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# **Governing by revising**

## **A study on post-enactment policy change in Italy**

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## 1. Introduction

According to a classical view of democratic politics, an MP's main goals are to get re-elected or to get his/her favourite policies passed. Most of the times, this latter goal is functional to the attainment of a new mandate. Although, this illustration of a politician's priorities is certainly fitting with the daily reality in national parliaments, it misses a temporal dimension: policy-seeking politicians care not only for the enactment but also for the survival of their decisions. Ultimately the translation of a policy output into outcomes – arguably the actual pay-off for MPs and their constituencies - requires time, thus the enactment phase cannot be but the first step in a longer path.

It is common knowledge among politicians that policies are not cast in stone and what is decided one day can be more or less completely overturned the next. Legal systems are constantly subject to processes of stratification and modification over time. Yet, this does not imply that legislative revision always occurs at pre-determined moments or it is unaffected by changes in the political context where it takes place. Rather, it is arguable that it varies in line with political and institutional variables. On the one side, elections, retirements and more in general events in the outside world change the order of priorities political leaders have to attend to. On the other, not all political settings are conducive to the same type of strategy of legislative revisions.

Remarkably, the dynamics of post-enactment legislative revision remain largely a black hole in Italian legislative studies.<sup>1</sup> A wealth of data has progressively been made available on various aspects of the legislative process (e.g. Borghetto *et al.* 2012) but so far no work has set out to explore the lives of legal acts after their adoption. To some extent, this should not surprise. The Italian legislative corpus has long represented a labyrinth even for the shrewdest legal practitioner because of its complexity and sheer volume. This contribution aims at opening a new path in this under researched topic. Although the main research focus of this volume is on the post-1994 period, two legislatures of the previous period are taken

as yardstick to uncover more effectively the peculiar features of legislative revisions in the so-called Italian Second Republic, which is said to start in 1994.

Tracing the life of laws after adoption was made possible by a new dataset drawn from *Normattiva*, the online database of Italian normative acts.<sup>2</sup> We focus on two samples of major executive-sponsored laws adopted during the IX-X legislatures (from 1983 to 1992), and XIII-XIV legislatures (from 1996 to 2006) and trace their life respectively up to the end of the XI legislature (1994) and XV legislature (2008). This research design allows us to explore the variation in policy change dynamics before and after the Italian transition from a pivotal party in government toward a bipolar alternation in government. Scholarly literature has already established systematic differences and continuities between the two periods. Looking at the post-enactment legislative evolution allows us to contribute to this literature.

Our analysis reveals that, in the post-1994 period, legislative revisions per act increased substantially. This goes in parallel with a decrease in the number of acts and their growth in size (measured as number of words). We also show that most revisions are adopted already in the same legislature of the parent act, thus they do not originate from initiatives of the new majority willing to write off the previous majority's reforms. Overall, the stability of newly-adopted laws decreased: they are subjected to an incremental process of revision/specification, which starts immediately after their enactment. We suggest that all these elements point to a change of strategy of the legislator in the Second Republic. In order to pass reforms in a rather cumbersome and sluggish legislative system governed by fragmented and unwieldy majority coalitions (Capano and Giuliani 2001), one of the strategy was to enact more comprehensive acts providing a relatively general outline of the policies to implement while leaving the revision/specification of individual provisions to later moments. This way, we suggest that studying post-enactment legislative change enables illuminating not only inter-coalition but also intra-coalition dynamics.

This chapter will begin with a review of the literature focusing on policy change in Italy over the last thirty years. Secondly, we illustrate the dataset in use. Thirdly, we provide an analysis of legislative revisions,

looking first at their distribution, then at the stability of acts by means of the non-parametric tools of Event history analysis. We conclude by discussing the implications of our approach and findings for future research on legislative politics in Italy.

## **2. Dynamics of policy change from the First to the Second Republic**

Despite a lack of works focusing on legislative revision per se, there has been a rather heterogeneous tradition of studies focusing on the Italian legislative process and addressing its evolution and characteristics from both a policy and a law-making perspective (Giuliani and Zucchini 2013). Most works addressing the features of the legislative process in the First Republic agree on its viscosity (e.g. Predieri 1974; Cotta 1994). Policy change is depicted as relatively slow if not rare at the level of “meta-” and “meso-policies”, namely those decisions concerning the fundamental characteristics and directions of the political and economic regime and those concerning reforms in the areas of economic, social, foreign and institutional policy (Cotta 1996). Witnesses concur that this state of things was generalized, no matter whether the initiator was the executive or Member of Parliaments (MPs).<sup>3</sup> Of course, this does not mean that Italy missed major policy reforms all over this period. Rather, “such initiatives have generally taken an inordinately long time to materialize [...] Moreover, when finally introduced, major reforms have been said to have taken the form of distinctly sub-optimum compromises, and their effective implementation frequently to have been prejudiced by the inefficiency or outright resistance of the public administration” (Hine 1993, 3). Scholars’ explanations of this outcome revolved around two (partially interrelated) factors: the party system and institutional determinants.

Di Palma (1977) argued that the post-war Italian political system was effective in surviving without governing. The polarized multiparty system did not create the conditions for turnover in government: the Christian Democrats were the keystone of every coalition (Sartori 1982, Vassallo 1994). Never called to electoral accountability and to seek a following on the basis of their policies, parties in government had

little incentive to maintain internal cohesion and implement the government platform. Moreover, they tended to avoid internal competition in high-stake decisions in order to preserve solidarity against their anti-system challengers (Cotta 1996). In day-to-day politics, a gap existed between government and its supporting coalition in parliament, with the former having to renegotiate almost every agreement with backbenchers due to the low party discipline (also fostered by secret ballot). Governing under the constant “siege” of allegedly anti-system forces (Communist party on the left and former fascist party on the right), fragmented DC-led coalitions (so-called beleaguered coalitions) found their best strategy in inaction (*immobilism*), a solution which could “buy time, if not credit, for the centre” (Di Palma 1977, 251).

