The Italian Parliament: a powerful institution that performs in an erratic way

Giliberto Capano

Professor of Political Science and Public Policy
Facoltà di Scienze Politiche "Roberto Ruffilli"
Alma Mater Studiorum - Università di Bologna - sede di Forlì
Centro di Analisi delle Politiche Pubbliche,
Corso Diaz, 45
47100 Forlì
e-mail: giliberto.capano@unibo.it

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1. Introduction

The present paper is going to focus on the legislative performance of the Italian parliament, which constitutes a very interesting case, given that academic studies tend to present differing opinions of the various features of Parliament’s legislative performance and role. In fact, while on the one hand Polsby (1975) and Di Palma (1977) have classified it as an arena legislature (albeit with few transformative elements), on the other hand, Mezey (1979) and Norton (1984, 1994) have pointed out that the Italian Parliament has a strong capacity to influence the legislative process and it performs an autonomous role in policy-making.

So this is an extremely challenging case: the very different interpretations given by highly-reputed scholars to the legislative role played by this one institution and to its performance as such, could depend on either the exceptional nature of the Italian legislature, or on the ambiguity of the concept used in classifying it, or, finally, on the wrong/imprecise operationalization of the concept.

I think that even though the Italian Parliament has its idiosyncratic features, the majority of the variance in interpretation of its legislative performance is due to the confusion with which the concept of performance has been handled in academic studies, and to the operationalization of that concept.

Hence before dealing with the empirical data in the second section, I am first going to try and work on the concepts of legislative performance and legislative power. We clearly need a more clear understanding of these concepts. In fact, there is to often a complete overlapping of the concepts of “performance” and “power in the legislative process”. In order to formulate better indicators, we first need to clarify this overlapping (which is, in my opinion, misleading as I shall try to show). In the third section, I am going to present a longitudinal view of the Italian case: this is of considerable interest because, among other things, from 1992 onwards many deeply-rooted features of Italian politics changed radically, and some of them directly altered the way parliament works (for instance, the choice of a semi-majoritarian electoral system in 1993, or the constitutional reform introduced in 2001 giving greater legislative power and responsibility to the Regions). In the fourth section, I will be focusing on a quantitative analysis of legislative performance since 1987 (comparing the first two legislatures elected using the old electoral system with the three elected using the new system). I am going to submit a series of general quantitative data on legislative output and on the
legislative process (because performance is strictly connected not only with the features of procedures but also with those of the process). This data will be discussed in an attempt to answer the following questions: how important is the Italian Parliament in legislative terms, and what degree of control does Parliament exercise over the legislative process compared with the Government? In doing so, I am going to present some figures on the amendatory process (obtained by elaborating a very large amount – more than 60,000 - of amendments proposed during the course of the last two legislatures). The figures regarding the said amendments are of considerable importance to an understanding of the specific contribution made by the Italian legislature to the contents of legislation. The fifth and final section will try to provide an interpretation of the general picture offered by the data presented, and to gain some theoretical and empirical lessons from the Italian case which will be of use to the advancement of theoretical and empirical research into the evaluation and classification of legislative power and parliamentary performance.

2. Legislative performance, legislative power and the classification of legislatures: some theoretical observations

Very little space in specialized literature has been dedicated to the definition of legislative performance. Scholars generally use the term “performance” in relation either to the quality or quantity of legislation.

Both meanings are problematic from the theoretical and empirical points of view, and as such need to be dealt with separately.

With regard to the “quantitative” dimension of legislation, I would simply like to focus on the fact that the total amount of legislation produced periodically should not be considered an indicator of inefficiency or poor performance (as is often the case in academic studies – indeed, too often in Italy). The truth is that the amount of laws is mainly determined by institutional rules (which, for instance, could reserve the power to legislate on specific policy fields or issues to Parliament or to the Government). Thus the amount of legislation itself is not particularly interesting, whereas other quantitative aspects of the legislative process are really more promising. Dimension as the amount of legislative initiative, the quantity of private and governmental bills and their rate of success, the types of legislative output, the rate of consensuality in voting, and the success of amendments in changing the content of the bills approved, are all of essential importance to a true understand of the law-making process and of the real power possessed by the two crucial legislative players – Government and Parliament -.

The “quality of legislation” is something of a minefield: this term may have one of two meanings: on the one hand, it can refer to “well-written, clear, and unambiguous” legislation; on the other hand, and more importantly, it is linked to the features of the content of legislative output. On this topic, we could accept the three-fold categorization by Theodor Lowi (1964, used by Blondel 1990 et al.), whereby
legislative content is classified as distributive, regulative, and redistributive; or we could accept the six-fold categorization proposed by von Beyme (1998) who singled out three regulative types of law (neutral regulation, protective regulation and regulation extending rights) and three types of distributive law (protective distribution, pure distribution and redistribution; or there is Di Palma’s categorization (1977), with its 3 types of legislative content: micro-sectional, sectional and general; or, finally, the four-fold distinction proposed by Trantas (1995) between ordinary, ameliorative, consolidating and reforming laws. At the same time, the innovative aspects of legislation are often considered the most important indicators of the high “quality” of legislation (von Beyme 1998; Tsebelis 1999). It is clear that the operationalization of “innovative legislation” is very subjective: “innovative” with respect to what?: with respect to present legislation? We then have to ask how the level of legislative innovation is to be measured. Furthermore, can deeply innovative legislation be so innovative that it is unfeasible in practice? Why should distributive legislation be judged worse than regulative or redistributive legislation? How are we to differentiate between consolidating and reforming laws? What can be said about distributive laws which may contain just a few items having a high redistributive effect in the medium-long term? Legislation very often produces unwanted consequences or the misplacement of goals during the implementation process, and what is designed to be innovative could be very unsuccessful, while what is deemed to be micro-sectional legislation can produce highly innovative results. It really seems that the question of legislative quality is too closely connected to subjective evaluations. Given this, our observations on legislative performance, as political scientists, are strongly linked to the process and the prevailing players (Government or Parliament). From this point of view, the prevailing, or should we say the more easily “manageable”, meaning of legislative performance is the quantitative one. So what about quality? Perhaps the most interesting hypotheses is that the greater the power of government over the legislative process, the greater the probability that legislation will be innovative (or ameliorative, or reforming). This would be a reasonable hypothesis since we may assume that without parliamentary negotiations and logrolling, the coherence and effectiveness of the governmental position could be preserved. Its. At the same time, however, we should not forget that governments are also vote-seekers and they need to provide an answer to segmented social demand. At the same time, the assumption that the more powerful Parliament is in the legislative process, the worse the quality of the legislature, could also be misleading for the very same reasons. So reality (as the Italian case will show) is more complex and ambiguous than it would first appear: the quality of legislation cannot simply be deduced from the nature of the prevalent actors. Laws can be designed for a series of very different goals.

