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The *Grande Riforma* of the Italian Constitution: Majoritarian versus Participatory Democracy?[1]

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Abstract
The economic crisis has triggered various constitutional reform processes in Europe, indicating a trend towards innovative forms of civic participation. In Italy, major constitutional reform attempts have been made since 2013. The article critically discusses the Italian case from the perspective of the meaningful participation of civil society and the citizenry in constitutional reform. First, it discusses civic participation in constitutional politics in theoretical terms, and places Italian constitutional reform in a comparative, European perspective. Second, the current reform is placed in the historical context of an Italian 'season of constitutional reform'. Third, the recent constitutional reform attempts are examined closely, with an emphasis on the main 'constitutional entrepreneurs', the reform process, and types of civic engagement with the reform. Fourth, 'constitutional resistance' to the *Grande Riforma* is discussed. The article concludes that the recent, unsuccessful, reform attempt neatly fits a repertoire of constitutional instrumentalism and majoritarianism that has emerged in the last 25 years, driven by mainstream parties, and displaying relatively little attention to civic participation in reform, while facing robust resistance from civil society and opposition parties.

Keywords: Constitutional reform; constitutional resistance; Italian politics; majoritarian democracy; popular participation

The economic crisis has deepened a more general political crisis in Europe. In a number of European countries, the crisis has recently triggered constitutional reform processes (for example, in Hungary, Iceland, Ireland, Romania and the UK: cf. Blokker, 2016; Suteu, 2015). In many of these processes, the involvement of the public has been placed at the forefront as a means of reinvigorating citizens' trust in political institutions. As Alan Renwick states, '[t]he major innovation in constitution-making processes in recent years has been the creation of citizens' assemblies' (Renwick, 2014: 24; cf. Tierney, 2013: 2187; Zurn, 2016). Citizen involvement in constitutional reform has taken the form of constitutional referenda, engagement through the social media, public meetings and surveys, and, significantly, deliberative fora. These various instruments constitute attempts at regaining citizens' trust in the wake of what has been a major economic and political crisis.

In the Italian case, the constitutional 'reform season' did not emerge with the current crisis; rather, the reforms of the centre-left government of Matteo Renzi were clearly triggered by the political stalemate of 2011, itself the domestic consequence of the European financial and sovereign debt crisis. A main objective of the Renzi government's attempted reform, as of many other constitutional reform projects in Europe, was to close the gap between citizens and democratic institutions, to re-legitimise Italian democratic institutions, and to increase citizens' trust in democracy. As observed, in the recent wave of constitutional reforms, in various countries attempts have been made to reduce the democratic deficit by experimenting with forms of civic participation in constitutional reform politics.[2] A main objective of this article is to see

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whether the recent Italian reform attempt can be understood as part of this wider European reform wave, or whether it shows important differences and peculiarities. In this, the article contributes to the wider debate on constitutional reform in Europe as well as to the more specific literature on Italian (constitutional) politics. Regarding the latter, while there has for decades been a debate on Italian constitutional reform, the focus has predominantly been on the substance and policy objectives, less on the modes and procedures of the reform process itself, and even less on civic participation in reform.

The article will critically discuss Italian constitutional reform, with specific attention to the meaningful participation of civil society and the wider Italian citizenry in the reform process.[3] The argument will proceed as follows. First, ~~we~~ I will outline alternative theoretical approaches to constitutional reform, with an emphasis on the specific forms of involvement of citizens and civil society. Second, ~~we~~ I will give a concise overview of the twenty-five-year 'period of constitutional reform' in Italy. Third, ~~we~~ I will take a close look at the most recent constitutional reform project, abandoned with the outcome of the referendum of 4 December 2016. The emphasis in the analysis is on the main 'constitutional entrepreneurs', the procedures and institutions of constitutional reform, and the extent of citizen engagement. Fourth, the resistance of civil society, the social movements and opposition parties to the latest reform proposals will be discussed. I will conclude that in the last two and a half decades, mainstream, centre-left and centre-right, political parties have largely converged on a majoritarian or partisan approach to constitutional reform, and that the recent attempt at overhaul belongs to this more general pattern or 'season' of reforms, aimed at reducing the mal-functioning of democratic political institutions. In analyses of this pattern, however, relatively little attention has been paid to democratic, civic participation in the reform process itself. This is an important issue raised by constitutional resistance in a significant number of cases to the reform attempts of the last 25 years.

Civic participation in constitutional reform

The main objective of this article is to analyse the Italian case in terms of the formal, active involvement of civil society and the wider Italian citizenry in constitutional reform. Throughout Europe, citizen engagement in constitutional reform has in recent years frequently taken the form of citizens' assemblies, online discussion fora, consultative referenda, and citizen participation in constitutional conventions.

In political science, and in the comparative constitutionalism literature, only very recently has a sustained interest in modes and practices of constitutional reform, and civic engagement in such reform, emerged (Bustamante and Fernandes, 2016; Contiades and Fotiadou, 2016; Reuchamps and Suiter, 2016). As comparative research and case-studies show, a variety of modes of constitutional revision and of inclusion of the citizenry are available and have featured in processes of reform.[4] For comparative purposes, it is useful to start from a classification proposed by James Fishkin. Fishkin is one of the few scholars to have attempted to look at constitutional reform from the perspective of different democratic models. He elaborates four relevant models: competitive democracy, elite deliberation, deliberative democracy, and participatory democracy (Fishkin, 2009; 2011): Table 1.