Another line of research associated viscosity with institutional features. The Italian legislative system has been characterized by: a strong specialization of the permanent committee system; the power to reject, to amend and to replace governmental proposals at every step of the process; a limited power bestowed on the government to control the agenda; the lack of restrictions on members’ initiatives; the power to legislate on every subject; the limited number of MPs required to form a parliamentary group; its perfect bicameralism (Della Sala 1998, Capano and Giuliani 2001a).<sup>4</sup> All these factors were strictly interrelated and led some commentators to classify the Italian parliament among the legislatures (such as the US Congress) with strong institutional powers (Blondel 1970, Norton 1994).

In terms of law-making, this state of things reflected in a comparatively high legislative output. Already Di Palma (1976, 147) noticed that: “the Italian Parliament tends to displace aggregative and controversial legislation and to make special room for legislation of limited importance on which coalition partners and the opposition can more easily agree”. Some of these measures were termed *leggine*, namely small or micro-sectional legislation passed mostly through the decentralized procedure, the adoption in committees without a further reading by the floor. Another peculiarity of this period is the high reliance on reiterated decree laws to get policy enacted.<sup>5</sup> They allowed the prompt adoption of policies by the executive, while their constant reintroduction at the end of the 60 day-validity permitted to (at least temporarily) overcome the rejection of their conversion into law by the parliament (Della Sala 1988).

The popular referendum on electoral rules of 1993 is generally taken as the watershed between the First and Second Republic, and the move from a pivotal party system with limited government alternation toward a competitive bipolar democracy. According to its supporters, the new electoral system, the so-called *Mattarellum*, would reduce the number of parties in parliament, thus simplifying the party system, an evergreen for Italian reformers. For sure, in conjunction with the disruption of the previous party system due to corruption scandals (*Tangentopoli*), the economic crisis of the early 1990s and the fall of the Berlin Wall (that imposed a change to the traditional communist left), it contributed to the emergence of a new political scenario with new parties in parliament, two opposing pre-electoral coalitions, and a turnover of around two-thirds of MPs in the 1994 elections.

This systemic change had implications at the law-making stage and in the relation between government and parliament. Firstly, the decline in the total number of laws approved through the ordinary procedure has been substantively compensated by a growing amount of legislative decrees (and delegating laws) issued by governments since the early 1990s (De Micheli and Verzichelli 2004). Secondly, laws have become bigger and more heterogeneous in their content [Marangoni?]. Thirdly, law-decrees have kept on playing an important role in the executive toolbox, although their number partially dropped after the 1996 sentence of the Constitutional Court.<sup>6</sup> Fourthly, there has been an increase in the use of legislative consolidation [reference?]. Overall, these changes responded to the new bipolar logic of competition. Governments could no longer exclusively build their functional legitimacy through initiatives of a micro kind (i.e. *leggine*): they had to seek their support also through meso-policies. These legislative tools allowed the executive “to bypass the sluggishness of the standard legislative process without any substantive constitutional improvement being made” (Capano and Giuliani 2001a, 33).

A considerable number of analyses have also emphasized the continuities with the previous system (Newell 2006). Giuliani (2008) investigated whether the kind of consensualism that characterized the First Republic faded away with the advent of the Second and majoritarian reforms. Contrary to expectations he found out that it was only slightly reduced. Indeed those consensual practices at the committee level which

characterized the First Republic seem to have been replaced by an increasing degree of agreement on the parliamentary floor. Zucchini (2011) acknowledges that there has been an increase in the legislative agenda-setting power of the executive as a result of a more strategic use of existing constitutional rules and the partial reform of the Houses' rules of procedure. On the other hand, he argues that the ideological heterogeneity of Italian coalitions, which remained high, has prevented the creation of new rules which institutionalize this power. Indeed, the law-making arena is still characterized by a large number of veto players located far apart in the ideological continuum. For instance, parliamentary fragmentation (measured in terms of parliamentary groups) increased. All in all, it appears that the dualism between executive and parliament has not disappeared and consensual practices are still at work. Doubts can be raised that the Italian system has moved decisively towards the majoritarian pole of the continuum (Morlino 2013).

This brief overview aims at setting the tone for the rest of the analysis. Indeed, inspecting the post-enactment evolution of Italian laws across these two periods of Italian history can contribute to cast some light on the elements of change and continuity occurred over the last thirty years. For instance, if we buy the account of Italy as a country with a stronger majoritarian identity, we should expect an increase in the instability of laws when alternation takes place. New majorities should be more prone to revise what previous executives did. Besides, they should also have the capacity to do so since they can try to bypass the ordinary process through the instrument of delegated legislation. On the other hand, legislative change in the two periods might be more similar than expected. In the Second Republic, there is no clear evidence that executives have assumed the leadership of their parliamentary majorities, but for a limited set of "emergency" situations which prompted government parties to act cohesively (for instance, see the reforms adopted to ensure the entry of Italy among the forerunners in the European Monetary Union (Della Sala 1997)).



### 3. Data

The dataset used was developed by Visconti (2011) based on *Normattiva*, a new online database of Italian normative acts connected to the parliament website that gives the possibility to trace all the updates a law has encountered along its life.<sup>7</sup> The dataset records all revisions received by each law sponsored by the executive of two legislatures of the First Republic, the IX and the X, and two of the Second, the XIII and the XIV, until the end of the observation span (April 2011). Types of revisions were aggregated into five categories according to the description given by Normattiva. 1) Partial repeals: a specific set of provisions are abrogated but the act survives. 2) Total repeals: the whole act is abrogated. 3) Amendments: addition/deletion or substitution of words inside a provision. 4) Sentences of the Constitutional Court declaring the unconstitutionality of a law or of some specific provision it contains. 5) Other: non-politically relevant updates like *corrigenda*, that is the editing of transcription errors (e.g. mistakes in the specification of names or dates). Besides, it was recorded which type of measure carried out the revision: either a law, decree law, ministerial decree, sentence of constitutional court, legislative decree, decree of the President of the Republic or other (*corrigenda*, etc.).