The brief discussion on the meaning of legislative performance leads directly to the problem of legislative power. Scholars of comparative legislature usually focus on the interaction between Government and Parliament, seen as two conflicting institutions continuously fighting for legislative pre-eminence. This view is probably just a
convenient simplification of reality, although it could also be misleading. The assumption that there are precise, clear borders between Government and the assemblies during the legislative process could be an excessive simplification of what is a complex legislative process. Such a simplification risks producing a highly stylized model of the legislative process, characterised by the zero-sum interaction of executive and legislature. This kind of conception is clearly based on one of the most famous, oft-quoted classifications of parliaments (drawn up by Polsby-1975), which distinguishes between transformative and arena legislatures. This classification presents a really strong dichotomy between, on the one hand, the transformative type - a very strong legislature with a strong degree of internal organization, perfectly capable of representing and leading society; and on the other hand, the arena type with its purely representative role, lacking in the ability to guide the legislative process, and consisting merely of a space for the recording of external demands (submitted by society through the political parties and the Government). In other words, this latter type is simple, parsimonious but of little use. One only requires a basic understanding of comparative politics to see that this kind of classification is American-centred, in the sense that only the unique, exceptional US Congress could fit the demanding bill of the transformative type, while all other democratic parliaments risk being classified, according to the “prevalence” criterion, in the arena category. This is clearly a consequence of cultural bias (the US Congress perceived as the ideal-type of the “best” possible legislature).

I think a more effective grasp of the legislative process can be had by seeing it as an arena in which the two “players” permanently interact, as a result of having institutionalized a highly structured relationship. Hence the legislative arena is portrayed as the place in which, and the process whereby, the two institutional players both have an important role to play – one that is sometimes conflictual, sometimes cooperative. Legislation, in other words, is the product of the executive-parliament subsystem (Cotta 1994), where borders can be blurred or less clear than would be expected, and trade-offs can be favourable for both players, seen as the inseparable co-producers of legislation. It is a highly problematic partnership, where both players continually try to predominate but are nevertheless forced to constantly interact and negotiate with each other, at least to a minimal degree (as in the case of the Westminster model). The problem of the power of the legislature over the law-making process thus has to be analysed, empirically, from a longitudinal and diachronic perspective. This means that

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1 The fundamental problem with Polsby’s classification is its emphasis on autonomy as the essential feature for the institutionalization of legislative assemblies (1968). However, the extreme institutional autonomy of the US Congress is based on the unique character of America’s political history, constitution and party-system. Hence the conclusion that the classification is too closely tied to the idiosyncratic character of one country, whereas we know perfectly well not only that the smaller degree of independence enjoyed by the parliaments of other western democracies is the result of very different historical legacies, but also that this does not mean those parliaments have no important role to play in policy-making (as Polsby’s classification assumes).
the legislative power exercised by parliaments cannot be evaluated simply by cataloguing the formal rules (constitutional provisions and standing orders). This approach (Doring 1995; Lawrence Evans 1999; Cox 2000) may only be useful if it is assumed that the legislative rules define the system of constraints and incentives within which the institutional players operate; however, while formal rules do influence the players’ behaviour, they do not completely determine their actions. Rules can be interpreted, can be bent (and, of course, they can be changed). During the course of time the same rule can be interpreted in a different way from its past or original meaning, or may indeed become ineffective. This is because parliament/executive relationships do not exist within a political vacuum, but are influenced by external factors ranging from electoral results to changes in socio-economic needs, from the transformation of the political system to the modification of the balance of powers in the international arena. These changes influence the legislative players’ preferences and force them to manipulate formal rules as far as possible. I feel I need to underline this point: that is, I am deeply convinced that legislative rules matter, because they are not only the rules of the game but, above all, they constitute an essential source for legislators; nevertheless, the real role of legislative players cannot be directly deduced from the institutional rules and architecture. This is because a longitudinal empirical perspective is needed, and because it is a hard task classifying legislature. While classification is an essential methodological instrument in the social sciences (we need it to give order to reality see Mc Kinney 1966; Tiryakian; Marradi 1990), at the same time, it provides a static picture of reality. Take the example of what I personally believe to be the most useful classification of legislatures on offer - the one provided by Philip Norton (1984, 1994). The latter sub-divided legislatures into three different categories:

a. policy-making legislatures (those which can modify or reject measures submitted by the executive, and can formulate and substitute policies of their own);

b. policy-influencing legislatures (those which can modify or reject measures submitted by the executive, but cannot formulate or substitute policies of their own);

c. legislatures with little or no impact on policy (those which can neither modify nor reject measures submitted by the executive, nor formulate or substitute policies of their own).

This classification is very useful because it is of a parsimonious nature and because it substantially assumes that in a democratic system, parliaments can influence law-making. In fact, if the third type is not taken into consideration – (this clearly refers to rubber-stamp legislatures\(^2\) or emergent ones\(^3\) ), then we see how, in well-established

\(^2\) This is the case of those legislatures which simply endorse decisions made by external players, and is characteristic of undemocratic systems.

\(^3\) This is the case of those legislatures going through a period of transition, in which they try to gain influence over the law-making process.
democratic systems, parliament exercises influence over the legislative process. However, this classification, like all others, has been criticized because it does not give any indication of how legislative power is to be measured. I believe this criticism to be misplaced: as I just said, classification necessarily produces a static picture of reality. At the same time, in the case of parliaments, the fundamental criterion used to classify necessarily refers to the nature of the rules of the legislative game; these rules, in fact, govern the distribution of powers to the legislative players. Highlighting the absence of indicators is really misleading. For example: the difference between a policy-making legislature and a policy-influencing one is a clear one: the former has the power to substitute or formulate laws on its own, whereas the latter does not. This is a clear property.

Clearly the real measurement problem lies with the two types, and especially with the policy-influencing legislature, since this incorporates the large majority of empirical cases. In this situation, the question: “how much influence does it exercise?” may make some sense. However, this question is very difficult to answer because the need for systematic and comparative measurements leads to a series of methodological problems. First of all, there is the problem of history: parliaments have too many idiosyncratic features (routines, praxis, internal values) inherited from the past. Secondly, each parliament works within a specific political system with its own particular juridical arrangements. Thirdly, the range of potential political “games” (deriving from the interweaving of diverse party systems, political cultures, constitutions, legislative rules and standing orders) which can be played out in the legislative arena is extensive. These factors render the problem of comparing parliaments’ legislative powers a kind of unsolvable puzzle, due to the impossibility of taking the clause “ceteris paribus” seriously.

On the basis of these arguments, I think that the search for empirical indicators, in an attempt to establish the degree of comparative power/influence exercised, may well be very frustrating and, in all likelihood, somewhat misleading. Nevertheless, a great deal of work could be done to improve the measurement of legislative performance (in both quantitative and qualitative terms) and our understanding of “how” and “when” (in what political circumstances or in which policy fields) parliaments exercise the powers that the rules of the game grant them. In this present paper I am going to focus specifically on the quantitative dimensions of legislative performance and power, not only to keep the paper as short as possible, but also because, from a methodological point of view, qualitative analysis is a more complex and subjective matter, and regardless of the indictors employed, it always needs to be based upon strong quantitative premises. Furthermore, quantitative analysis is needed to build up a reasonable, contextualized qualitative evaluation.

This is the minimal theoretical framework I have adopted when presenting data on the legislative performance and power of the Italian Parliament.
3. **A powerful legislature: a general picture**

Before presenting figures for the legislative performance of the Italian Parliament, we need to put them into context by summarising the legislative rules and law-making style that characterises this Parliament, and by pointing out a number of important changes made to its internal organization, and existence of certain important external factors.