Table 1 Citizen involvement in constitution-making

Form of citizen involvement	**Democratic models**	
Indirect representation	**Elite deliberation** Governmental committees Conventions (delegates) Expert committees	**Competitive democracy** Constituent assemblies
	Parliamentary committees	
Direct participation	**Participatory democracy** Confirmatory referenda Constitutional initiatives	**Deliberative democracy** Citizen assemblies Citizen conventions

Source: Fishkin, 2009, 2011; Renwick, 2014; own elaboration.

Fishkin's first two models, those of competitive democracy and elite deliberation, emphasise representation and elite-driven constitutional processes, in this allowing for an indirect role of citizens in constitutional reform. *Competitive democracy* emphasises the role of elected representatives and the competitive struggle between parties. In this model, citizen participation is valued little and in general politics is about competition for votes, rather than deliberation or participation (Fishkin 2009). Constitutional reform from the perspective of competitive democracy may take the form of a constituent assembly, with elected members from a range of political forces, as in the case of the Italian Constituent Assembly of 1946-48. Ordinary citizens are represented by political elites, and have no direct say in the constitutional deliberation process, as citizens are seen as unable to deal with the complex issues of constitutional reform (cf. Fishkin, 2009: 68).

Elite deliberation prioritises expertise and favours small elite bodies that deliberate on matters of justice and the common good on behalf of the people. In constitutional reform, the deliberative elite is in charge of the 'refinement' or 'filtering' of public views, so that it is able to unearth 'what the public *would* think if it were able to consider the issue in the way the representatives can in a deliberative body' (Fishkin, 2009: 72; italics in original). In constitutional reform, small elite bodies are given a mandate (or claim to have one) to deliberate on a new constitution or far-going constitutional changes. A clear example is the Philadelphia Convention of 1787, the members of which were appointed by state legislatures (Fishkin, 2011). Further examples of elite-driven reform are expert commissions and negotiations between political leaders (Renwick, 2014). A hybrid example of constitutional reform following both the ideals of competitive democracy and elite deliberation is that of parliamentary committees. Special-purpose committees, consisting of representatives from different political parties, and with *distinctive expertise*, deliberate on constitutional reforms and produce reform bills for the parliament to vote on *in plenum*.

Fishkin's participatory and deliberative models include innovative and experimental forms of constitution-making that provide for more direct involvement of citizens in

constitutional revision (see also Reuchamps and Harris, 2016; Zurn, 2016). Participatory democracy is frequently understood in terms of the referendum instrument, which aggregates individual votes into a majority. In the case of constitutional revision, referenda often take the form of *ex post*, confirmatory votes on finalised propositions for constitutional reform. Stephen Tierney has pointed to three main problems or dangers with the referendum instrument, particularly in the context of constitutional reform (Tierney 2012: 23-42): the elite control syndrome (the danger of elite manipulation of referenda); the deliberation deficit (the 'mere aggregation of individual wills'), and the majoritarian danger (the marginalisation of dissenting individuals and minorities). A general danger is that political leaders turn directly to the voters for approval, claiming in this a more sincere form of democracy, but without providing an effective voice to citizens (Urbinati, 2014: 171). Participatory democracy can, however, equally take more engaging forms, not least legislative (constitutional) initiatives, which allow citizens to mobilise in favour of a self-designed constitutional amendment.

Much of the experimentation in recent constitutional reform concerns deliberative democracy (Renwick, 2014: 24; Reuchamps and Harris, 2016; Zurn, 2016) and frequently takes the form of citizens' assemblies. Such assemblies provide deliberative fora, which may include citizens alongside political representatives (as in the case of the Irish Constitutional Convention, 2012-13, where citizens were randomly selected); citizens and experts or scholars (as in the Romanian Constitutional Forum in 2013), or may even consist exclusively of citizens (as in the case of Iceland in 2011). Citizens' assemblies ordinarily have a consultative function. In both participatory and deliberative democracy, active and direct citizen engagement in constitutional politics is prioritised.

Below, the Italian case will be discussed from the perspective of different modes of constitutional reform and forms of civic engagement. The main 'constitutional entrepreneurs' involved (predominantly politicians and political parties, with occasional, but significant, involvement of presidents of the Republic) and the practice of constitutional reform will be discussed. An important dialectic that emerges from the analysis is between the political parties that promote constitutional reform, and civil society groups that criticise reform (what I will call 'constitutional resistance'), calling *inter alia* for wider and more robust forms of participation. This dialectic was a feature of the most recent, as of previous, reforms.

The Italian season of constitutional reform

Before the early 1990s, the 1948 Constitution had not been the object of any comprehensive attempt at reform. Already in the mid-1970s, extensive debate on constitutional reform had taken place, but this had largely been of a scholarly nature (Ragazzoni and Urbinati, 2016). In the 1980s, calls for a 'great constitutional reform' were made with increasing insistence, and led to the creation of the first bicameral commission, the Bozzi Commission (1983-85), with the remit of studying reform. Only in the 1990s, however, did this translate into specific proposals for constitutional revision (Groppi, 2013: 213-14). The recent attempted reform had its roots in a profound crisis of the democratic system, one that reached its culmination with the major political rupture of the early 1990s widely referred to as *Tangentopoli* ('bribe city'). The subsequent 'season of constitutional reform' featured more or less constant political attention to the theme of constitutional revision, and the regular initiation of

reform projects: two bicameral commissions in 1993 and 1997 respectively; comprehensive reforms followed by constitutional referenda in 2001, 2006, and 2016 (with contrasting outcomes).

One of the early, key triggers of reform was the strong endorsement of radical constitutional change by the President of the Republic, Francesco Cossiga, in a message to Parliament in 1991. He endorsed the idea of a constituent assembly to produce an entirely new constitution or a 'real and genuinely novel national pact which makes it possible to meet – by means of a profound transformation of the ways of doing politics in our country – the demand for change that is being expressed by civil society' (Cossiga, 1991: 5). Cossiga's message contributed to the growth of widespread support for the idea of comprehensive constitutional reform (Bartole, 2004: 359-61).

