualified majority if the recession is of exceptional nature, in which case sanctions will not be applied. Finally, if the violation of the 3 percent deficit parameter is due to a decline of GDP between 0 percent and 0.75 percent the financial sanctions are practically automatic even if a qualified majority of the Council of Finances Minister of European Union must declare it.

Looking to these stability conditions, the fear of many experts in Italy and outside is that if Italy does not deeply reforms its institutional setting and welfare state the violation of the 3 percent parameters after 1999 will be highly probable. In other words, in the next ten years Italy will have to make a remarkable effort in order to reduce total debt. If the budget deficit rapidly approaches 1 percent and the difference between real interest rate and the rate of growth of GDP will be around 1 percent it will take at least 10 years for the stock of debt to decline below the dimensions of GDP. So for many years the burden of the debt service will remain high and this will call for the maintenance of a primary balance surplus of the order of 3,5 percent of GDP (Prometeia 1997, March, p. 49).

### **Excessive State Intervention and Extension**

So we must go beyond the figures and consider whether in Italy there can be structural changes capable of bringing and maintaining the country into European Union.

The fundamental issue is the dimension of general government debt which is now near 2.2 million of billion liras, that is more or less near to 1500 billion US dollars.

This remain a constant and remarkable pressure on interest rates and on the lira, even if Italians are one of the most thrifty people in the world and while the debt is practically all owned by Italian citizens and institutions.

The situation of general government debt in Italy is the result of an excessive State pervasiveness, which is the consequence of at least four factors: the Constitution of 1948; the degeneration of the political parties; the excessive power of trade unions; the rentiers.

#### *The Constitution*

The 1948 Constitution was a compromise among communists, Catholics and liberals in which the State achieved a supremacy in any field while economic freedom and territorial autonomy were highly limited.

As to economic freedom, articles 41, 42, 43 of the Constitution which deal with economic matters, establish the power of the State to nationalize economic activities and private property. The Constitution never talks of the role of the firms in the market and of competition. Article 47 deals with savings and requires that its investment "in big productive complexes" must be

encouraged. Also in this case the name "firm" does not appear while the terminology utilized reminds us of that of communist countries.

As to territorial autonomies while there are many articles in the Constitution about regional and municipal autonomies, in fact the central State never gave such autonomy. This is one reason why such a strong protest, which then assumed bizarre features, began in the northern part of Italy against the central State.

### *The Power of Political Parties*

This was built on an agreement among all parties to utilize government expenditure for their own growth. After the judicial revolution of 1992-1995 many parties, like the Christian Democrats and the Socialists, disappeared, but they were no more responsible for the situation than the Communist Party, now called the Democratic Party of the Left and the largest Italian party. It is a peculiar turn of history that brought to government an ex-Communist Party after the disaster of the while Communist systems.

### *The Trade Unions*

Trade unions' power was always very high and increased in the '70. Then it declined slightly in the second part of the '80 and now is back to its former strength. The leaders of the three Italian trade unions intervene on any subject -- from justice to welfare state, from taxation to education - - behaving as representatives with a popular mandate. The government needs to discuss practically any budget law with the leaders of the trade unions before taking a final decision and going to the parliament. By national strikes the trade unions can overthrow a government and have done so more than once.

### *The Rentiers or Beneficiaries*

The cause of the enormous government debt is consumption through accumulation of debt and the political parties having made state finances an instrument for gaining public support.

The ratio of public debt to GDP of 120 percent was reached in Italy only three times in its history: at the end of last century because of the public and state investment to unify the country, and in the First and the Second World Wars.

Therefore the situation of the seventies of this century appears abnormal, even if someone points out that in the ten years 1970-1980 Italy was in a situation near to civil war because the strength of "red and black brigades" and other left and right criminal organizations. Therefore it was necessary to keep public and social peace through government expenditure in order to manage an explosive situation.