With the exception of Polsby, scholars have classified the Italian legislature as a very powerful parliament capable of influencing the law-making process. The basis for this categorization can be found in the rules of the game. First of all, there is the peculiarity of the institutional framework designed by the Italian Constitution: this has assigned strong powers to Parliament, especially vis-à-vis the executive. Symmetric bicameralism, a strong committees system (with deliberative powers), and the predominance of law as the fundamental formal source of policy-making, are constitutional provisions which have shaped an institutional arrangement whereby parliament is in theory the cornerstone of the political system and of the policy-making process. On the other hand, the standing orders adopted by the first Republican Parliament in 1948 were the same as those of the previous monarchic regime (approved in 1900 and partially modified in 1922). They were deliberately designed to defend parliament from monarchic power, so they were characterized by an atomistic conception of parliamentary behaviour, giving the maximum freedom of action to individual MPs (Lippolis 2001). These rules were completely in Parliament’s favour: no agenda planning, the primary role of the secret ballot, no time limits to speeches, no government agenda powers, the power (unbound by any procedures) to emend or reject governmental proposals, the lack of any restrictions on individual members’ proposals.

Another essential factor needs to be illustrated here: the nature of the party system—a strongly polarized system (Sartori 1982) with two anti-system parties making it impossible to witness any alternation in the position of ruling coalition. In this situation, governments have been continuously blackmailed by the parties within the ruling coalition as well as by their various internal factions. So governments were structurally weak and unstable in parliament, and sometimes the assemblaristic degeneration of the executive/parliament relationship was a real risk.

The interaction of these political-institutional factors led to Parliament displaying the following characteristics:

a. a highly specialized and decentralized arena;

b. a degree of independence in deciding its own agenda;

c. the possession of many instruments with which to control the executive and to play an essential role in law-making;

d. a highly permissive stance with regard to the behaviour of individual MPs and parliamentary groups;
Furthermore, another essential byproduct of the political-institutional framework has been the consensual decision-making style which has characterised Italian law-making during the entire so-called ‘First Republic’ and, as we shall see in the next section, is still present to a certain extent nowadays. This consensual style has been really astonishing (approximately 80% of all bills passed during the course of the first twelve legislatures were approved by ample majorities). At the same time, it should be said that all the specialised literature has stigmatized the intrinsic and micro-sectional content of the majority of legislation produced (Di Palma 1977; Giuliani 1997; Rebuffa 2001).

These characteristics of the nature of legislation have been linked to the consensual legislative process based on specific features either of the party-system (Sartori, 1976, 1982; Chimenti 1992; Vassallo 1994) or on the institutional tradition that Parliament has inherited from the past (Rebuffa 2001; Soddu 2001, Capano and Giuliani 2001a, 2001b).

The Italian Parliament has been defined as having been highly inefficient, at least up until the well-know political upheaval which got underway at the beginning of the 1990s (the “Clean Hands” crisis, two referenda against the then proportional electoral law and the subsequent introduction of quasi-majoritarian rules). From that period onwards, the rate of innovation of approved laws suddenly increased.

Furthermore, the unexpected changes in the political system and in the electoral law (used for the first time during the 1994 General Election) forced a third cycle of internal change upon Parliament (Caretti 2001; Capano and Giuliani 2003a; Capano 2005).

It should be pointed out that the standing orders have been substantially changed twice in the past. The first important change was made in 1971, with the formalization of the informal consensual style which had characterized the legislative process ever since the I legislature. However, the result of that reform was simply to increase the pathological dynamics of the legislative process (filibustering, gridlock, the Government’s incapability of defining the agenda), and since the beginning of the 1980s, a slow, gradual process of rationalization of legislative procedures got underway. That decade saw the introduction of certain modifications, such as: the granting to Speakers of the power to select amendments and to establish the agenda in the absence of unanimity; the planning of discussion time and limits to the length of speeches; a special procedure for the budgetary law (characterized by significant, albeit not full, governmental power); a severe limitation on the use of the secret ballot). However, the said characteristics remained those of a structurally anti-majoritarian institution (Floridia and Sicardi 1991). Thus the third series of reforms, made at the end of the 1990s, introduced stricter majoritarian and pro-government rules: the unanimity rule regarding parliamentary groups and agenda setting was set at a lower quorum of
three-quarters; the Government was given the opportunity to notify of its priorities; more restrictions were introduced regarding amendment selection, discussion and voting. A distinction between opposition and majority was formally introduced. However, in spite of these changes, the legislative rules still represent a strong safeguard of parliamentary rights over governmental needs: the parliamentary whips still maintain strong agenda-setting powers; the Government does not possess any real power with which to steer the agenda and the discussion; no restrictions exist regarding the presentation of individual private bills; the committee system has increased its processual and procedural powers; a minimal membership is requested for forming a parliamentary group (20 MPs in the Camera and 10 in the Senate), which is a structural incentive to internal fragmentation (Capano and Giuliani 2003a; De Micheli and Verzichelli 2003).

The last element – the low number of members needed to form a parliamentary group - deserves special attention. In fact, it should be said that, notwithstanding the new, quasi-majoritarian electoral law (a two-sided construct - at one and the same time both majoritarian and proportional), which was introduced in 1993, internal parliamentary fragmentation has not been reduced, but on the contrary has indeed increased. Moreover, the effective number of party groups in Parliament during the three legislatures elected by the new electoral system, has been higher than it was in those legislatures elected using the old purely proportional system.

Therefore, even though the new electoral laws have produced some important changes to the electoral side of party competition (by obliging political parties to coalesce and to adopt a more competitive style in order to win the election), the impact

4 The following table presents the effective number of parliamentary party groups present within the Italian Parliament (*).

<table>
<thead>
<tr>
<th>Legislature</th>
<th>Chamber</th>
<th>Senate</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>2.85</td>
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</tr>
<tr>
<td>II</td>
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</tr>
<tr>
<td>IV</td>
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<td>3.82</td>
</tr>
<tr>
<td>V</td>
<td>3.60</td>
<td>3.75</td>
</tr>
<tr>
<td>VI</td>
<td>3.63</td>
<td>3.75</td>
</tr>
<tr>
<td>VII</td>
<td>3.22</td>
<td>3.44</td>
</tr>
<tr>
<td>VIII</td>
<td>3.54</td>
<td>3.45</td>
</tr>
<tr>
<td>IX</td>
<td>4.32</td>
<td>4.10</td>
</tr>
<tr>
<td>X</td>
<td>4.35</td>
<td>4.00</td>
</tr>
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<td>4.9</td>
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<td>XII</td>
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<td>7.00</td>
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<td>XIII</td>
<td>6.14</td>
<td>6.31</td>
</tr>
<tr>
<td>XIV</td>
<td>5.34</td>
<td>6.32</td>
</tr>
</tbody>
</table>

(*) By adapting the measurement of index proposed by Laasko and Taagepera
on the internal political structure has been completely unexpected. The cause of this increased internal fragmentation is double-sided. On the one hand, there is the weight of largely ineffective formal rules governing the composition of groups. On the other hand, there is the atomistic cultural tradition which characterizes the internal business of a Parliament that is highly responsive to the needs of individual MPs or of small groups of them.

Basically, the Italian Parliament is an unfriendly environment for the Government - despite the fact that over the last few years, some things seem to be changing as we shall shortly see - because it has had, and still maintains, substantial powers to hinder or bog-down law-making. Its formal powers and its internal organization provide it with various opportunities to strongly influence the law-making process. The Government had, and still has, only two ways to overcome strong parliamentary opposition in the attempt to implement its political and electoral manifesto: either it raises the politicization of debated issues and bills (by appealing to the solidarity of the parliamentary groups within the ruling coalition), or it tries to dribble around the ordinary process of law-making, via the massive utilisation of decree-laws and delegated laws (Capano and Giuliani, 2001b and 2003a; Vassallo 2001).