Cossiga's message was articulated in the context of dramatic change in the Italian political system – change which reflected the inadequacy of the existing political class and a widespread lack of public confidence in the political institutions. The disenchantment resulted in bottom-up political mobilisation around a referendum on the (proportional) electoral law. This strategy was driven by the recognition of a 'manifest incapacity of the political-parliamentary class to reform itself and to reform the institutions' (Fontana 2013: 306).[5] A direct consequence of this push for referenda from below was the initiation of comprehensive constitutional reform from above, in an attempt to address the legitimacy and institutional crisis (Barbera and Morrone, 2003: 129-30; Busia, 2003). The model chosen was the one established by appointment of the aforementioned Bozzi Commission of the 1980s. The first of such attempts in the 1990s was the de Mita-Iotti Commission (1992-94). This was the second bicameral commission, but the first commission to be tasked with designing an organic project for revision of the Second Part of the 1948 Constitution.

In Fiskhin's terms, the reform strategy of the de Mita-Iotti Commission was based on a combination of competitive democracy and elite deliberation, embodied in the idea that the commission was representative of all the relevant political forces while also consisting of expert members (such as, for instance, Silvano Labriola and Franco Bassanini, both constitutional lawyers). A further significant dimension of the reform strategy was participatory democracy in the form of the referendum instrument. Constitutional law 1/1993, which established the Commission, also provided for an ex-post, obligatory referendum, thereby by-passing the rule for constitutional amendment embodied in article 138 of the 1948 Constitution. While a popular referendum is provided for by article 138, it can only be held in the absence of a two-thirds majority in Parliament voting in favour of the reforms, and then only if initiated by specific combinations of forces. The original intention was conservative, adding to the rigidity of the Constitution. During the 1990s, a popular referendum came, however, to be seen as *necessary* – as a vehicle for an obligatory confirmation of constitutional reform (Busia, 2003; Fontana, 2016). With this, Tierney's three dangers concerning constitutional referenda – elite-domination, lack of public deliberation, and the majoritarian danger – seem to have gained prominence in discussions of Italian constitutional reform.

The de Mita-Iotti Commission produced a project for revision of twenty-two of the articles of the Constitution, but ultimately failed, as the incumbent government fell. Despite this, constitutional reform remained a 'guiding myth' of Italian politics. In

1997, a more significant and sustained attempt was made with the *Bicamerale* headed by Massimo D'Alema, a centre-left politician. The arrangements were very similar to those of the 1993 Commission, and again included a provision making it possible to by-pass the rule for constitutional amendment set out in article 138. The D'Alema Commission proposed comprehensive reforms and a significant part of its mandate related to a reform of Title V on (regional) autonomy. But the *Bicamerale* was unable to bring its work to a conclusion either, and it de facto ceased to exist in 1998, as a result of centre-right forces boycotting the Commission's proceedings (Pinelli, 2006: 337).

In 2000, a joint effort of both the centre right and the centre left led to a relaunch of the amendments the *Bicamerale* had proposed in relation to the constitutional position of the regions (set out in Titolo V). But at the last moment, the then imminent elections (held in 2001) led the centre right again to retreat, and the centre-left government decided to proceed with the reform by relying exclusively on its parliamentary majority (Fusaro, 2015: 489-90). This represented a decisive break with the long-standing constitutional convention that any reform needed broad-based parliamentary support corresponding to the supermajority for constitutional revision set out in article 138 (Pinelli, 2006: 337; cf. Panizza, 2015). This first significant reform of the 1948 Constitution was thus a *partisan* project spearheaded by the centre-left majority. It engaged the wider citizenry in only a limited and *ex post* fashion, in the confirmatory referendum in 2001, in part initiated by the majority. The partisan nature of the reform set the precedent for an equally partisan counter-reform sponsored by the centre right a few years later, contributing to a further instrumentalisation of constitutional politics.

The centre-right coalition, headed by Silvio Berlusconi, took advantage of its electoral victory in 2001 to pursue its own partisan constitutional project, supported by the Northern League. The reform concerned parliamentary control of regional laws, a strengthening of the role of the Prime Minister, and the introduction of a Senate based on regional constituencies (Pinelli, 2006: 337). The Berlusconi reform has often been viewed as endorsing a form of 'absolute premiership', reducing the powers of the President of the Republic, and diminishing the independence of the Constitutional Court. The proposals were judged very negatively by the political opposition, scholars and a variety of other actors such as trade unions. The centre right did not manage to mobilise a sufficiently large majority in Parliament (see, for a concise discussion, Lippolis, 2014) to enable it to avoid the referendum, held in 2006, which led to the reform being rejected.

Civic involvement and constitutional resistance

A key objective of the various reform attempts in the 1990s and 2000s was to reduce the gap between citizens and institutions (cf. Busia 2003). However, there was very little attention paid to participatory or deliberative options. There was, rather, a bias towards institutional rationalisation as the means of bridging the gap between the political institutions and society. In early discussions of constitutional reform in the 1980s, the objective had been the strengthening of republican democracy, not least by means of proposals for forms of direct democracy (Ragazzoni and Urbinati, 2016: 124-32). By the 1990s, the objective of participation and democratisation had been largely replaced by an emphasis on 'governability' (*governabilità*), based on strong leadership and governmental prerogatives (Della Morte, 2012: 146-7). In this, a new – instrumentalist and majoritarian – approach to the 1948 Constitution emerged.