To this fact we must add such external shocks as the oil crises and the breakdown of the Bretton Woods international monetary order which was particularly negative for weak currencies.

While the political causes of the explosion of debt deserve a calm evaluation, the consequences were such to create wide classes of rentiers worth mentioning. First, there are the rentiers of State and public administration employment and bureaucracy: 1990 they were near to 4 million equal to 18 percent of the Italian labor force. The increase in 30 years was incredible as at the beginning of the sixties the public employees were 1.6 million equal to 7.6 percent of Italy labor force. Therefore in thirty years there was a threefold increase in public employment. This

gigantic number of public employees has served only to complicate the life of Italian citizens with wide inefficiencies.

Second, the rentiers of the welfare state: the total number of pensioners is now 20.7 million people, which means that 36 percent of the Italian population or more than one in three gets a pension.

Third, the rentiers of the health system: while the ratio of public health expenditure over GDP is 5.8 percent, lower than Germany (5.9 percent) and France (6.6 percent), the waste seems to be a remarkable 5 billion dollars a year. In brief, the expenditure on social security is near to 40 percent of the total government expenditure and pensions are growing at a rate of nearly 10 percent a year.

Fourth, the rentiers of tax evasion: while no precise estimate has been given (some speak of 50 billion dollar a year), we must remember that the number of fiscal laws in Italy is so large that there are about 3.2 million trials to be decided because of legal actions and appeals of citizens. In any case the tax burden is now near 43 percent of GDP, which is above the European average.

Fifth, the rentiers of political parties and bureaucracy which had total power in any public expenditure and on which developed the broadly known phenomena of corruption and extortion. According to some estimates the figure of corruption-extortion was between 1.5 and 8 billion dollar a year in the worst periods.

Sixth, the rentiers of state and public properties: these properties are enormous and include firms, banks, building, museums, seaside. An estimate some years ago was about 1000 billions dollars of properties which could be sold to the private sector.

## **Remarkable European Economic Growth**

The elements just pointed out certainly do not describe a modern country. Therefore the worries of Germany and France are understandable.

On the other hand, the Italian economy and firms are very competitive and economic growth has been significant in post war period and during the last three years. Italy is the fifth industrial country in the world with a very remarkable role in international trade. In the post-war period Italy had an average growth rate greater than that of France and Germany if we take as a starting point the end of the thirties.

In industrial production the growth is impressive: 6 times in 45 years. The European Union cannot go ahead without a country like Italy which has a GDP of 850 billion ECU (at the 1993 market price) which is greater than that of the United Kingdom and more or less equal to the sum of Spain, Netherlands, Belgium and Denmark together. It seems ridiculous to put on the same plane Ireland with a GDP equal to 40 billion ECU and Italy with a GDP equal to 850 billion ECU.

Without Italy the economy of European Union will lose more or less 1/5 of its size. How could Germany and France loose such a European productive capacity and such a market? Nevertheless Italy is a dualistic country with a modern European productive system, on the one hand, and an old underdeveloped public-state system, on the other, even if in the public administration and State offices there are few efficient exceptions.

A second dualism is that between the developed north and the rather underdeveloped south.

### *Productive System*

The most impressive success has been achieved by the very strong development of small and medium size firms of the so called "industrial districts" and of products "made in Italy" of extremely high quality. These products account now nearly for 60 percent of industrial Italian added value and have a significant international competitive position.

This competitive strength is found in three kinds of sectors-products: super-specialized, specialized, quasi-specialized.

Super-specialized sectors-products have exports at least three times larger than imports. An international comparison: Italy is the first or the second world exporter of furniture, knitwear, jewelry, ceramics, marbles, footwear and light industrial machines.

Specialized sectors-products have exports between two and three times imports. Italy is in the forefront, which means in the top three countries world-wide for clothes, tooled leather, machines for textiles industry and specialized food products.