4. Bills and laws: legislative performance

Many observers have indicated the Italian Parliament as an ineffective producer of a huge amount of legislation – where ineffective means that even if many laws are approved, they are usually of a micro-sectional or distributive, thus substantially marginal, nature. The quantity of laws could therefore be a good starting point for a quantitative analysis of legislative performance in Italy - perceived as a way of understanding the legislative power of Parliament.
Have too many laws been passed? Compared to which countries and on the basis of which parameters?\(^5\) Can we really compare, for example, the relatively small number of laws passed in the United Kingdom, with those approved in Italy? Could we really judge the number of laws approved in Italy to be excessive, and those in Britain to be fair? The truth is that the number of laws passed during the course of a national legislature is strictly tied to the constitutional provisions regarding the legislative process, and there are substantial differences between one case and another here. The Italian case, for instance, is characterized by constitutional provisions granting Parliament the power to legislate on anything it chooses, while at the same time the Constitution states that the decisions on certain issues are the prerogative of Parliament. Scholars of comparative legislature should admit that Roger Noll (1987) is right when he warns of the perils of comparison in a field as idiosyncratic as that of national parliaments.

Likewise, the significant decrease in the amount of laws passed by legislatures subsequent to the first is difficult to interpret in a clear-cut manner. The strong reduction in the quantity of laws (more than 50%) between the first and the last legislatures could be seen as proof of the more effective working of parliament (if fewer laws meant more significant laws). However, the truth of the matter is rather different, and far more complex, and is strictly related to the evolution of the Italian political system. In fact, the progressive reduction in the number of laws approved after the first four legislatures, could be explained by the fact that these early legislatures coincided with the first years

\(^5\) One of the few comparative analysis of this point can be found in Giuliani (2002).
after the end of the war and after twenty years of Fascist dictatorship. Similarly, the immediate fall thereafter (which followed a very similar and persistent trend, during the 1970s and 1980s) can be seen as an indicator of a phase of consolidation subsequent to the necessary reconstruction of the Italian political system and society during the years after World War Two. However, the figures we have for the period from the end of the 1980s to the present need to be calibrated by the following data and events: the progressive devolution of primary legislative powers to the European Union and to the Regions (a process reinforced by laws passed in 1997 and 2001); a consistent trend towards de-legislation (started in 1988); and the process whereby Government has been granted temporary powers to decide in many policy fields (Capano and Giuliani 2001b, 2003a; Vassallo 2001, Capano 2005).

Therefore the figures on the quantity of legislation are not really very useful in evaluating the legislative performance and power of Parliament within the framework of the legislative process, even though such figures would seem to indicate that the constitutional rules force Parliament into frenetic activity, and that paradoxically, Parliament’s reaction may be a very good one considering its capability to approve a huge number of laws (and, I should add, I am analysing a system known for its perfect bi-cameralism, which conventional wisdom—rooted in the Federalist Papers—considers a deterrent to legislative output).

4.1. Parliamentary and government legislative initiative

The figures for legislative undertakings of both Parliament and Government are of importance not only in order to evaluate the respective success-rates, but also to get a better understanding of legislative working and performance.

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6 Madison, for example, wrote that bicameralism would provide “a check on legislation” and decrease “the excess of law-making” (Madison, Hamilton and Jay, 1961).
As is clear for all to see in figure 1, the trend saw a remarkable, steady increase which peaked during the 1990s. The average number of bills presented each day has tripled since the first legislatures.

In order to comment on the figure 1, we need to bear in mind the fact that the rules of the game provide individual MPs with a substantial degree of freedom to submit bills. However, this does not explain the significant increase in the amount of bills presented, but is simply a prerequisite for this. There is clearly a correlation to the new electoral system, whose majoritarian principles force individual activism out into the open (Zucchini 2001). It is difficult to believe that such a huge number of bills could become law, as is clearly shown by table 2.
Tab. 2 *Governmental and private bills and their rate of approval*

<table>
<thead>
<tr>
<th>Legislature</th>
<th>Governmental bills</th>
<th>Approved (%)</th>
<th>Private bills</th>
<th>Approved (%)</th>
<th>Total Bills presented</th>
<th>Monthly average</th>
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<td>1667</td>
<td>84.8</td>
<td>2514</td>
<td>19.1</td>
<td>4181</td>
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<tr>
<td>III</td>
<td>1569</td>
<td>82.8</td>
<td>3688</td>
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<td>17.5</td>
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<td>100</td>
</tr>
<tr>
<td>V</td>
<td>977</td>
<td>64.2</td>
<td>4189</td>
<td>5.1</td>
<td>5166</td>
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<td>IX</td>
<td>1287</td>
<td>44.1</td>
<td>4642</td>
<td>4.75</td>
<td>5929</td>
<td>124</td>
</tr>
<tr>
<td>X</td>
<td>1471</td>
<td>50.3</td>
<td>6920</td>
<td>4.6</td>
<td>8391</td>
<td>150</td>
</tr>
<tr>
<td>XI</td>
<td>862</td>
<td>27.9</td>
<td>4269</td>
<td>5.3</td>
<td>5131</td>
<td>221</td>
</tr>
<tr>
<td>XII</td>
<td>1143</td>
<td>23.0</td>
<td>5020</td>
<td>0.95</td>
<td>6163</td>
<td>257</td>
</tr>
<tr>
<td>XIII</td>
<td>1453</td>
<td>49.1</td>
<td>10479</td>
<td>2.3</td>
<td>11932</td>
<td>199</td>
</tr>
<tr>
<td>XIV</td>
<td>635</td>
<td>63.6</td>
<td>7445</td>
<td>1.25</td>
<td>8080</td>
<td>176</td>
</tr>
</tbody>
</table>

*Note:* The present legislature is updated at the 21.03.2005

Initial source: Verzichelli and De Micheli (2003)

In fact, the figures convey a very clear message here: there is a more than proportional inverse correlation between the number of private bills presented and their success rate. This has been the institutionalized pattern of behaviour since the Fifth legislature. Thus individual MPs are perfectly aware that their bills have only a very minimal chance of getting past the complex bi-cameral process and becoming law. From this point of view, it is clear that the presentation of private bills is more of a symbolic gesture. Nonetheless, such bills affect parliamentary performance, since they tend to hinder (slow down) legislative activity. At the same, the diachronic trend shows that the decreasing level of efficiency (amount of bills presented/amount of bills approved) is a common feature of both governmental bills and private ones. This means that the general legislative performance is the shared responsibility of Government and Parliament. The substantial differences in the percentage fall of the approval rate are due to the explosion of private bills. However, the truth is that both institutional players have seen their success rate fall. This may point to a positive correlation between governmental legislative performance and parliamentary performance. Thus it is that legislative performance is a joint product, and consequently, a shared problem.
As table 3 shows, the general success rate of bills has substantially fallen since the 10th legislature, and this is not only the result of the increasing amount of bills presented or of the fact that two legislatures (the 11th and the 12th) lasted only two years each. From the 5th legislature onwards, the legislative process has been characterised by a kind of vicious circle which renders the whole thing rather inefficient: at the same time, however, things continue as ever, with only the slightest of reactions in the last legislature (where it seems that both Government and Parliament have moderately reduced the amount of bills submitted).

Furthermore, as table 2 shows, the incredible increase in bills is really the work of parliamentarians, whereas the Government has been more consistent in the total number of bills presented, even though there has been a significant reduction during the present legislature. It is remarkable, however, to note that its success rate has clearly declined since the first legislatures: the Italian executive is only capable of getting half of its bills approved (the very slightly higher percentage during the 14th legislature is the result of the significant reduction in the number of governmental bills).