Such an approach was equally visible in the reform process itself. A consensus emerged around the idea of a 'Second Republic', based on the notions of governance, a strong executive, and a non-mediated relationship with citizens (through referenda in particular); and the reform process was based on inter-party, and even intra-majority, negotiation, providing for the involvement of citizens only *ex post*, in a confirmatory referendum. The general idea was that direct (but temporary and limited) recourse to the people in order to confirm comprehensive constitutional reform was justifiable (and necessary) in times of crisis. In this majoritarian or even plebiscitarian view,[6] the confirmatory referendum, originally intended to enable the opposition to resist reform, was, as mentioned, reinterpreted as a legitimising tool at the disposal of the majority, with citizens having to approve or reject an entire project of (disparate) constitutional changes (cf. Bartole, 2004: 370; Prospero, 2007).

However, the majoritarian reform projects provoked strong opposition among civil-society actors, who were supported by important parts of the academic and cultural community. One significant example of this are the so-called *Comitati Dossetti* – after Don Giuseppe Dossetti, a Catholic priest and one of the protagonists of the original Constituent Assembly – which were formed throughout Italy from 1994 onwards. These grassroots committees strongly opposed the idea of constitutional reform and defended the fundamental values expressed in the 1948 Constitution. Dossetti opposed piecemeal reform of what in his view ought to be a rigid constitution or higher law. The understanding of comprehensive constitutional reform as a panacea for the political crisis was a 'substitutive mythology', and it detracted from serious reflection on structural political reform (Dossetti, 2005: 46). A heavy insistence on direct democracy through referenda created the danger of another myth, that of unmediated popular sovereignty at the expense of parliamentary debate (2005: 49). The *Comitati Dossetti* equally strongly contested the *Bicamerale D'Alema* and claimed that there was a need to save the very idea of a constitution itself (Fusaro 2015: 487, fn 120).

In the case of the Berlusconi reform of 2005, opposition on the part of civil-society actors was again formidable, and saw the return of the so-called *Comitati Dossetti* as well as the emergence of new associations, such as *Libertà e Giustizia* (LeG) formed in 2002. The latter played a crucial role in opposing the centre-right in the referendum of June 2006. Thanks to widespread mobilisation efforts, this attracted the participation of 53.7 percent of the electorate and resulted in a decisive, 61.3 percent, vote against the reform project.

Contemporary constitutional reform (2013-16)

In recent years, the idea of a *Grande Riforma* has once again been placed on the political agenda. The most recent reform proposals show strong continuity with prior reform attempts (cf. Ragazzoni and Urbinati 2016), not least by having prioritised governability and efficient decision-making and, in procedural terms, having relied on elite initiatives, majoritarianism, and a referendum strategy. Below, I will briefly discuss the itinerary of the constitutional reform process from 2013 to 2016, its main 'constitutional entrepreneurs', and the modes of participation involved. In the following section, I will discuss constitutional resistance.

The Letta Reform

Early 2013 could be interpreted as a political earthquake of dimensions not dissimilar to

the one arising from the *Tangentopoli* scandal of the early 1990s. The elections in February led to a radical change in the contours of the Italian political landscape, drastically reducing the weight of both the traditional political left and right, and rendering a new movement, or *sui generis* party, the Five-start Movement (M5S), the largest single political force in the country. The process of government formation led to the construction of a grand coalition, or '*governo di larghe intese*', headed by Enrico Letta, and involving the arch rivals of the preceding two decades, the centre left and the centre right. The Government's main priority was extensive institutional reform, viewed as the only means of overcoming the political, as well as the economic, crisis that kept Italy in its grip. During the cumbersome process of the Government's formation, President Napolitano[7] – himself a passionate advocate of constitutional reform (see Nevola, 2011) – set up an ad-hoc commission of 10 'wise men' ('*saggi*')[8], whose task was to prepare the ground for constitutional reforms. The group's proposals – a clear example of elite deliberation – were supposed to assist the search for a broad political platform and the commission's report indeed became the basis for discussion of the subsequent reform project.

The reform process proposed was comprehensive and bi-partisan, and recalled the experience of the *Bicamerali* of the 1990s. As in the 1990s, the revision procedure stipulated in article 138 was bypassed in favour of an ad hoc procedure. There were additional modes of elite deliberation: the institution of a *Commissione di studio* of 35 members with the task of presenting an extensive study to Parliament,[9] and, in October 2013, the institution of a commission of 40 parliamentarians, selected from among the members of Parliament's two standing Constitutional Affairs commissions.

A significant novelty was the setting up of a civic consultation procedure, early on in the reform process (in July 2013). The initiative was at least in part the consequence of criticism within the commission, expressed in a letter to the commission's president, Gaetano Quagliariello, by Nadia Urbinati and signed by fellow commission member and constitutionalist, Lorenza Carlassare. The letter demanded transparent procedures, proposing that details of the commission's deliberations be made available to the public 'at the end of the discussion of every single issue; and to the Committee of 40 and Parliament as a whole, at the end of our work'.[10] The procedures were equally fiercely criticised by parts of civil society, in particular by the civic associations LeG, the *Comitati Dossetti* and the *Convenzione per la Democrazia Costituzionale.* These claimed that the reform process was highly elitist and secretive in nature. LeG in a press release condemned what it called 'an inadmissible procedure' in accordance with which the 'deliberations of the Commission for constitutional reforms [were proceeding] without any kind of information being provided to the public'. LeG stated that the '[insistence] on total confidentiality [was] in conflict with the democratic requirement of openness, which makes possible the keen attention and the contribution of interested citizens'.[11]