Additionally, we downloaded the texts of the law at different points in time, more precisely at enactment and after each revision. Through a word processor we counted the number of words in each version. Then, we calculated the words difference in the text after each revision. This measure has been introduced as a proxy for the *intensity* of change. As we spell out later on, more significant changes are those that imply a greater word difference. While for total and partial repeals this value is always negative, amendments may also entail (besides deletions -negative value- and additions -positive value-) substitutions of words.

Unfortunately, due to the size of our sample, it was not possible to identify the amount of words substituted by each amendment. Therefore an amendment with a value of 0 in word difference may have experienced an exact substitution of all words as well as just 1. A cursory analysis of our dataset revealed that the former are rather rare (if not totally absent).<sup>8</sup>

We only include legislative revisions adopted within a specified deadline, respectively the end of the XI legislature (14<sup>th</sup> April 1994) for First Republic legislation and the end of the XV (28<sup>th</sup> April 2008) legislature for Second Republic legislation. This study design allows comparing two periods of almost equal length. The IX legislature was followed by a 5-year legislature (X) plus one short transitional legislature (XI). Following a strikingly similar pattern, after the XIII legislature came a 5-year legislature (XIV) and a short legislature (XV). The three legislatures of the First Republic (IX, X and XI) featured the same coalition of parties (*pentapartito*) in power, with only marginal changes in their balance of power.<sup>9</sup> On the other hand, the three legislatures of the Second Republic (XIII, XIV and XV) exemplify the turn to an alternation system in Italy: no political coalition managed to regain office after each election. After a transition legislature characterized by the first Berlusconi government and a caretaker government led by Dini (XII), the 1996 elections saw the former Communists, now labelled Democratic Party of the Left, directly entering the government for the first time in Italian history. The XIV witnessed the return of a new centre-right coalition led by Berlusconi, comprising Forza Italia (FI), the National Alliance (AN), the Northern League (LN), and the Union of Christian and Centre Democrats (UDC). This coalition was ousted from power in 2006 by a short-lived centre-left government led by Prodi. The latter was supported in parliament by a somewhat heterogeneous coalition combining the Democrats of the Left (DS), the Daisy (M), UDEUR Popolars (UDEUR), Italy of Values (IdV), Radicals (PR), Greens (V), and two Communists parties (PdCI and PRC). To explore the variation in terms of legislative dynamics before and after the transition from governments organized around a centrist pivot party (the DC), to alternation between centre-left and centre-right coalitions we considered only executive-sponsored laws. The rationale behind this choice is that we deem legislation originated from ministers as more coherent with the will of the majority sustaining the cabinet, than laws proposed by MPs that sometimes count on transversal and less therefore clear-cut majorities.

#### 4. Selecting major acts and revisions

One of the greatest challenges in the analysis of revisions lies in their heterogeneity. The concept of revision applies to small corrections as well as to extensive reforms, altering the impact of the act itself. What is more, it is important to differentiate between the targets of revisions. Parent acts, the acts that are modified, range from major acts laying down the regulation for a whole policy area to technical measures with a specific scope of application. In line with previous works in the field (Maltzman and Shipan 2008, Ragusa 2010), we decided to account for this heterogeneity by focusing only on “major revisions” to “major acts”. Given the number of observations in our sample, our selection criteria for major acts were forcibly formal and relied on size, calculated as number of words. We kept only those parent acts presenting a number of words at the moment of their adoption greater than the median in each legislature.<sup>10</sup> This left us with 518 acts adopted in the First and 360 acts adopted in the Second Republic.

The selection of revisions relied on three criteria. Firstly, we removed those revisions carried out through amending acts that are not of equal legal status with respect to their parent acts. In other words, we kept only amendments carried out through primary measures (i.e. ordinary laws, laws converting law-decrees or legislative decrees). Secondly, we eliminated revisions implemented through sentences of the Italian Constitutional Court. These amendments might be also relevant but they constitute a special subgroup of cases deserving an analysis which goes beyond the purview of this paper. Thirdly, we took out technical modifications such as changes to annexes and final tables, *errata*, confirmations or postponement of repeals, as well as interpretations of provisions.

#### 5. Exploring post-enactment politics: distributions

The final dataset consists of 1965 amendments: 574 (29.2%) modifying laws in the First Republic, 1391 (70.8%) modifying laws in the Second Republic legislature. This is already a remarkable finding: in the First

Republic the ratio of amendments to laws is 1.1, whereas it increases four times in the Second (3.9). This finding is confirmed if one considers that 290 laws (56%) were not modified in the First Republic, whereas only 93 did not undergo changes in the Second (25.8%).

How does one explain this remarkable change? Let us first look at how amendments are distributed per law in each legislature. The jitter plot in Figure 5.1 clearly shows the presence of outliers in the Second Republic. These are five budget laws that respectively collected 57 (Law n.662 of 1996), 44 (Law n.449 of 1997), 44 (Law n.448 of 1998), 52 (Law n.388 of 2000) and 38 (Law n.289 of 2002) amendments. These are also comparatively big laws, as indicated by the size of their point in the figure (which is proportional to the number of words). This pattern is confirmed by an inspection of the distribution of amending acts according to type of law. Table 5.1 reveals that all figures increase in the Second Republic, but that the most remarkable change regards the ratio of amendments per budget law, which rises from 1.73 amendments per act to 11.41. Overall, budget laws represent a mere 9% of the total number of acts in the Second Republic but received 26% of amendments.

#### INSERT FIGURES 5.1 AND TABLE 5.1 HERE

We associate this substantial increase with another noticeable dimension of change in budget laws: their size. It escalates from an average of 7000 words in the first Republic to more than 22000 in the Second.<sup>11</sup> The impression that one gets is that the growth in complexity and range of interested areas of recent budget and budget-related laws (De Giorgi and Verzichelli 2008) contributed to make them a “construction site” in need of multiple maintenance measures over time. This is supported by previous findings (e.g. Maltzman and Shipan 2008), showing that complex legislation, by virtue of having more provisions and affecting a greater range of policy areas, is more prone to receive prompt revisions with respect to legislation with a more specific focus. Our data show that, in the case of budget laws, their greater size is also correlated with more frequent revisions.