So what emerges from the analysis of legislative projects is that the whole process is inefficient, and both the fundamental players – Parliament and Government - are structurally incapable of increasing the success rate of their bills and of preventing the increase in the number of bills produced.

On the one hand, Parliament seems to make a “virtual” use of its bills. The real goal would seem to be more rhetorical and expressive than legislative. Moreover, whether this kind of behaviour by MPs really responds to the needs of their constituencies is difficult to ascertain, and would in any case require another form of research. On the other hand, governments are evidently suffering the effects of internal parliamentary procedures (which continue to favour assemblies against the power of the executive) and of the fragmentation of parliamentary groups (which is reinforced by internal rules).

Clearly, the formal legislative powers and inherent nature of the Italian Parliament strongly influence the behaviour of governments, rendering the law-making
process a really “viscous” affair: it should be said. Nevertheless, that these powers tend to be utilised in a more negative, rather than positive, manner.

The results of the legislative process

Table 4 classifies the origins and types of legislation approved over the last five legislatures. These data may help us to understand the real effectiveness and autonomy of the two legislative institutions within the context of the legislative process, and to highlight their contribution to legislative performance as a whole.

Tab. 4 Origin and Type of Laws (1987-2005)

<table>
<thead>
<tr>
<th>Legislature</th>
<th>X</th>
<th>XI</th>
<th>XII</th>
<th>XIII</th>
<th>XIV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laws approved</td>
<td>1076</td>
<td>314</td>
<td>295</td>
<td>905</td>
<td>485</td>
</tr>
<tr>
<td>Governmental origin</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decree-laws</td>
<td>185</td>
<td>118</td>
<td>122</td>
<td>174</td>
<td>160</td>
</tr>
<tr>
<td>(17.2%)</td>
<td>(38.8%)</td>
<td>(41.35%)</td>
<td>(19.23%)</td>
<td>(32.99%)</td>
<td></td>
</tr>
<tr>
<td>Budgetary and financial laws</td>
<td>32</td>
<td>11</td>
<td>10</td>
<td>32</td>
<td>24</td>
</tr>
<tr>
<td>(3.0%)</td>
<td>(3.45%)</td>
<td>(3.41%)</td>
<td>(3.54%)</td>
<td>(5.20%)</td>
<td></td>
</tr>
<tr>
<td>Law ratifying international treaties and on EU directives</td>
<td>195</td>
<td>67</td>
<td>116</td>
<td>280</td>
<td>146</td>
</tr>
<tr>
<td>(18.12%)</td>
<td>(21.34%)</td>
<td>(39.32%)</td>
<td>(30.99%)</td>
<td>(30.10%)</td>
<td></td>
</tr>
<tr>
<td>Mixed origin</td>
<td>85</td>
<td>8</td>
<td>6</td>
<td>48</td>
<td>8</td>
</tr>
<tr>
<td>(7.9%)</td>
<td>(2.55%)</td>
<td>(2.03%)</td>
<td>(5.30%)</td>
<td>(1.65%)</td>
<td></td>
</tr>
<tr>
<td>Non governmental origin</td>
<td>287</td>
<td>75</td>
<td>28</td>
<td>171</td>
<td>94</td>
</tr>
<tr>
<td>(26.67%)</td>
<td>(23.88%)</td>
<td>(9.49%)</td>
<td>(18.89%)</td>
<td>(19.38%)</td>
<td></td>
</tr>
</tbody>
</table>

The present legislature is updated at the 31.01.05
Sources: Own elaboration on parliamentary data www.parlamento.it

One’s first impression may be that Government consistently dominates the agenda and the legislative process because its percentage of the total of laws approved is clearly higher than that of Parliament. However, it should be pointed out that this is really no more than an optical illusion: as table 4 shows, the majority of the laws deriving from governmental initiative are the prerogative of Government (that is, the bills cannot be submitted by Parliament). Decree-laws, budgetary laws and international
treaties\textsuperscript{7} are reserved for Government, and so there can be no competition between Government and Parliament over them. In fact, by removing the figures for these three types of legislation, and by focusing on the remaining laws approved (classified as “other” in the table), we get a completely different result. In fact, if we compare figures for ordinary governmental laws and for non-governmental laws (which, with few exceptions\textsuperscript{8}, are all of parliamentary origin), the result is that the Government’s legislative performance is not any better than that of Parliament; on the contrary, Parliament was more effective during the 11\textsuperscript{th} and 12\textsuperscript{th} legislatures (the shortest of the five analyzed here), it scored equally during the 12\textsuperscript{th} legislature, and is clearly performing better than Government during the present legislature (with one year remaining). So, taking the five legislatures as a whole, governmental initiative has only been superior (with regard to ordinary legislation) during one legislature, the 10\textsuperscript{th} (by a relatively small margin).

Do these figures show that Parliament matters more than Government in the legislative process? The answer has to be: not in any clear manner. They simply record the consistent ability of the Italian Parliament to act as a strong partner to Government. This ability, as we have already said, is based on constitutional provisions, on standing orders, and on the relatively high degree of fragmentation of parliamentary groups. From this point of view, it could easily seem that Parliament does indeed matter more than Government in the legislative process.

However, in the last five legislatures, ordinary laws (those not reserved for Government, and so introduced by both Government and the assemblies) have at the most accounted for under half the total amount (during the 10\textsuperscript{th} and 13\textsuperscript{th} legislatures). In the other three cases, they constitute but one-third (11\textsuperscript{th} and 14\textsuperscript{th} legislatures) or one-sixth (12\textsuperscript{th} legislature) of the total.

There are two further indicators we may mention here, both of which complicate the already complex picture I am trying to portray: these concern the use of decree-laws and of delegated laws.

The use of decree-laws is permitted by the Constitution only in exceptional circumstances or in emergencies. However, they have become a routine instrument of governmental legislation (Della Sala 1998, 1999; Cazzola and Morisi 1981, Vassallo 2001), with which to pursue all kinds of objectives (from the marginal regulation of specific policy fields, to distributive measures in several policy fields; from significant changes to recently-approved laws to the wholesale reform of policy sectors).

\textsuperscript{7} Since 1999, Parliament as well has been granted the power to present bills on international agreements, although this basically remains the prerogative of Government.

\textsuperscript{8} The Constitution provides for the submission of bills by Regional assemblies, by the National Committee of Labour, and by groups of at least 50,000 citizens, as well.
The data presented in table 5 reveal that, since the 12th legislature, the lowest ratio of decree-laws to total laws approved has been about 1 to 5. Moreover, it is surprising to discover that during the present legislature—with only one year to run—decree-laws account for one third of all legislation. This is an important sign of the legislative power of Parliament and, conversely, of the legislative weakness of Government. In fact, the higher the percentage of decree-laws, the greater the difficulty Government has in controlling the effectiveness and efficiency of the ordinary legislative process. On the other hand, the decree-law option represents a highly appealing opportunity for Parliament to force Government into conceding modifications—sometimes substantial ones at that—to the content of bills, as I will show by presenting some data together with a description of the amendatory process.