The government's public consultation procedure – *Partecipa!* – consisted of a three-month on-line questionnaire, as well as a three-week on-line public discussion forum – *Civici* – made available in September 2013.[12] In addition, a number of public meetings were held during the consultation period. In Fishkin's terms, the consultation process was predominantly a participatory exercise (citizens providing opinions via a questionnaire based on closed questions) as well as including a modest online

deliberative part. The final report boasted that the questionnaire was the largest online consultation in Europe, with 203,061 responses. The public consultation was, however, limited in terms of time, its procedures and the results it produced, if compared to reform processes in other European countries. A number of factors are striking. First of all, the data obtained was largely quantitative and statistical in nature (presented in diagrams in the final report). Second, the final report did not contain any distinctive proposals for reform suggested by the public (in contrast to, e.g., Ireland or Romania). The report only discussed – briefly – the general themes of the debates (the forum received 5,959 proposals) and opinions concerning the sixteen proposals of the preceding expert committee, presented on the online platform. Third, while the *Partecipa!* report was publicly presented to various political institutions, there is no trace of its discussion either in Parliament or in its constitutional affairs committees. Fourth, the overall influence of the consultation on the actual reform bill seems to have been negligible, not least because of the abrupt interruption of the reform process resulting from the decision of Berlusconi's party to withdraw from the governing majority in November 2013.

Indeed, by December 2013, a coalition that had once been of '*larghe intese*' had been reduced to one of '*piccole intese*' due to a split in Berlusconi's centre-right party. This meant that the constitutional bill never reached the final fourth reading in Parliament. Another shake up occurred in February 2014, when Matteo Renzi replaced Prime Minister Letta. The expert commission's proposals were filed away and the process of constitutional reform based on them brought to a halt (Ragazzoni and Urbinati, 2016: 166-70). Renzi started from scratch by introducing a government-sponsored proposal for constitutional reform (Atto Senato n. 1429) in April 2014 (Ragazzoni and Urbinati, 2016: 170).

The Renzi Reform (2014-16)

In March 2014, the Renzi government, rather than having recourse to a separate parliamentary Commission, itself presented a new constitutional reform proposal, produced by Parliament's First permanent commission (for Constitutional Affairs), and sponsored by the new Minister for constitutional reform, Maria Elena Boschi. This proposal was then subject to the constitutional amendment procedure stipulated in article 138. *Ddl Boschi* focussed in particular on reform of the bicameral system (most importantly the Senate); a reduction of the number of parliamentarians, and revision of Title V regarding relations between the State and the regions. The overhaul of the Senate, the most contentious part of the reform, involved its radical transformation, from an 'identical twin' of the Chamber of Deputies into a semi-federal, regional chamber (Ragazzoni and Urbinati, 2016: 172-3). The new Senate was to lose many of its prerogatives, including the power to unseat governments through the vote of no confidence, while retaining a voice in constitutional matters.[13]

The objective of the Renzi reform was not dissimilar to that of the Berlusconi reform of 2005. The emphasis was on lean institutions and a strong leader and government, this time combined with a centralising move. The reform was, however, significantly criticised, also by opponents within the Democratic Party (PD), for *inter alia* compromising the democratic and representative quality of the Italian parliament by eliminating the direct election of senators.[14]

The Renzi reform managed to reach the final stage of Parliament's legislative process

and receive approval. It was passed in double readings in both houses of Parliament, the last reading taking place on 12 April 2016, and this cleared the way for a constitutional referendum. The referendum, held on 4 December 2016, was (as in 2001) initiated by the Government itself, *qua* majority, in accordance with a by-now-consolidated majoritarian tradition. In protest, and in order to stimulate public discussion, the parliamentary opposition as well as civil society organisations, also filed referendum requests, as they perceived the Government's move as a 'plebiscitarian' strategy (Pasquino, 2015). The referendum debate between the '*Sì*' and '*No*' sides was sharply polarised and largely counter-posed the governing majority to opposition forces and civil-society representatives. Renzi and Boschi gave the campaign a plebiscitarian quality by linking their personal political destinies to the outcome; by suggesting a contrast between those wanting to modernise Italy and those supposedly wanting to cling to a (corrupt) past, and by arguing that in the event of a 'No' vote, there would be chaos. In general, public debate was trapped in a Manichean game involving those who accused the opposition of conservatism (supporters of a yes vote) and those who accused the Government of having authoritarian tendencies (supporters of a no vote).

Constitutional resistance to Renzi's reform

The Renzi reform was strongly, and ultimately successfully, opposed by various forces: political parties within Parliament (significant opposition was voiced even within Renzi's own PD); various (constitutional) experts; journalists and other public figures, and organised groups in civil society.[15] Some opposition parties, such as the Northern League, rejected the reforms from the start; while others, notably Forza Italia, initially supported the reforms later reversing their positions (Fusaro, 2016: 36). In civil society, a number of groups, including those mentioned above, continued to mobilise in support of long-standing opposition to constitutional reform.

The focus on constitutional resistance will here be on those political forces that opposed the reforms for fear of the potential weakening of Italian democracy and for the lack of opportunities for public participation and democratic involvement in the reform process. From the perspective of the original question in this article, the role of participatory and deliberative democracy in constitutional reform, I will focus on those forces that not only sought to protect the original 1948 Constitution (cf. Vitale, 2010) (which ostensibly included parts of the centre-right), but that also endorsed more extended civic participation. The focus will be on what appear to be the most visible oppositional forces, the civil-society association, LeG, and the related *Comitati per il No*, and the novel political party, the M5S, which originated as an anti-establishment movement. Both strongly disassociated themselves from the reform visions of the mainstream parties of centre-left and centre-right.