The relationship between size of laws and propensity to receive amendments might also justify the increase in the ratio amendments per act for the other two categories (for ordinary acts it rises from 0.86 to 3.25, for budget laws from 1.31 to 3.01). Indeed, as already emphasized in previous studies (e.g. Borghetto et al. 2012), in the Second Republic government-sponsored legislation decreased in number (in our sample of major acts, the number of ordinary acts was cut from 267 to 150) but became bigger (the mean number of words of an ordinary act changed from 3217 to 5837). But this can be considered only part of the explanation. The increase in the ratio of amendments per 1000 words in the Second Republic reveals that the legislator displayed also a greater proclivity to modify the existing legal apparatus, at the net of increases in the size of laws.<sup>12</sup>

Another dimension of variation which lends itself to exploration through our data is the intensity of change (Table 5.2). As already anticipated, it was computed as the proportion of words added to or deleted from the original text of the act after each revision. For instance, a revision which adds a provision of 1000 words to an act which originally was made up of 10,000 words is considered as an increase of 10%. To begin with, measures of central tendency (such as the arithmetic mean and the median) reveal that most changes are clustered around very small percentages of word changes. They point to the prominence of small variations not higher than 1% of change. All in all, an analysis based on the values of the mean (or the median, or the interquartile range of) proportional changes would conclude that laws are revised only incrementally over time. Yet, legislative acts in some cases have lost as much as 95% of words or experienced an increase of 62% (the extreme values in respectively the minimum word difference and the maximum word difference). Greater insights on the distribution of proportional revisions can be gained by considering measurements of L-skewness and L-kurtosis, respectively the third and fourth L-moments of a distribution (Hosking 1990, Breunig and Jones 2011). Firstly, revisions to budget laws stand out as the only category characterized by a right skewed distribution.<sup>13</sup> The tendency is for amendments to integrate the text, which consolidate the characterization of budget laws as big vehicles embarking new comma/provisions during their lives. Secondly, the distribution of type of revisions, independently from the type of parent act, is highly

leptokurtic, namely it features: sharp peaks (the greatest majority of revisions affect only marginally the number of words of a legislative text); weak “shoulders” (low number of moderate changes) and fat tails (originating from a number of high addition or deletion of words).<sup>14</sup> More simply, our data reveal that legislative acts (no matter the type of act) remain in an extended period of stasis when they are modified only marginally. These periods are punctuated by sudden shifts of radical changes, which lead to a dramatic expansion or shrinkage of the legislative text. Although the lapse of time considered in the present analysis is likely to be too short for efficiently describing the evolution of Italian legislative acts, the evidence points to a predominance of punctuated changes. This finding adds to previous researches on punctuated equilibrium (e.g. Baumgartner and Jones 2005) which showed that distributions of year-to-year changes in budgetary allocations (or public priorities measured as “Most Important Problems facing the nation”, or parliamentary attention measured as questions to the executives) are highly leptokurtic.

In the computation of kurtosis, one can drop cases of no revision or include them in the analysis as cases where 0 words were changed. According to the first, the level of punctuatedness increased in the Second Republic. A lower proportion of laws did not undergo any revision but changes were for the most part small (as compared to the total number of words of the act, which –it is worth remembering it – increased on average) and there were more cases of high decreases/expansions in the size of laws. According to the second indicator, the level of L-kurtosis did not vary substantially across the periods and, only for ordinary laws, it declined by .07 in the Second Republic. It is difficult to interpret substantially so small variations in L-kurtosis scores. Using the theoretical lenses of punctuated equilibrium theory, such a change might be indicative of a relative decrease in friction of the law-making system for executive acts passed through the ordinary procedure. Friction is here conceived of as the resistance to change built into legislative processes and it is conditioned on both institutional (i.e. number of parliamentary veto points) and cognitive factors (i.e. limited processing capacity of politicians) (Jones and Baumgartner 2005). That said, there are more signs of continuity than difference between the two periods, which supports the thesis of a strong

resilience of parliamentary institutions, despite the dramatic alteration of electoral laws and the party system (Capano and Giuliani 2001a).

#### INSERT TABLE 5.2 HERE

For all categories, we hypothesized that alternation could be responsible for changing the pattern of revisions. Governments of different affiliation might have incentive to revise existing legislation, especially if adopted by their opponents when they were in power. To explore the question, we consider in which legislatures amending acts were adopted. Table 5.3, column 1 shows that while in the First Republic a majority of changes (54%) occurred during subsequent legislatures, it was the reverse in the Second Republic. A majority of amending acts (58%) were enacted already before the end of the legislature. If we focus just on first amendments (column 2), almost 83% of the laws of the Second Republic were amended already by their enacting coalition, whereas this happens only for 59% of cases in the First Republic. This finding is remarkable because it goes against one of the most plausible consequences of alternation, namely the enactment of partisan legislation. With alternation in power, the new majority should have greater incentives to revise those acts enacted in the previous term because of the supposed distance in policy preferences between the incumbent and past governments. It would be the chance for the new majority to give its imprint to policies that bring the stamp of the previous government. The evidence points to the contrary. Paradoxically, this logic seems instead more patently at play in the First Republic, when – it is worth recalling it - succeeding majorities exhibit more or less always the same range of parties in power.

Yet, as we showed, most of the revisions we observed are of small size, namely they modify only a small portion of the act in question. The legislator's strategy might have been to adopt more amendments but affecting only small sections of the parent act. In order to control for this possibility, our analysis opted for distinguishing revisions also based on the number of words added or removed. Each amendment was classified as either a small or high decrease, or a small or high increase. If the proportion of changed words

is negative we treat it as a decrease and vice versa. The 12 total repeals were categorized as a high decrease. Our formal criterion to split our set of revisions according to intensity is to divide between positive and negative values, to compute the mean proportion of changed words in the two groups respectively for the First and Second Republic, and finally to split the two subsets at the mean value.<sup>15</sup> Table 5.3, column 3 and 4 shows that, even controlling for the intensity of change, the difference between First and Second Republic holds. The majority of bigger-than-average revisions (no matter whether they are first revisions or later ones) are passed in different legislatures of the parent act for acts adopted in the First Republic and in the same legislature of the parent act in the Second.