---

9 Decree-laws must be approved—in both chambers—within 60 days of their promulgation by the Government.
and as has been well documented in the literature so, this process is strongly characterized by a kind of inter-institutional exchange (Della Sala and Kreppel 1998; Giuliani 2002). Thus Governments are in the paradoxical situation where they need to make ample use of the decree-laws in order to overcome the high transactional costs and “viscosity” they encounter in the parliamentary arena, but at the same time they have to pay a “toll” to Parliament to get their plans approved.

The second indicator which may help to disentangle the intertwined relationship between the roles of Government and Parliament in the legislative process is that of the use of delegated laws. Delegated laws are a legislative instrument provided for by the Constitution, and by which Parliament grants Government the power to legislate – for a limited time only - on a specific policy issue, according to a series of general principles and directives. These laws are approved by means of the ordinary procedure, and the respective bills are usually presented by Government. Table 6 highlights the increasing trend in the use of delegated laws since the 10th legislature.

Tab. 6 Delegating-Laws (VIII-XIV legislature)

<table>
<thead>
<tr>
<th></th>
<th>VIII</th>
<th>IX</th>
<th>X</th>
<th>XI</th>
<th>XII</th>
<th>XIII</th>
<th>XIV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delegating laws</td>
<td>8</td>
<td>7</td>
<td>26</td>
<td>16</td>
<td>6</td>
<td>56</td>
<td>30</td>
</tr>
<tr>
<td>% on total amount of legislation</td>
<td>0.76</td>
<td>0.88</td>
<td>2.4</td>
<td>5.1</td>
<td>2.0</td>
<td>6.2</td>
<td>6.0</td>
</tr>
</tbody>
</table>

(*) The XIV legislature is updated at the 21.03.2005

Furthermore, it should be said that many individual delegated norms are contained within other types of legislation (in particular, ordinary laws and budgetary laws). Thus delegation shifts power towards Government with regard to the legislative process, at least from the quantitative point of view. Finally, and more importantly, the majority of structural policy reforms introduced since 1992 have been approved by delegated laws (Capano and Giulaini 2001a, 2001b; 2003a; Vassallo 2001).

---

10 In other words, almost all approved delegated laws derive from governmental proposals; however, many parliamentary bills (usually not approved) contain several delegated provisions.

11 For instance, in accordance with the last Report of the Chamber, there are more than 500 delegated provisions contained in the laws passed during the 13th legislature, which is the same amount that have been approved during the first four years of the 14th legislature.
The figures shown in table 7 give clear evidence of the impact of legislative decrees. By means of delegation, the Government can legislate independently without too much interference from Parliament (even if legislative decrees need the compulsory, but not binding, opinion of parliamentary committees, and even if very often parliamentary opinion is accepted by the Government). Clearly this trend leads us to ask why it is that Parliament so often delegates a great deal of legislative power to the executive. I will try to briefly answer this below, with a short analysis of the figures shown.

**4.3. Consensus**

In order to get a better understanding of the figures for the quantitative aspect of legislative performance in the Italian Parliament/Government subsystem, two further very important factors need to be taken into consideration.

The first of these is the decisional style of Italian law-making. Traditionally, this has been a strongly consensual style (Rebuffa 2001; Giuliani 1997). Since the first legislature, the majority of laws have been approved by following a decentralized procedure –that is, by means of parliamentary committees which are constitutionally granted legislative powers. This decentralized procedure is only possible if there is substantial agreement between the ruling coalition and the opposition parties regarding the use thereof. The figures here are quite astonishing. From the 1st legislature to the 6th, almost 80% of all the laws have been approved by means of the decentralized procedure. This percentage drops to about 60% (7th – 10th legislatures) and to about 20% during the 1990s (De Micheli and Verzichelli 2003, p. 199). However, the consensual style has not been abandoned when the majority of laws have been approved by the floor. In fact, as many studies show, the vast majority of laws (from 60% to 80%) approved by the ordinary procedure in Parliament have been passed without any significant opposition (Giuliani 1997; Capano and Giuliani 2001a; Giuliani 2002). This trend seems to represent the institutional need to balance out the limited use of the
decentralized procedure. Table 8 gives one example of this, when it compares the results of final voting in the Chamber during the 13\textsuperscript{th} and 14\textsuperscript{th} legislatures.

**Tab. 8 Indicator of consensus during the Final Voting in the Chamber on approved legislation**

<table>
<thead>
<tr>
<th></th>
<th>XIII Mean of votes in favour (standard deviation)</th>
<th>XIV Mean of votes in favour (standard deviation)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ordinary laws</strong></td>
<td>88.2% (14)</td>
<td>86.3% (16.9)</td>
</tr>
<tr>
<td><strong>Decree-laws</strong></td>
<td>85.1 (16.6)</td>
<td>84% (19)</td>
</tr>
<tr>
<td><strong>International agreements</strong></td>
<td>98.5% (3.9)</td>
<td>98.1% (6.5)</td>
</tr>
<tr>
<td><strong>Budgetary laws</strong></td>
<td>67.4% (12.8)</td>
<td>65.1% (13.5)</td>
</tr>
<tr>
<td><strong>Constitutional laws</strong></td>
<td>91% (6)</td>
<td>84.6% (-)</td>
</tr>
<tr>
<td><strong>Delegation laws</strong></td>
<td>84.5% (14.9)</td>
<td>75.3% (18.6)</td>
</tr>
<tr>
<td><strong>total</strong></td>
<td>91.5 (13.5)</td>
<td>89.2 (18.6)</td>
</tr>
</tbody>
</table>

Note: first four years of 13\textsuperscript{th} and 14\textsuperscript{th} legislatures

It could be said that the mean percentage of votes in favour is much higher – at least 20\% higher - than the parliamentary majority. It is obviously noticeable that the standard deviation is relatively high (for all laws except those on international agreements, the more bipartisan ones), and also that it has tended to increase during the 14\textsuperscript{th} legislature. Furthermore, we should point out that during voting on certain bills (the more politicized ones), the opposition (in both legislatures) has abandoned the chamber. Notwithstanding these signs of a gradual move towards a more adversarial style, the figures still clearly point to the persistence of a consensual style. Some observers have pointed out that this high percentage of “voting together” could be caused by the fact that constitutional provisions reserves many issues for parliamentary decision (unlike other countries, where many issues are reserved for the decision of the Government), which means that many bills have a technical content and very limited political salience. Nevertheless, as has already been noted (Capano and Giuliani 2001b; Giuliani 2002; Capano 2005), the internal institutional rules (for instance, the fact that agenda setting needs the consensus of a wider majority than that held by the ruling coalition) and the historically-rooted internal values (for instance, the idea that Parliament should be independent from government) have institutionalized a consensual style which is often used when not politically necessary.
4.4. The amendatory process

The amendatory process is the “black hole” of the Italian law-making process. The common perception among scholars is that something important happens in the dark, chaotic meanders of the amendatory process. Its obscurity is given by the fact that there is no complete, transparent collection of data. There are no complete official figures (except in the case of the last budgetary laws and the 13th legislature); and not all the necessary data can be gleaned from the official site of Parliament (where all parliamentary proceedings can be downloaded, albeit only from 1997 onwards). Its chaotic nature is given by the complexity of the process: amendments can be presented not only on the floor but also in parliamentary committees where the first, compulsory referral step is taken for each bill. Many players can present amendments (the Government; the committees as whole, individual MPs). The majority of amendments are not voted on, because a strong screening process overseen by the Speakers was introduced by the last reform of standing orders; and because many of them are incorporated into others or are withdrawn by their proponents before being voted on).