The societal mobilisation and constitutional resistance that had already been apparent in the mid-1990s with the *Comitati Dossetti* and again with the Berlusconi reform in the mid-2000s, re-emerged in the context of the latest reform attempt. A significant number of the political claims of the opposition concerned the majoritarian approach to democratic politics (in contrast to pluralism), the lack of involvement of citizens and civil society in the reform process, and the reduced role of citizens (and Parliament) in the democratic-institutional landscape envisaged by the reforms. The critique depicted the Renzi reform as the imposition, by the Government, of a majoritarian, partisan view of constitutional change, even if the reform was being sponsored by a (fragile) coalition

of centre-left and (some of the) centre-right parties. The thrust of the critique was that a large, cross-party consensus was absent, given that the main opposition parties (the M5S and the Northern League) were radically opposed, while important exponents of civil society and the scholarly community were being ignored in the reform process.[16]

In relation to Fishkin's models, the political and societal protest against the constitutional reforms took two main forms.[17] The first, often referred to as a *conservative* (i.e., preservationist) or *reformist stance*, endorsed preservation of (the spirit of) the 1948 Constitution and its implementation, even if it was not necessarily averse to 'constitutional maintenance'. The conservative stance predominantly promoted the protection of the representative, parliamentary system and was related to Fishkin's competitive democracy. Key proponents here included the *Comitati Dossetti*, LeG, and the *Comitati per il No*, but also the M5S in some of its claims (cf. Floridia and Vignati, 2014: 63-4). A second important stance, which is of particular interest to the argument made in this article, could be labelled *innovative* in that it started from a critique of (important parts of) the 1948 Constitution as such and sought a thorough overhaul. This innovative stance emphasised the participatory and deliberative models in Fishkin's understanding. Key proponents could be found on the radical left, particularly in the variegated movement for the *beni comuni* or 'the Commons', but also within the M5S. Both the conservative and innovative attitudes had a high profile in public debate, and often gave rise to conflicting views within specific movements themselves.

Libertà e Giustizia

A key proponent of the 'conservative stance' was the high-profile civic association LeG,[18] whose president is currently Nadia Urbinati, a well-known political theorist. LeG seeks to promote public knowledge of the 1948 Constitution and emphasises that priority must be given to implementing existing constitutional procedures, rather than seeking constitutional reform. The latter is particularly condemned when pursued by what LeG interprets as the democratically problematic (non-elected) governments that have governed Italy since the downfall of Silvio Berlusconi in 2011, and by the promotion of 'plebiscitarian democracy'.[19]

A further criticism made by LeG was that the procedures for constitutional change were not being observed, while the comprehensiveness of the reforms called for wide public consultation and input. According to Stefano Rodotà, a well-known legal scholar, the reforms required social consensus and citizen engagement: '[t]hree objectives become essential: the defeat of any plebiscitarian deviation and multiplication of forms of concentration of power; reinstatement of the central role of rights, and especially social rights; rediscovery and strengthening of the role of citizen institutional initiatives' (Rodotà, 2016: 69). Such views continued to be endorsed, even in the aftermath of the constitutional referendum, which saw an overwhelming victory for the forces of constitutional resistance. As argued in a letter to LeG members, citing Urbinati: 'in the victory of No, a necessity is expressed: that of having places and forms of participation'.[20]

Movimento Cinque Stelle

The position of M5S combined constitutional conservation – a 'cult of the Constitution' – with innovation.[21] The arguments used by the M5S were – at least in part – not

dissimilar to the ones used by LeG.[22] The M5S was a particularly outspoken adversary of the 2013-16 reforms.[23] It both defended the 1948 Constitution, and argued for a different type of constitutional reform. In its view, the 1948 Constitution was being unjustly blamed for the malfunctioning of politics. Comprehensive reform was necessary but could only be pursued by means of an inclusive, consensual approach (in contrast to the majoritarian or partisan approach of the Renzi government). Comprehensive constitutional change necessarily needed to include the voice of citizens and civil society, in particular because of the malfunctioning of representative democracy and the '*partitocrazia*'. The Movement's evaluation of the 1948 Constitution was in stark contrast to that of the reformist political forces. One exponent of the M5S argued: '[t]he assumption inspiring the [reform] proposal is […] that the Constitution is the cause of the decadence of the governing classes. [But] the exact opposite is true: it is the progressive decline of politics that has promoted the attempt to override the Constitution' (Interview with M5S member of the parliamentary committee for constitutional reform, 1-8-2013).

The M5S criticised (Italian) representative democracy for being based on a '*partitocrazia*', in which parties competed for power and resources, while ignoring the common good and the needs of ordinary citizens. It contrasted a corrupt representative model with forms of direct democracy. The 1948 Constitution was in this regard understood as part of the problem, in that it had institutionalised a certain distrust on the part of the people. The M5S was one of the few political forces in Italy explicitly to call for citizen participation in constitutional reform and to show significant interest in the reforms in Iceland and Ireland (mentioned in one of the Movement's bills, ddl no. 3124/2015). The M5S did not want citizens 'to be faced with a "take-it-or-leave-it" choice, as would happen with the confirmative referendum [on the] reform [under discussion]'. On the contrary, it wanted 'fully informed citizens to be consulted on each point separately'.[24]

Concluding remarks

The referendum on constitutional reform, held on 4 December 2016, showed once again the importance of popular resistance to top-down, party-driven reforms, as close to 60 percent of citizens voted 'No' (on a turnout of 65 percent). One key feature of the period of constitutional reform has clearly been structural resistance on the part of sizeable parts of both political and civil society. The key points of contention articulated by the constitutional resistance, from the early 1990s onwards, include a rejection of majoritarian and plebiscitarian understandings of democracy, and, in contrast, the call for pluralistic, consensus-based understandings, which ought to provide a more robust set of institutions of citizen participation.