If the same type of analysis is performed this time distinguishing for type of law, the pattern previously observed for the total number of acts holds remarkably in the Second Republic. No matter which act is amended, most revisions are still taken in the same legislature as the parent act. The only exceptions are bigger-than-average revisions for ordinary acts which are distributed evenly before and after the end of the legislature of the parent act. Different patterns emerge in the First Republic depending on whether one focuses on ordinary laws or other laws. Ordinary laws are always more intensively revised in subsequent legislatures. Apart from a few exceptions, laws converting law-decrees and budget laws receive on the contrary more modifications in the same legislature of the parent act. Accounting for the peculiar pattern of ordinary law revisions in the first republic would require a closer inspection at the content of those acts and the changes that have been introduced. The evidence collected seems to suggest a relationship between the confidence of staying in government in the next legislature (an expectation shared by most partners in the governing coalitions of the First Republic) and a greater stability of legislative decisions taken.

#### INSERT TABLE 5.3 HERE

To explore this hypothesis, we make recourse to the non-parametric tools of Event history analysis (Box-Steffensmeier and Bradford 2004). We measure the stability of a law in terms of days from adoption until a



first revision is passed. A tool commonly used to describe duration until an event takes place is to calculate Kaplan-Meier estimates of survival, namely the estimated probability of surviving at least  $t$  units of time without experiencing the censoring event (in our case an amendment). If an amendment does occur (our event), we computed the number of days separating the enactment of the parent act from the first revision. If the parent act was not amended within the time-frame considered, the observation is treated as a right-censored.<sup>16</sup> Figure 5.2a plots Kaplan-Meier estimates in a so-called survival curve for the 518 laws of the First Republic and for the 360 laws of the Second. The graph shows the probability of surviving beyond time  $t$  (on the  $x$  axis) without being amended, namely our measurement of stability. The number of laws at risk of a first amendment at each point in time is shown below the horizontal axis. The two groups display a clear different pattern. For laws of the First Republic the probability of not being amended within the same legislature remains constantly higher, and declines at a significantly slower pace. Instead for laws of the Second Republic the probability of surviving gets around 0.5 already after the first year (median survival time). The big gap between the two curves builds up pretty fast and only after the first two years their pace becomes basically the same. If instead of all first amendments we consider only major amendments (Figure 5.2b), i.e. those that impose changes with an intensity above the mean (here we consider also total repeals), the pattern is instead more similar. The curves diverge up to the second year because there is a more rapid decline in the Second Republic; then they stabilize and decline at a slower pace.<sup>17</sup>

#### INSERT FIGURES 5.2A AND 5.2B HERE

Figures 5.3a and 5.3b plot the same K-M estimates according to type of law. Again we notice how, for the First Republic, the stability of legislative acts is always higher in comparison with their counterpart in the Second Republic. Comparatively, budget laws are the most readily revised, but conversions of law-decrees follow a very similar pattern. Around one-third of the two categories for the First Republic, and about two-thirds for the Second receive an amendment already in their first year of life. At a later stage those laws surviving beyond the first year tend to remain relatively safe from substantial revisions, as displayed by the flattening of the survival curves. Ordinary laws have in both periods a higher survival rate compared to

conversions of law-decrees or budget laws. Yet, this difference is starker in the First Republic, where ordinary laws are significantly more stable than the other two categories. Both laws converting government decrees and budget laws experience a sort of consolidation period during the first year after their enactment. In part this finding should be related to the greater complexity of these two types of acts compared to ordinary laws. As discussed above acts of the latter type present on average a shorter length in terms of number of words. In both cases, but especially for budget related laws, they tend to be *omnibus* measures containing pieces of legislation regarding a number of public policies. Less words could also imply a minor specificity in addressing policies, and therefore being more adaptive without receiving modifications. Moreover, another explanation we suggest might be related to time constraints. Indeed the legislative process typical of Italian budget laws and law-decrees has to follow a specific and tighter pace compared to ordinary laws. For instance law-decrees have to be approved by parliament within sixty days from government approval, a mechanism that combined with the greater length of the act increase the probability of unintended consequences (or intended but unpopular within the public opinion) to be addressed subsequently through amendments. Again, more strict time constraints increase also the likelihood of request of confidence vote to approve budget laws or law-decrees.

Interestingly, in the Second Republic the distinction between types of acts became more blurred.<sup>18</sup> This might be read as a generalized change of strategy of the legislator. Most laws are amended within the first two years, no matter the type of law under consideration. The overall picture we got is of a decline in the stability of laws against a backdrop of increased complexity and lower productivity of the legislator. We propose that a sort of thermostatic dynamic has been at work. The amount of legislation approved by the Italian parliament has decreased with the transition to the Second Republic. In a comparable period of around ten years during the ninth and the tenth legislatures more than 1500 laws were approved, while between 1996 and 2006 slightly more than 1000<sup>19</sup>. It seems then that the reduced output has been counterbalanced by two behavioral transformations: on the pre-enactment phase there has been an

increase in the complexity of legislation; on the post-enactment phase instead a greater amount of substantive revisions has been brought to existing acts.

INSERT FIGURES 5.3A AND 5.3.B HERE

## 6. Conclusion

This chapter aimed at exploring a neglected issue in Italian legislative studies: the post-enactment life of Italian acts. The relevance of our approach to the study of policy change stems from its capacity to cast new light on the long debated issue of transition in the Italian political system. As emphasized by the literature, the transition from the First to the Second Republic implied elements of both continuity and change. Our analysis brings to the fore strong signals of transformation in the legislative strategy of Italian executives.