Quasi-specialized sectors-products have exports between 1.5 and 2 times imports. Italy is in the second position world-wide for the export of light bars of iron and steel, for motorcycles, and in the third position for special textiles, shirts and glasswork.

Also big firms (which are nevertheless small according to the international standards) like Fiat, ENI, Montedison have played a relatively good role, even if not comparable to that of the small-medium size firms. In brief, the Italian balance of payment on current account had a total surplus in billion dollars of 83.5 in years 1993, 1994, 1995, 1996 while Germany had a deficit and France had a surplus of 58-60; Italy had the second strongest current balance after Japan.

On the whole we must note that while the so-called big firms have remarkable political influence, also through the ownership of newspapers, small-medium size firm have no such political influence.

### *Territorial Development*

As said, territorial development is dualistic with the north highly developed and south rather underdeveloped.

We cannot here enter into such problems, but would only point out that while in the north there has been the development of the small-medium sized private firms in the south the main industrial activity has been that of big state firms highly inefficient and totally controlled by political parties.

The per capita income of Lombardy, the richest Italian region, is 135 against an average of the EU of 100, like Bavaria or Baden Wuttenberg, whereas that of Calabria, the poorest Italian region, is 63.

### **Italy and Europe**

Italy always has been pro European Union in the post war period: this has been the attitude of Governments and of the majority of Italians, while the opposition till the end of seventies came from the Communist party.

At least two Italians, on different grounds, made very important contributions to the construction of Europe: De Gasperi and Spinelli. De Gasperi brought the statesmanlike pragmatic approach of the Catholic-liberal, while Spinelli brought the institutionalist federalist approach of the left liberal. Italy was among the founders of the European Economic Community in 1957 and always made a significant contribution to the main choices such as that for a single market.

Now the choices are more broad because they imply deep changes in the Italian institutional framework and political economy through structural reforms. Going beyond feelings, there are now in Italy at least four approaches to European Union: interstate-intergovernmental, economic-financial, growth-employment, and institutional-constitutional. The interstate-intergovernmental approach concludes that by now there is no choice but the European Union to which Italy must contribute its strong identity and negotiating skills. Government matters mostly or at least strongly, but unfortunately Italian governments are weak.

The economic-financial approach is based on the mentioned convergence criteria and pushes for their fast accomplishment. These are many good reasons, but they are not sufficient conditions.

The growth-employment approach is still more heterogeneous and sometimes hostile towards Europe in the trade unionist wing, noting that in the Union Treaty employment is not given very much consideration and that in the European Community there are 16-17 million unemployed.

The institutional-constitutional approach is aware that a real and durable European Union will take place only if great changes in the institution of every nation occur, particularly in Italy which in its fifty years as a Republic has displayed very serious inadequacies. Europe must go toward a true constitution which after all is already widely written by history and European Treaties.

Italy is divided on all four approaches, which cannot be clearly identified with right or left.

## **Structural Reforms**

In any case, it is an illusion to think that the EMU objective of a ratio of 3 percent of the deficit of public administration to the GDP is reached. This Government, as others before it, have done many important things on the general government budget, but at the same time they have not had the strength to make structural reforms which require wide agreement. This seems impossible inside a Parliament where political parties maintain too much and utilize it for their own aims.

For these reasons I have proposed and supported the idea of a Constitutional Assembly capable of making a clear cut between the old republic called the First Republic and the new one, called the Second Republic. This Constitutional Assembly must be capable of deciding without any constraints from political parties, rentiers or trade unions.

This proposal has been rejected and the Parliament has chosen a parliamentary commission to reform the second part of Italian constitution which deals with the "Republican order", leaving unchanged the first part which deals with "the right and duties of citizens" and which probably is the most out of date as influenced by statist attitudes.

Let us consider therefore briefly the structural reforms which ought to be introduced in Italy in order to bring and keep the country inside the European Union.