Why then, given the above-mentioned problems, is the amendatory process so important? Simply because Parliament’s traditional power to present and approve amendments has been, and still is, used mainly to modify the bills (especially those proposed by Government), and generally speaking, the amendatory power is the most important tool by which the assemblies construct the contents of laws: the amendatory process is where the distinctions between the majority and the opposition frequently become blurred.

So, I have decided to try and “illuminate” this “black hole” somewhat by collecting figures for the amendatory process in the Chamber of Deputies. I have collected all the figures for those amendments presented to the floor from the end of 1997 to November 2004, that is, for amendments to 550 approved laws (279 in the 13th legislature and 271 in the 14th, excluding those laws ratifying international agreements). The final results constitute a data-base of more than 62,000 amendments, the elaboration and close analysis of which has only just got underway. However, I would like present some descriptive data I believe may be very useful for the purposes of my analysis.

First of all, I would like to point out that only half of all amendments presented to the floor were voted on: 14,866 out of a total of 31,980, or 46.5%, during the 13th legislature; 12,570 out of 30,238 (41.6%) so far during the present 14th legislature. This reduction confirms the complexity of the process leading up to the discussion proper.

I would now like to present some figures for the voted amendments.

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12 I chose the Chamber of Deputies simply because the contents of its official proceedings are more detailed and provide clear information on amendments and their voting.
The figures presented in table 9 confirm the relevance and the significance of the amendatory process in Italian law-making. More than half of approved laws have been amended during the legislative process. And more important, the percentage is really astonishing for delegating-laws and absolutely relevant for all the other types of laws, excluding constitutional laws (whose absolute amount, however, is very low). There are some differences between the two legislatures considered, but they are very small. The general picture is clear: bills are very often amended during the legislative process.
Tab. 10  % of approved and rejected amendments (among those voted) in the XIII and XIV legislature

<table>
<thead>
<tr>
<th>Type of Laws</th>
<th>XIII leg.</th>
<th>XIV leg.</th>
<th>total</th>
<th>XIV leg.</th>
<th>XIV leg.</th>
<th>total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Approved</td>
<td>Rejected</td>
<td></td>
<td>Approved</td>
<td>Rejected</td>
<td></td>
</tr>
<tr>
<td>Budgetary laws</td>
<td>139</td>
<td>1945</td>
<td>2084</td>
<td>179</td>
<td>1661</td>
<td>1840</td>
</tr>
<tr>
<td></td>
<td>(6.7%)</td>
<td>(93.3%)</td>
<td></td>
<td>(9.7%)</td>
<td>(90.3%)</td>
<td></td>
</tr>
<tr>
<td>Decree-laws</td>
<td>201</td>
<td>1363</td>
<td>1564</td>
<td>571</td>
<td>3514</td>
<td>4085</td>
</tr>
<tr>
<td></td>
<td>(12.9%)</td>
<td>(87.1%)</td>
<td></td>
<td>(14%)</td>
<td>(86%)</td>
<td></td>
</tr>
<tr>
<td>Constitutional laws</td>
<td>211</td>
<td>657</td>
<td>868</td>
<td>-</td>
<td>17</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>(24.3%)</td>
<td>(75.7%)</td>
<td></td>
<td></td>
<td>(100%)</td>
<td></td>
</tr>
<tr>
<td>Delegation laws</td>
<td>1135</td>
<td>4920</td>
<td>6055</td>
<td>624</td>
<td>3670</td>
<td>4294</td>
</tr>
<tr>
<td></td>
<td>(18.7%)</td>
<td>(81.3%)</td>
<td></td>
<td>(14.5%)</td>
<td>(85.5%)</td>
<td></td>
</tr>
<tr>
<td>Ordinary laws</td>
<td>791</td>
<td>3524</td>
<td>4315</td>
<td>440</td>
<td>1894</td>
<td>2334</td>
</tr>
<tr>
<td></td>
<td>(18.3%)</td>
<td>(81.7%)</td>
<td></td>
<td>(18.4%)</td>
<td>(81.1%)</td>
<td></td>
</tr>
<tr>
<td>total</td>
<td>2477</td>
<td>12409</td>
<td>14886</td>
<td>1814</td>
<td>10576</td>
<td>12570</td>
</tr>
<tr>
<td></td>
<td>(16.6%)</td>
<td>(83.4%)</td>
<td></td>
<td>(14.4%)</td>
<td>(85.6%)</td>
<td></td>
</tr>
</tbody>
</table>

The figures given in table 10 call for some reflection. With regard to the overall amount of bills voted on, the most important point is that during the 14th legislature, the number of amendments to ordinary and delegation-laws submitted has consistently fallen, while the amendments to decree-laws has almost tripled. With regard to the approved amendments, the rate of approval is very similar, and relatively high, in the case of both legislatures: in fact, using a rough indicator (the average number of amendments approved for each law), we get a mean of 4.8 and 4.3 respectively for the 13th and 14th legislatures: this average is much higher for delegated laws (more than 30 for both legislatures) and budgetary laws (more than 20 for both legislatures). Although this is clearly a rough indicator, it does show, for example, that the most important form of amendatory activity (that is, bargaining and log-rolling between parliamentary groups and government) concerns the discussion of budgetary and delegated bills, and not, as is widely believed, the discussion of decree-laws only (it has to be said, however, that the majority of decree laws are of a procedural or distributive character, while the majority of bargaining focusing on those decree-laws of a more
sectional or general nature). From another point of view, we can see how, during the 13th legislature, almost half the amendments passed were related to delegated-laws. This aspect has not been confirmed in the 14th legislature, where not only the number of voted amendments has fallen, but also the percentage of those approved has decreased. However, it is no coincidence that at one and the same time, the total amount of amendments to decree-laws dramatically increases and so does the % of them that get approved (in the 13th legislature the approved amendments to decree-laws accounted for 8% of all approved amendments, while during the 14th legislature this percentage has risen to 31.5%). This re-balancing between the two legislature represents a structural need to negotiate between Parliament and Government, inherent to the Italian legislative process.

This is consistent amendatory activity which supports the hypothesis of a strong inter-institutional dialectic between Government and Parliament during the legislative process. The question remains, however, as to what kind of dialectic this is If my analysis so far is correct, one could also expect amendatory activity to be characterized by a consensual style involving both ruling and opposition coalition parliamentary groups. In order to assess this, I adopt the same indicator used above to measure the general style of parliamentary law-making (the percentage of amendments approved with a majority of >80%):
Table 11 confirms that the amendatory process is characterised by the consensual style, even though there is a (partially relevant) fall in the total mean for the 14th legislature. At the same time, however, it should pointed out that there has been an increase in the percentage with regard to budgetary laws. Another factor should also be taken into consideration: the considerable degree of consensual style characterising the approved amendments to decree-laws.

The question remains, however, as to who the players and the winner in the amendatory process are. The figures in Table 12 distinguish between amendments in terms of the membership of the original signatory. The figures are aggregated according to institutional cluster (minority, majority, committees, Government, and so on), but are still very significant.
The first important point revealed by table 11 is that more than one-third of approved amendments were originally submitted by an MP belonging to the opposition. This means that on many occasions opposition groups have found support for their amendments among some (not necessary all) of the parties within the parliamentary majority. At the same time, more than half of the approved amendments presented by the majority were approved with more than 80% of votes in favour. This is clearly a further indicator of the consensual style, but also of the fact that the legislative process is characterized by a structural inclination to blur the borders between majority and opposition. However, only 40% of the amendments presented (and voted) by MPs belonging to the ruling coalition are indeed approved. This is an indicator of individual or group activism within the majority which is independent of any collective coalition strategy. Individual MPs and sections of parliamentary groups can present amendments independently – in pursuit of their own interests – and try to whip up support not only among the members of their own coalition but also among those on the opposition
beneath. It is a complex game, and one in which there is usually no clear, transparent adversarial strategy. This is confirmed by the fact that more than half of the amendments presented by the Government find ample favour when voted by the floor.