In the Second Republic, there is a substantial increase in the number of amendments per law. This trend stands out in the case of budget laws, but it is also clearly visible with regard to the other two categories, conversions of law-decrees and ordinary laws. We suggest that this might result from an increase in complexity (measured in terms of number of words). Laws contain more provisions and are therefore more susceptible to revisions.

When we looked at the intensity of revisions, measured as number of words deleted or added by the revising law, the two Italian Republics display similar patterns. Extremely high L-kurtosis scores reveal that revisions tend to alter a proportionally marginal number of words but that there are cases of dramatic shifts occasionally. What we referred as the punctuatedness of the revision process increased in the Second Republic for each type of act. If we include laws surviving without the need of further revisions, one gets a picture of closer resemblance between the two periods, which supports an interpretation of the Italian legislative process as a highly resilient arena despite substantial changes in the political conditions between the two periods.

Contrary to our expectations, the advent of alternation in government did not entail an increase of partisan legislation aiming at revising policies adopted by the previous majority. Collected evidence shows that most amendments in the Second Republic were already approved before the end of the legislature of enactment. Overall, the Kaplan-Meier analysis of post-enactment longevity points to a sharp decrease in the stability of legislative agreements with respect to acts adopted in the First Republic. This result holds, no matter the type of act considered. We contend that it might originate from a preference of the executive to trade support for a bill in parliament in exchange for its readiness to accept revisions to the act in the short/medium term. In other words, there are reasons to argue that in order to escape the legislative strictures, characterizing the legislative process since its foundation, the executive opted for passing fewer bills but bigger in size and more liable to get revised by the political coalition which enacted them in the first place. Thus, it appears that the rationale behind this increase in amendments has to be found within coalition dynamics rather than in the new system of bipolar competition.

Our result is coherent with recent works analyzing the Italian legislative activity (see for example Marangoni 2013). These works pointed out that the legislative process has become increasingly unwieldy. The bipolar competition in a highly fragmented party system required mainstream parties to extend coalitions boundaries in order to win the elections and maintain a supporting majority in parliament. From 1996 onwards majority coalitions in the bipolar system have been either incoherent already at the electoral stage, or became so during the legislature.<sup>20</sup> As a result of these circumstances, coalition leaders had to develop new conflict management strategies to hold heterogeneous partners together. To be true, these problems were not unknown at the time of the First Republic. In the past, as already reported, they used to be solved - mainly but not exclusively - through the enactment of micro-sectional legislation. These laws were mostly adopted behind committees' doors and were tabled by MPs from across the political spectrum. For various reasons (not the least tight budget constraints), this practice is no longer available. Our data reveal that one of the solution adopted in the Second Republic to cope with the cost of enacting new legislation, given the fragility of coalitions, has been to adopt new legislation, more complex and wide

ranging in nature, but also open to adjustments along the way. As in the past, adopting wide-ranging self-contained reforms in one go is still hard in the fragmented bipolar Italian setting. Our analysis suggested that intra-coalition bargaining might have moved from the pre-enactment to the post-enactment phase, leaving majorities with the option of governing by revising.

## 7. Notes

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1 The focus on the post-enactment phase has attracted attention in legislative studies only recently and it has been mainly applied to the output of the United States Congress (Maltzman and Shipan 2008; Berry, Burden, and Howell 2010; Ragusa 2010).

2 Available at <http://www.normattiva.it>.

3 Although the Italian Constitution reserves the power to initiate legislation to a wide range of actors - MPs, government, regional councils, citizens, and CNEL – the vast majority of bills that get voted and become laws derive from proposals initiated by the executive. This is largely a consequence of the fact that the government has the formal monopoly of legislative initiative for budget laws and conversions of legislative decrees. Borghetto and Giuliani's work (2012) evaluating the pace of Italian legislative processes since 1987 showed that for adopted bills, the fact that they are sponsored by the executive (together with the type of procedure, the policy sector and timing of introduction) contributes to expedite their legislative process.

4 Every house has the same prerogatives and has to approve the same text before its final enactment. In principle, therefore, there are no limits to the number of readings in each house, the passages of the so-called navette system. Even so, a political system may exploit such institutional rules in different ways. Indeed on one side voting twice on the very same bill seems highly irrational, but the two chambers Camera and the Senato could cooperate together to increase the efficiency of the overall parliament (Zucchini 2008, 11).

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<sup>5</sup> Decree-laws are issued by the Government in special circumstances of emergency. They must be presented on the same day to Parliament for conversion into laws. If not converted within sixty days of their publication, they lose validity retroactively.

<sup>6</sup> Law 400/1988 previously tried to limit the reiteration of decree laws, but without success. Government and parliament did not want to lose their prerogatives. Decree laws represented an important outlet for them, and law 400/1988 did not provide an alternative. (Vassallo 2001:88). Then, the Court with sentence 360/1996 declared the constitutional illegitimacy of decree 463/1995 that reiterated a decree that had been previously (and for many times) unable to be converted (Vassallo 2001: 86-96). In this way the Italian Supreme Court declared the constitutional illegitimacy of all the decrees that were reiterated, signing a landmark for Italian legislation.

<sup>7</sup> The dataset was integrated with information on legislative acts drawn from the Italian Law-Making Archive (ILMA) (Borghetto *et al.* 2012).

<sup>8</sup> Another source of inconsistency resides in the fact that in some cases part of the law is not available in text format but as an attached image. All these relatively infrequent cases have been excluded from the analysis. As regards temporary decrees, one can consider revisions brought by either the law of conversion (most of the time a temporary decree is partially modified at the time of conversion into law) or by subsequent laws. In the following, we will not include the former category in our dataset, since it can be argued that these revisions belong to the pre-enactment phase of the legislative process.

<sup>9</sup> The pentapartito (five-party) coalition was composed by Christian Democrats (DC), Socialists (PSI), Social Democrats (PSDI), Liberals (PLI) and Republicans (PRI).

<sup>10</sup> Respectively, 700 in the IX, 990 in the X, 1356 in the XIII and 1738 in the XIV.

<sup>11</sup> We recall that the sample of executive laws considered in the analysis already includes only the 50% of executive acts with number of words above the median.