### *A New Constitution*

We have said often that a new constitution is necessary in order to make a clear-cut distinction between the old and the new. The constitutional reform should follow the lines of the European constitution written with the Maastricht Treaty and the fifty years of history and which give sound foundations.

If Italy would choose this way, it would be the first European country which changed its constitution in order to adjust it to the European one, which would give remarkable credit to Italy which is in need of it in the European and international arena.

In the new constitution there should be four central points: a stable and essentially smaller and stronger central government, a federal system, autonomous authorities, and markets and firms.

### *A Smaller and Stronger Central Government*

Italy must go towards a presidential system of the French type. In fifty years Italy has had about fifty governments, each of which were weak and blackmailed by the political parties. This is one of the reasons for the explosion of debt. In order to increase the strength of the central government it is necessary to reduce the extension of its powers lest we come to a kind of dictatorship.

### *Federal System*

The first innovation to balance the powers of a stronger central government is the federalist solution. Italy is characterized by a degree of fiscal centralization which has no equal in the European Union. In 1992 tax revenues went to the central state in the measure of 95.5 percent while in Germany the central state got 35 percent of the tax revenues.

The Italian system is based on central tax revenues and the distribution of financial resources for expenditure to regional and municipal government. These are thereby exempt from the control of citizens in raising taxes and making expenditures. Consequently, a lot of money is wasted in expenditures, thereby contributing heavily to the size of the government debt.

For some years the problem of federalism has been one of the main issues for Italy as described in the chapter of Piero Bassetti. Among the many proposals, the most convincing is that which takes as an example the German model with three innovations: the reduction in the number of regions from twenty to twelve, the tax revenues of about 50 percent given to federal regions, a system of horizontal and vertical financial flows in order to help (but not to maintain by gifts) the weak regions, without depriving them of responsibility as now happens.

In Italy there is now three sorts of federalist proposals: "separatist", centralist and autonomist.

Separatist federalism is that of Northern League which had the initial praiseworthy effect of raising important economic and fiscal problems, but later degenerated towards secessionist proposals based on an undemonstrable Padania ethnic-historic-cultural identity. This theory is sometimes supported by claims of a superior European federalism which anyway now is inconsistent with the Lega separatist approach because the European Union is now and in the near future looking for certainties of an institutional nature.

Centralist federalism aims to create a form of regional and municipal devolution, but with the center keeping strict control on the competencies, activity and finances of the substrate of territorial boards and bodies. To sum up, finance and responsibilities would only be delegated, perhaps by putting regions, provinces and municipalities in competition with one another in order, then, to "solve conflicts" at the center. It seems to us that this approach coincides with that of those who do not think it necessary to change the Constitution on the subject of regional-federal autonomies.

Autonomist federalism seeks to give special powers to the present regions (or better to new regions through aggregations) with regard to responsibilities and financial resources at their territorial level and also to increase their role and power at the central levels of the state. Those who state that the Constitution already allows this are wrong because they overlook the fact that our historical experience and the law deny real autonomy to the regions.

This autonomous federalism is the only one capable of strengthening Italian national unity which now is in danger because of the estrangement caused by centralism with its bureaucratic inefficiencies and over-abundant legislation.

### *Autonomous Authorities and Agencies*

A new regional autonomy is not enough in a world of global markets. Therefore there is need for functional autonomies capable of integrating themselves in a supranational space like European Union.

The central bank, the Italian security exchange commission, the antitrust board and so on are autonomous authorities which need constitutional recognition and totally independent power.

Important steps have been taken in these direction in Italy but much more has to be done in order to weaken the power of politics, of bureaucracy and also that of judges which are really too powerful in Italy.

### *Markets and Firms*

The Italian market culture is limited because bureaucracy and the state are too widespread. The rules of competition are widely neglected because many activities called public utilities are properties of the state and municipalities which have a legal monopoly. This also widely penalizes consumers. The European Union has broad and pertinent rules on competition and market freedom, some of which already have compelled Italy to liberalize some markets.