This brings to the fore a second key feature of the season of reforms, i.e., the tendency for the reforms to be pursued '*a colpi di maggioranza*' ('on the strength of parliamentary majorities') alone. Since *Tangentopoli*, the centre left and centre right have clearly converged on a form of 'majoritarian constitutionalism', in which the political majority becomes the 'depository of the power of constitutional revision' (Prospero, 2007: 127), while the distinction between constitutional and normal politics becomes less evident. This majoritarian logic comes at the cost of pluralism and inclusiveness, as well as cross-party consensus. The main mode of civic participation

has been by means of a one-off, ex-post vote on comprehensive constitutional reform proposals through a referendum strategy which emphasises direct civic involvement, as in 'voter democracy' (Hendriks, 2010). The referendum becomes an extension of the majoritarian approach in that it seeks the confirmation of an absolute majority already found in Parliament, while oppositional or societal views can be safely ignored (cf. Busia, 2003: 65-6). This brings to the fore the various dangers with constitutional referenda that Tierney has pointed to (see also Busia, 2003): a lack of meaningful deliberation on the content of reform, with emphasis instead on the performance of the government; the majority's control of the referendum process (as was argued, for instance, with regard to the disproportionate presence in the media of Government representatives during the Italian referendum debate); polarisation and disregard of minority and opposition points of view.

In recent constitutional reforms elsewhere in Europe, formal amendment rules have been derogated or expanded on in reform processes (e.g. Iceland, Ireland and Romania). The emphasis in these cases has been on experiment and innovation, for instance through the setting up of various participatory and deliberative institutions (cf. Contiades and Fotiadou, 2016). In contrast, in Italy, various attempts at reform have also deviated from formal amendment procedures (i.e. from article 138), but the emphasis has overwhelmingly been on a shifting – majoritarian – interpretation of the existing instrument, the constitutional referendum, as a legitimising tool in the hands of the political majority. While this article has sought to explore the participatory dimension to Italian constitutional reform, more systematic comparative research is needed to explain and understand how and why the Italian constitutional reform process differs. The institutional context might provide important clues, but it has equally to be recognised that important laws, such as those governing constitutional amendments, may not radically differ from other cases. Both the Irish and Romanian constitutions provide for double readings by both chambers of Parliament and confirmatory referenda; but in contrast to Italy, both countries have made extensive use of procedures for popular participation in recent constitutional reform attempts. Besides institutional design, important factors may include: political culture (Ireland is for instance often seen as having a 'referendum culture'); path dependency (as argued here, the Italian reform attempts have become part of a historically ingrained pattern), and interaction between formal politics and civil society. Little structural, positive engagement between civil society and the Italian political system has emerged, while majoritarian interpretations of participation have prevailed amongst mainstream parties. In some contrast to other recent reform cases in Europe, interaction between civil society and the political system has been relatively conflictual and polarised. A pluralistic, participatory view of democracy is sustained by some of the civic movements and by the political opposition, but has not become a priority of mainstream political parties.

To conclude, the recent Italian reform process has featured limited civic participation and a restricted view of the critical capacity of citizens. In a largely self-referential debate, the Italian political class has for the most part ignored the alternative, participatory and deliberative, routes to constitutional reform taken elsewhere in Europe. The recent reforms fit a pattern that has become well established thanks to the Italian season of attempts at change. While Renzi sought to present his project as an attempt to modernize Italy and himself as the 'demolisher' ('*rottamatore*') of clientelist and corrupt (party) networks, his proposals in fact represented the continuation of a 25-year old partisan and instrumental politics of constitutional reform. Constitutional

resistance has been an equally intrinsic feature of the reform season. Societal mobilisation against reform is important not least with regard to the main theme of this article, i.e., the active involvement of civil society and the citizenry. Resistance shows that the idea of participatory democracy – in contrast to the majoritarian and plebiscitarian ideas of the Italian political class – has significant support in civil society and among parts of the political opposition, and is expressed by moderate, preservationist arguments, but also by more radical, innovative demands for institutions of civic participation. This constitutional resistance has very successfully mobilised civic opposition to the most recent reform, but it remains doubtful whether its participatory demands will be incorporated in actual constitutional reforms in the future.

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[2] In many of the constitutional reform processes, centre-left parties have initiated or supported the involvement of citizens (e.g. in Iceland, Ireland, and Romania).

[3] The approach in the article will start from democratic theory, identifying a number of democratic models that can be related to distinctive constitutional reform procedures and mechanisms. In the subsequent discussion of the Italian season of constitutional reform, the key analytical approach is grounded in the sociology of constitutional politics, which focusses on the interplay of different 'constitutional subjects' (in particular political parties, the president, but also civil society forces).

[4] Significant examples of citizen involvement in constitutional reform indicate combinations of different types of democratic reform and civic engagement. My interest here is in the design of reform processes, and less in whether they are fully comparable with the Italian case (cf. Renwick 2014). In Iceland (2010-12), both civil society associations and the Socialist Party pushed for comprehensive, citizen-driven constitutional reform. Two, one-day deliberative fora were set up, in which circa 1,000 citizens participated, while a Constitutional Council, consisting of 25 independent citizens elected at the end of 2010, was responsible for producing a draft constitutional revision in four months (April - July 2011). The draft produced, consisting of a wholly new constitution, emphasised amongst other things a range of important participatory institutions, while the drafting itself has often been hailed as highly innovative in its use of social media in soliciting comments and suggestions from citizens. In the autumn of 2012, a referendum with six questions was put to the population. In the case of Ireland, on one hand, two major political parties – Fine Gael and the Labour Party – endorsed inclusive constitutional reform, and on the other, academics as well as civil associations pushed for participatory and deliberative reform, in particular through the organisation, We the Citizens. At the end of 2011, a one-year Constitutional Convention was started in which 66 citizens (selected by lot) deliberated together with 33 politicians over constitutional reforms. One of the results of this process was the (successful) May 2015 referendum on

same sex marriage. In Romania, a Forum Constituțional was set up (March – July 2013), to enable collaboration between the civic organisation, *Asociația Pro Democrația* (APD), and the Romanian Parliament (a similar endeavour took place in 2002). The Forum consisted of deliberative meetings, including citizens, scholars, and politicians, organised in major Romanian cities, as well as the gathering of citizens' comments on an online platform.