<sup>12</sup> As for law decrees, one possible justification for the greater rate of amendments might be found in the ban on the reiteration of decree laws imposed by the Constitutional Court in 1996. We recall that, before this sentence,

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governments used to keep on reiterating temporary decrees (with small modifications) that did not pass the conversion stage. We expect that those decrees that reached conversion during the First Republic should be more stable due to the fact that their enacting coalitions approved them after long bargaining processes. Indeed government could reiterate a decree law indefinitely, while the parliament could continue to reject it until an agreement was reached. Nonetheless, once the agreement was reached, one could expect it to last longer given the wider support it was based on. What is more, most amendments to law-decrees were mainly included in the law of conversion and, as we said, these have not been computed among amendments. All in all, law-decrees survived the 1996 reform (although their relative frequency declined substantially) but they have been more prone to be revised after conversion.

<sup>13</sup> L-skewness scores are constrained to lie within the interval  $-1$  (left skewed distribution) and  $1$  (right skewed distribution). Symmetric distributions have L-skewness equals to  $0$  (Hosking 1990).

<sup>14</sup> L-kurtosis scores range from zero to one, with  $0$  the lowest and  $1$  the highest level of kurtosis. As a reference point, the L-kurtosis of a standard Gaussian distribution is  $0.123$ . Measures of kurtosis computed as L-moments are normally to be preferred because “they are less sensitive to extreme values and reliably computed for a relatively small number of cases” (Breunig and Jones 2011, 107).

<sup>15</sup> The mean proportion of words decrease is  $-4.7\%$  in the First and  $-3.7\%$  in the Second Republic. The mean proportion of words increase is  $+2.6\%$  in the First and  $+1.9\%$  in the Second Republic.

<sup>16</sup> The problem of right-censoring is rather common with duration data. It occurs when we know the point in time a process starts but we do not know whether and when it experienced the event of interest because the study ended while it was still going on. An important advantage of the Kaplan-Meier estimator is that it can take into account information provided by “right-censored” cases (Kaplan and Meier 1958).

<sup>17</sup> In both figures, the log-rank test statistically confirms the dissimilarity between the two curves.

<sup>18</sup> Difference in survival probability between the three curves is not statistically significant at a  $.05$  level ( $P=0.067$  using the log-rank test).

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<sup>19</sup> If we also consider for the computation ratification of international treaties there is a difference in output of around 400 laws.

<sup>20</sup> The Centre-Left coalition supporting the governments of Prodi I, D'Alema I and II, and Amato II was extremely fragmented and polarized, encompassing a number of parties ranging from seven to nine. The two Berlusconi governments (II and III) were instead supported respectively by four and six parties.



## 8. References

- Baumgartner, F. R. and Jones B. D. (1993) *Agendas and instability in American politics*. University of Chicago Press.
- Baumgartner, F. R. and Jones B. D. (2002) *Policy dynamics*. University of Chicago Press.
- Behn, R. D. (1976) 'Closing the Massachusetts public training schools.' *Policy Sciences* 7(2): 151–171.
- Berry, C. R., Burden, B. C. and Howell, W. G. (2010) 'After Enactment: The Lives and Deaths of Federal Programs.' *American Journal of Political Science* 54(1): 1–17.
- Binder, S. A. (2003) *Stalemate: Causes and Consequences of Legislative Gridlock*. Brookings Institution Press.
- Blondel, J. (1970) 'Legislative Behaviour: Some Steps towards a Cross-National Measurement.' *Government and Opposition* 5(1): 67–85.
- Borghetto, E., Curini, L., Giuliani, M., Pellegata, A. and Zucchini, F. (2012) 'Italian Law-Making Archive: A New Tool for the Analysis of the Italian Legislative Process.' *Rivista Italiana Di Scienza Politica* 2012, no. 3.
- Borghetto, E. and Giuliani, M. (2012) 'A Long Way to Tipperary: Time in the Italian Legislative Process 1987–2008.' *South European Society and Politics* 17(1): 23–44.
- Box-Steffensmeier, J. M., and Bradford, J. (2004) *Event History Modeling - A Guide for Social Scientists*. New York: Cambridge University Press.
- Breunig, C., and Jones B.D. (2011) 'Stochastic Process Methods with an Application to Budgetary Data.' *Political Analysis*, 19(1), 103 –117.

Capano, G. and Giuliani, M. (2001a) 'Governing Without Surviving? An Italian Paradox: Law-Making in Italy, 1987-2001.' *The Journal of Legislative Studies* 7(4): 13–36.

Capano, G. and Giuliani, M. (2001b) *Parlamento e processo legislativo in Italia: continuità e mutamento*. Il Mulino. Bologna.

Capano, G. and Giuliani, M. (2003) 'The Italian Parliament twists the Logic of Government and the Logic of Institutions (Much Ado about Something-but What Exactly?).' *Italian politics* 18: 142–161.

Cashore, B. and Howlett, M. (2007) 'Punctuating Which Equilibrium? Understanding Thermostatic Policy Dynamics in Pacific Northwest Forestry.' *American Journal of Political Science* 51, no. 3 (July 1): 532–551.

Coate, S. and Morris, S. (1999) 'Policy persistence.' *American Economic Review*, 1327-1336.

Cotta, M. (1994) 'The Rise and Fall of the 'Centrality' of the Italian Parliament: Transformations of the Executive-Legislative Subsystem After the Second World War.' In: Copeland GW and Patterson SC (eds), *Parliaments in the Modern World. Changing Institutions*, Ann Arbor, MI, The University of Michigan Press, pp. 59–84.

Cotta, M. (1996) 'La crisi del governo di partito in Italia.' in Cotta, M. and Isernia, P. (1996) *Il gigante dai piedi di argilla: la crisi del regime partitocratico in Italia*. Il Mulino. Bologna.

Cotta, M. and Verzichelli, L. (2007) *Political Institutions of Italy*. Oxford University Press.

Daniels, M. R. (1997) *Terminating public programs: An American political paradox*. ME Sharpe.