5. An open verdict

I think that the adjectives I use in the title of the paper – “powerful” and “erratic” – perfectly fit the case in question. The Italian parliament is clearly powerful because it forcibly constrains the behaviour of its Government, even if this function is of a more reactive/negative nature (rather than an active/positive one). The reactive/negative dimension of parliamentary strength is revealed by the indicator of the success rate of presented bills. It is clear here that the legislative process is a very arduous duty for a government whose ability to get its own bills (excluding those within the reserved category) approved has evidently diminished, even though its capacity to produce acts and norms by delegation has grown. At the same time, however, Parliament has not lost its traditional consensual style which has consistently characterized its “transformative” role.

Indicators of the kind of legislation approved confirm this particular situation: the majority of such legislation consists of laws which can only be proposed by the Government; however, when both players get a fair crack of the whip (equal law-making opportunities in other words) then Parliament tends to predominate. This structural inferiority of Government in the ordinary legislative process goes back to the fifth legislature, after the more successful years of the post-war period, when relationships between Parliament and Government were more majoritarian (Cotta 1994) – and it forces Government to adopt other methods of legislating, that is, of governing. Initially, the most important instrument was the frequent use of decree-laws, but after 1992 (when the Italian political and economical crisis became devastating), another essential tool began to be frequently used: the delegated law, creating a highly ambiguous situation in the process.

On the one hand, Parliament strongly influences the legislative process by preventing government from pursuing a coherent, effective strategy with regard to the ordinary legislative process; on the other hand, Parliament allows Government to use decree-laws and to legislate outside the parliamentary arena by means of delegated laws. While it is quite easy to understand the attitude of Parliament on the question of decree-laws (because this procedure provides opportunities for bargaining and exchange between parliamentary groups and the executive, as the amendment indicators clearly show), it is harder to understand why Parliament is so willing to delegate legislative powers to Government. There is a rather articulated interpretation of the underlying reasons (which clearly needs to be empirically tested), which I would now like to propose.

The stronger pressure exercised by external factors (political crises, the process of European integration, changes in the electoral law) on Governments force them to
pursue a more convincing and stronger form of leadership. Italian governments now have more political responsibility than in the past, and they are supposed to govern rather than to mediate between different interest groups. However, this structural pressure clashes with increasing internal fragmentation. So the Government is structurally encouraged to pursue its most important policy reforms by circumventing the fetters of the ordinary process. This governmental strategy is accepted by Parliament when it is acting in either the adversarial mode or in the consensual mode.

In fact, when legislative dynamics are adversarial—as usually happens when the issue is politicized or when, on rare occasion, the policy distance between majority and opposition is substantial—there is no problem: the parliamentary majority simply answers to the call of its government. When the issue is handled by the usual consensual style (which means that the issue is not politicized or that there are not important policy differences among the majority’s parliamentary groups), it is in Parliament’s interest to delegate: this the case because delegation usually enables Parliament and Government to make important reciprocal concessions. This means that a contingent coalition of parliamentary groups can obtain important modifications to the bills. It is no coincidence that, as the figures show, one third of approved amendments regard delegated laws and the majority of them have been approved by wide majorities. So, the focus on delegation seems to represent a solution for both Parliament and Government.

All players—both institutional and political—can expect a positive pay-off. From the institutional side, delegation is a good solution to the problem of collective action (Strom 2003): the internal rules of the game and political fragmentation strongly favour internal instability and very often lead to decisional stalemate. So both Parliament and Government (in its institutional guise) could gain from accepting delegation in the pursuit of their institutional mission (that of deciding on behalf of the political community). The political players (parliamentary groups and Government in its political guise) may be in favour of delegation for different reasons even: the parliamentary majority, in order to overcome its own internal conflicts (due to the often substantial divergences on policy options) in supporting its Government’s implementation of the electoral programme; the Government, in order that it can overcome the viscosity of the ordinary procedure and thus be more effective and efficient in pursuing its own political goals and mission; the opposition groups, who may be provided with the opportunity to gain something in the amendatory process. In conclusion, the delegation process may be convenient for all those involved. It also has to be said that there is one important ex-ante instrument with which Parliament can limit the risk of classical agency losses: this instrument is the compulsory screening of delegated decrees by parliamentary committees, whereby the Parliament can try to correct any agency losses.

The case of delegated laws is also important because they are the recognized instrument by which, since 1992, a vast number of policy reforms have been pursued within the Italian political system (Capano and Guliani 2001b; 2003a 2003b). In the last 15 years, no policy field has remained untouched; an unexpected trend after at least
30 years of virtual immobility. This is particularly interesting from the theoretical point of view: this high number of policy reforms have been approved despite the fact that the number of veto players has increased and consensual law-making has remained substantially persisted. This case shows how the veto-players’ approach encounters problems when dealing with consensual parliamentary democracies.

The consensual style (the Italian parliament’s historical legacy preserved to this day by internal standing orders - notwithstanding the many reforms they have been subjected to - and fed by political fragmentation), is another indicator of the deep-seated power held by the Italian legislature. In fact, the consensual style (a mix of cultural and institutional factors) clearly points to three factors:

- the substantial ambiguity of the borderline between majority and opposition groups, whereby institutional membership often prevails over partisan interests;
- the institutionalized perception of an autonomous institution that is highly jealous of its constitutional prerogatives;
- a specific feature of the legislative process which is characterised not only by partisan, adversarial dynamics but also, and substantially by inter-institutional ones. In this case, the Government is considered to be one of the players in the parliamentary arena rather than its leader.

The Italian Parliament has been defined as the most American of European Parliaments (Cotta 1994), and all the most oft-used classifications underline the fact that it is the most powerful. In fact, the Italian Parliament - as Norton’s classification points out - is a kind of policy-making parliament. The institutional rules of the game (constitutional rules and standing orders) determine its membership of this category. However, the way these powers are exercised depends on other features: internal fragmentation (influenced by the electoral laws and the level of polarization, but also by institutional rules) and the historically-rooted organizational culture (whose consensual style and self-perception as a central, independent institutional player are the main components). These features allow Parliament to play different, interwoven games within the legislative process, and to maintain its strong “negative” power.

What can the Italian case teach us if we are to improve our comparative analysis of the classification and evaluation of legislatures? I think we can safely say if our goal is that of evaluating the legislative power of parliaments (which also means the quantitative contribution made by assemblies to legislative performance), more attention should be paid not only to the formal and procedural rules (which are undoubtedly important factors), but also to certain other indicators of the process, such as: the rate of consensual law-making; the share of approved amendments proposed by minorities out of the total amount; the types of laws approved; the level of parliamentary fragmentation. *Ceteris paribus* (especially in consensual democracies), the higher these rates, the greater the legislative powers of Parliament.
Clearly, my analysis implies that the classifications and evaluations should be periodically updated, since concrete dynamics can change even if the formal rules remain the same.

References


Döring, H. (ed.) (1995), Parliaments and Majority Rule in Western Europe, New York,
St.Martin Press.