[5] Two referenda were organised, in 1991 and 1993, by a variegated opposition (including Catholic forces, left-wing alternative forces, and radicals such as the Partito Radicale) against the incumbent political parties, with the objective of amending the existing proportional electoral law, believed to be one of the main supports for the '*partitocrazia*' (the unwarranted predominance of parties in the democratic process) (Barbera and Morrone, 2003: 117).

[6] Plebiscitarian in the sense that the referendum risks becoming a plebiscite on the functioning of the majority government, its policies and its members, rather than on the contents of the reform (Busia 2003: 65).

[7] Napolitano was re-elected President of the Republic in April 2013, a unique event in Italian democratic history. Notably, he made his acceptance of re-election conditional on the finalisation of institutional reforms.

[8] According to some constitutionalists, Napolitano's appointment of an expert group to produce 'programmatic proposals' was an 'invention' of doubtful constitutional propriety: see Panizza (2015: 18-9). The group 'tacitly represented the major parliamentary forces, except for the Five-star Movement' (Fusaro, 2015: 435, fn13).

[9] The expert commission produced a final report in September 2013. Three different orientations emerged in the commission's deliberations. Only two were reproduced in the final report (Ragazzoni and Urbinati, 2016: 166). The latter reproduced reform ideas very similar to those of preceding commissions, in particular regarding reinforcement of both the Prime Minister and the executive (Ragazzoni and Urbinati, 2016: 166-9).

[10] I thank Nadia Urbinati for having drawn my attention to and having provided a copy of this letter, dated 7 July 2013.

[11] Available at: http://www.libertaegiustizia.it/2013/07/04/riforme-costituzionali-appello-ai-saggi-di-liberta-e-giustizia-e-comitati-dossetti-vogliamo-sapere/ (accessed on 10 July 2016).

[12] The public consultation procedure has been criticised for being manipulative and excluding options and issues that would compromise the reform programme of the coalition government. One observer argued that 'the questionnaires, far from being an instrument of popular participation, have a singularly plebiscitarian [purpose] in that, relying on fraudulent claims, they seek to condition and channel respondents in a distinct direction' (Volpi, 2013).

[13] A further, highly significant part of the reforms, even if formally not part of the Constitution, was electoral reform. In 2014, the Constitutional Court had struck down two parts of the (then) existing electoral law (referred to as the Porcellum): closed-list voting and the majority premium. The new law adopted in May 2015, the Italicum, did not, however, fully eliminate doubts concerning constitutionality, as raised by the Court.

[14] For extensive discussions of the substance of the reform, see, e.g., Ceccanti (2016); Fusaro (2015, 2016); Pasquino (2015); Ragazzoni and Urbinati (2016).

[15] While resistance to the Renzi reform was extensive, it should be acknowledged that important scholars, such as Carlo Fusaro, Stefano Ceccanti, and Roberto Bin campaigned in favour (see Bin, 2016; Ceccanti, 2016; Fusaro, 2016). The same can be said of important societal actors, such as the main Italian business association, Confindustria.

[16] The reform process saw a continuous polemic between PM Renzi and reform minister Boschi, on the one hand, and part of the scholarly community of constitutional experts (pejoratively referred to as '*professoroni*'), on the other (Plutino, 2015: 149-50). One of the constitutionalists, Gaetano Azzariti, spoke in an interview of a 'strategy of delegitimisation of all critical reflection' (cf. Plutino, 2015: 150). The trade unions (e.g. CGIL), also criticised the reforms and the lack of opportunities for societal participation in their drafting.

[17] These two forms are derived from an extensive study of constitutional resistance, on the basis of the analysis of documents, (media) statements and interviews the author held with the main representatives, as part of a comparative research project. The argument is not that these are the only or even always the most important dimensions of resistance, but rather that they are an intrinsic and continuous part of constitutional resistance over time.

[18] The campaigners for a 'No' vote found a significant ally in the newspaper, *Il Fatto Quotidiano*, which from the summer of 2013 campaigned against the reforms.

[19] LeG, March 2014,' Verso la svolta autoritaria', available at: http://www.libertaegiustizia.it/2014/03/27/verso-la-svolta-autoritaria/ (accessed on 11 July, 2016).
[20] See http://www.libertaegiustizia.it/2017/01/05/lettera-ai-soci-2/.
[21] Some observers judge this to be contradictory (Floridia and Vignati, 2014).
[22] Cf. Floridia and Vignati (2014: 63). Such affinity between the two entities did not, however, lead the M5S to lend its support to the national public demonstrations organised by LeG and various other organisations, such as the one in Rome on 12 October 2013 (Caruso, 2015: 323-4).
[23] This became very 'visible' in September 2013, when twelve M5S MPs occupied the roof of the Italian parliament, in order to defend the Constitution.
[24] Toninelli, Chamber of Deputies, 16-12-2014: 72. The M5S, in the role of opposition party, has on various occasions presented draft bills regarding citizen participation and forms of direct democracy. One major instance is a *disegno di legge* presented to the Senate's Commission on Constitutional Affairs on 18 May 2015 (ddl n. 3124).