De Giorgi, E. and Verzichelli, L. (2008) 'Still a Difficult Budgetary Process? The Government, the Legislature and the Finance Bill.' *South European Society and Politics* 13(1): 87–110.

Della Sala, V. (1988) 'Government by Decree: The Craxi Government and the Use of Decree Legislation in the Italian Parliament.' In *Italian Politics: A Review*, edited by Nanetti, R., Leonardi, R. and Corbetta, P. (1988) London: Pinter.

- Della Sala, V. (1998) 'The Italian Parliament: Chambers in a Crumbling House?' *Parliaments and Governments in Western Europe*: 73–96.
- De Micheli, C. and Verzichelli, L. (2004) *Il Parlamento*. Il Mulino.
- Di Palma, G. (1976) 'Institutional Rules and Legislative Outcomes in the Italian Parliament.' *Legislative Studies Quarterly* 1(2): 147.
- Di Palma, G. (1977) *Surviving Without Governing: The Italian Parties in Parliament*. University of California Press.
- Frantz, J. E. (1992) 'Reviving and revising a termination model.' *Policy Sciences* 25(2): 175–189.
- Giuliani, M. (2008) 'Brand New, Somewhat New or Rather Old? The Italian Legislative Process in an Age of Alternation.' *South European Society and Politics* 13(1): 1–10.
- Giuliani, M. and Zucchini, F. (2013) 'Governo e processo legislativo.' In: Pasquino, G., Regalia, M. and Valbruzzi, M. (eds), *Quarant'anni di scienza politica in Italia*, Bologna, Il Mulino, pp. 153–169.
- Hall, P. A. (1993) 'Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain.' *Comparative Politics* 25, no. 3 pp: 275–296.
- Hine, D. (1993) *Governing Italy: the politics of bargained pluralism*. Oxford: Clarendon Press.
- Howell, W., Scott, A., Cameron, C. and Riemann, C. (2000) 'Divided Government and the Legislative Productivity of Congress, 1945-94.' *Legislative Studies Quarterly* 25(2): 285.
- Hosking, J.R.M. (1990) 'L-Moments: Analysis and Estimation of Distributions Using Linear Combinations of Order Statistics.' *Journal of the Royal Statistical Society. Series B (Methodological)*, 52(1), 105–124.
- Jenkins-Smith, H. C. and Sabatier, P. A. (1993) *Policy Change and Learning: An Advocacy Coalition Approach*. Boulder, CO: Westview Press.

- Jones, B. D. and Baumgartner, F.R. (2005) *The politics of attention: how government prioritizes problems*. University of Chicago Press.
- Kaplan, E. L. and Meier, P. (1958) 'Nonparametric Estimation from Incomplete Observations.' *Journal of the American Statistical Association*. 53(282): 457–81.
- Kaufman, H. (1976) *Are government organizations immortal?* Brookings Institution.
- Kelly, S. Q. (1993) 'Divided We Govern? A Reassessment.' *Polity* 25(3): 475.
- Kingdon, J. W. (1984) *Agendas, alternatives, and public policies*. Little, Brown.
- Marangoni, F. (2013) *Provare a governare, cercando di sopravvivere. Esecutivi e attività legislativa nella Seconda Repubblica*. Pisa University Press.
- Mayhew, D. R. (2005) *Divided We Govern: Party Control, Lawmaking, and Investigations, 1946-2002, Second Edition*. Yale University Press.
- McCarty, N. (2006) *Polarized America : the dance of ideology and unequal riches*. Cambridge Mass.: MIT Press.
- Morlino, L. (2013). 'The impossible transition and the unstable new mix: Italy 1992-2012.' *Comparative European Politics*, 11(3), 337-359.
- Mueller, K. J. (1988) 'Federal Programs to Expire: The Case of Health Planning.' *Public Administration Review* 48(3): 719.
- Newell, J. (2006) 'Characterising the Italian parliament: Legislative change in longitudinal perspective.' *Journal of Legislative Studies* 12(3-4): 386–403.
- Norton, P. (1994) 'The Legislative Powers of Parliament.' In *The Evolving Role of Parliaments in Europe*, edited by Flinterman, C., Hering, A. W. and Waddington, L. 15–32. Apleidoorn: Maklu.

Patashnik, E. M. (2008) *Reforms at Risk: What Happens After Major Policy Changes Are Enacted*. Princeton University Press.

Predieri, A. (ed.) (1974) *Il processo legislativo nel Parlamento italiano*. Milano, Giuffrè Editore.

Ragusa, J. M. (2010) 'The Lifecycle of Public Policy: An Event History Analysis of Repeals to Landmark Legislative Enactments, 1951-2006.' *American Politics Research* 38(6): 1015 –1051.

Sartori, G. (1982) *Teoria dei partiti e caso italiano*. SugarCo. Milano.

Soroka, S. and Wlezien, C. (2005) 'Opinion–Policy Dynamics: Public Preferences and Public Expenditure in the United Kingdom.' *British Journal of Political Science* 35(04): 665–689.

Vassallo, S. (1994) *Il governo di partito in Italia (1943-1993)*. Il Mulino.

Vassallo, S. (2001) 'Le leggi del governo. Come gli esecutivi della transizione hanno superato i veti incrociati' pp. 85-126 in Capano, G. and Giuliani, M. *Parlamento e processo legislativo in Italia: continuità e mutamento*. Il Mulino. Bologna.

Visconti, F. (2011) *Friction & Policy Change: A Longitudinal Study of Italian Laws after Enactment*. Master Thesis in Comparative Politics, Supervisor: M. Giuliani, University of Milan.

Wildavsky, A. B. (1964) *The politics of the budgetary process*. Little, Brown Boston.

Zucchini, F. (2008) 'Dividing Parliament? Italian Bicameralism in the Legislative Process (1987-2006).' *South European Society and Politics* 13(1): 11–34.

Zucchini, F. (2011) 'Government Alternation and Legislative Agenda Setting.' *European Journal of Political Research* 50, no. 6: 749–774.