But, much remains to be done and it will not be done until states and municipalities privatize public utilities and firms they own. This will be one of the most difficult passages in Italian history, for since the time of fascism Italy has not changed in these fields and many political parties (left and right) are against privatization.

## **Conclusion**

In our opinion while Italy probably will fulfill the parameters on deficit, inflation and interest rates prescribed by the Treaty of Maastricht, its entry and the permanence in European Union will be guaranteed only if there is a deep qualitative structural change, without which Italy will remain a country with a sneaky sympathy towards a state-socialist system and to a dirigistic approach and state property.

Without these changes firms will grow and probably emigrate in other European Union Countries while the Italian bureaucracy will continue to organize or disorganize what could be the last dirigistic economy in the free world.

\* This essay is a preliminary portion of a larger research project which, for reasons of space, cannot be presented here. The wider research is supported in the CNR Strategic Project, "Governance: Modelli di federalismo economico, analisi comparata". The author has not seen the proofs of this essay, but nevertheless has authorized its publication.

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## The Authors

**Alberto Pasolini Zanelli** has worked as a foreign correspondent in the United States and Germany for a variety of Italian newspapers, including: *Il Resto del Carlino*, *La Nazione*, and *Il Giornale*. He is also the author of several books on contemporary politics, civilization, and culture, notably: *I Liberal-Cristiani all'appuntamento con l'Europa* (1979), *La Rivolta blu. Contro I miti dello Stato Sociale* (1980), *Le Citta' e il Sogno* (1988), *La Caduta dei Profeti* (1990), and *Americani* (1993).

**Piero Bassetti**, a graduate of Bocconi University of Milan, Cornell University, and the London School of Economics, was the first president of the regional government of Lombardy (1970-1974), where according to a recent American study, he was a "charismatic crusader" in the early years of Italian regionalism. Mr. Bassetti was a member of the Italian parliament (1976-1982), has served as Chairman of the Milan Chamber of Commerce, is a member of the Trilateral Commission, serves on numerous boards of directors for Italian banks and corporations, and is the editor of the quarterly magazine *Impresa e Stato*. Piero Bassetti is also author of several books, including: *Le Redini del Potere* (1957), *Occidente scomodo* (1978), *Impreso e Stato. Una istituzione italiana al lavoro verso la nuova statualita* (1993), and most recently *L'Italia si e' rotta? Un federalismo per l'Europa* (1996).

**Maria Elisabetta de Franciscis** is an authority on the politics and history of the Italian constitution. She currently teaches constitutional law at the University Federico II in Naples. She is author of several volumes in her field, including: *Italy and the Vatican: The 1984 Concordat between Church and State* (1989), and *Il Presidente degli Stati d'America: Costituzione e Prassi* (1996). With Mary L. Volcannsek and Jacqueline Lucienne Lafon she also authored *Judicial Misconduct. A Cross National Comparison* (1996). Dr. de Franciscis has contributed as well to many volumes on women and the law and has lectured in Europe and North America on many of these topics.

**Quadrio Curzio** is Dean of Political Science, Director of the Research Center in Economic Analysis, and Professor of political economy at the Universita' Cattolica di Milano. He is a globally recognized authority in the field of international political economy. In this capacity he has lectured extensively throughout Europe, North America and the Far East. He is the recipient of the prestigious St. Vincent Award for his book, *Sui Momenti Costitutivi dell'Economia Politica* (1984). He received the Walter Tobagi Award for his recent study, *Noi, l'Economia e l'Europa* (1996). Other books include: *Risorse, Tecnologia, Rendita* (1996), *Il Pianeta Diviso. Geo-economia Politica dello Sviluppo* (1994), *Productive Structure: A Medium Term Perspective* (1995), *Resources and Population* (1995), *Innovation, Resources and Economic Growth* (1994), and *Distribuzione della Ricchezza e del Reddito* (1993).