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**The Role of the Italian Parliament in Promoting Transparency and Fighting
Corruption**

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INTRODUCTION

Generally speaking, in the recent past, parliamentary action to curb corruption has been relatively weak, while the most significant work has been implemented by the judiciary and/or the executive branch¹. In the last few years, however, a growing awareness among MPs on the importance of fighting corruption seems to have developed worldwide. International cooperation among national parliaments and global and regional networking has spread. Among others, in 2002 parliamentarians from many different countries met in the Chamber of the Canadian House of Commons and created the Global Organization of Parliamentarians Against Corruption (GOPAC). The main idea is that parliaments, as the core institution for democratic representation, could not anymore maintain an attitude of complacency and fatalism toward a phenomenon which, not only determines direct and indirect economic damages, but also undermines the democratic process, violates social justice and creates distrust in state institutions. The belief that corruption has multifaceted negative effects is increasingly equally shared by a wider sector of international public opinion as well as by experts in political science and economics, supported by a progressively more watchful media. A tendency which contradicts the idea is still present in some political and business circles that corruption is a necessary evil to face the cost of politics and to lubricate some mechanisms of the economy.

One of the reasons why parliaments do not always seem alert in fighting corruption is that corruption is present in their rank². From this point of view, political corruption can be considered one of the most harmful forms of misbehaviour because it deprives the legislative branch from the necessary will and strength in fighting a phenomenon which might consequently spread throughout the social fabric. This happened in Italy prior to 1992; while afterwards a process of healing was evident. It is not a surprise that all of the most effective measures taken by the Italian Parliament to curb corruption were taken after that year.

¹ Global Organization of Parliamentarians Against Corruption (GOPAC) and The World Bank Institute. *Controlling Corruption: A Parliamentarian's Handbook*. Ottawa, Canada: GOPAC, 2005

² Stapenhurst, Rick, Niall Johnston and Riccardo Pelizzo (ed.). *The Role of Parliaments in Curbing Corruption*, Washington DC.: World Bank Institute, 2006

POLITICAL CORRUPTION: A STRATEGIC ISSUE

When it comes to analyzing the causes of corruption many misleading ideas generally emerge. This was particularly true in the seventies and eighties when accurate and in-depth studies on the phenomenon were not completed and ideological moralistic points of view, without the support of the analysis and academic research, were prevalent. As far as political corruption in Italy is concerned, a wide range of wrong assumptions were taken. Some argued that Catholic and Latin countries were more prone to corruption because of cultural reasons. A conviction contradicted later when facts showed that not only Italy, France and Spain were progressively involved in political scandals but also countries such as Belgium, the Netherlands, Germany, and the UK³.

Others, mainly among the communist ranks, were convinced that capitalism and market economy greed were the main causes of corruption suggesting that a greater control on the private sector would reduce the problem, not considering that in the communist block, corruption was a widespread phenomenon. Worst of all, there were opinions, fortunately limited in numbers, which attributed the problem of corruption to the indulgency of customs ingenerated by democracy and freedom, and advocated draconian repressive rules.

Policy research and academic enquiries, which proliferated in the second half of the nineties, put some clarity in the debate on the root causes of corruption in general. We will see them later with the aim to single out the most apt parliamentary tools in devising legislation to prevent corruption. It is here important to outline the two basic causes of political corruption in Italy which brought about the 1992 judiciary action with the consequence of a deep political crisis.

On the one hand, the political dynamics in Italy were characterized in the cold war period by a blocked democracy. The presence of a strong communist party did not allow a change in the parliamentary majority in leading the country. For nearly 40 years the same parties' coalition, with minor changes along the period, governed Italy. The uninterrupted staying in power of the centre-left coalition brought about progressive control of the state structure by those political parties (the so-called *stato dei partiti* namely state of the parties). Clientelistic practices multiplied as well as illegal mechanisms in government procurements, public works, government employment and so forth⁴. The lack of effective democratic checks and balances and the absence of genuine competition among political parties based upon debate on concrete problems (rather than empty ideological confrontation) developed political patronage as the most effective way to gain re-election. There was a deliberate behaviour to determine the excessive bureaucratisation as well as bureaucratic inefficiency, so that the

³ Veronique Pujas; Martin Rhodes, *A clash of cultures? Corruption and the ethics of administration in Western Europe Parliamentary Affairs*, Oxford; Oct 1999;

⁴ Veronique Pujas, *Les scandales politiques en France, en Italie et en Espagne : constructions, usages et conflits de legitimité*, European Un. Institute, PhD theses, 1999

provisions of services to individual constituents could be provided by the system of political patronage⁵.

On the other hand, the lack of rules in party funding up until 1974 and an ill-conceived law afterward were the other main causes of political corruption.

Before 1974, bribes on party contracts and supplies, the diversion of public money, incomes from party economic activities and donations from flanking organisations and from abroad, created systemic corruption even though it was not necessarily illegal. The approval of Law No. 195 of 2 May 1974 introduced tight regulations which made donations from public sector companies illegal, required the declaration of contributions from private sources, and provided public subventions for parties receiving more than 2 per cent of the vote. The law penalised forms of financing that were previously legal, maintained the immunity of members of parliament from prosecution, and created procedures for the publication of party accounts that provided for neither transparency nor effective scrutiny.

After the *Tangentopoli* political crisis (Bribe city) in 1992, different reforms on political party funding were approved by the Italian Parliament without success, to arrive to the present legislation that, in spite of some weak and insufficient regulations, seems at least to avoid widespread illegal behaviours. The issues related to political party funding represent an interesting subject which has not been so far sufficiently analyzed. The choice to be made is between a theoretically “just law” which takes care of the democratic balance (mainly public funding) and a more pragmatic approach which would tend to accept the real balance of power in the society (more private funding). Whichever system is chosen, two conditions should be assured in order to avoid the danger of widespread political corruption: 1. transparency of financial flows, 2. assuring political parties in accessing the funding they need to carry out their functions.

THE ITALIAN PARLIAMENT’S ACTION AGAINST CORRUPTION

After the storm of *Tangentopoli*, it was clear that political parties needed to restore public confidence among citizens. The fatalism and acceptance of corruption as a normal state of the affairs in the Italian public opinion was substituted by an acute anger, dangerous for the democratic institutions.

Under these circumstances in the following years, the Italian Parliament adopted all the classical instruments to fight corruption, obtaining success in some areas while making minor achievements in others. We will briefly examine here the main actions carried out by the Italian Parliament: 1. analysis of the phenomenon; 2. legislative function; 3. oversight function.

⁵ Antonio Acconcia, Claudia Cantabene, A Big Push to Deter Corruption: Evidence from Italy. Working Paper, No. 159, CSEF, May 2007

ANALYSIS OF THE PHENOMENON

In September 1996, the President of the Chamber of Deputies appointed a committee to study the phenomenon of corruption made up of three authoritative scholars, Cassese, Arcidiacono and Pizzorno, which produced a detailed report in October of the same year⁶.

The report analysed, dimensions, typology and causes of corruption, outlining the most affected sectors and the conditions which tend to favour the phenomenon.

For the first aspect (affected sectors) the following areas were singled out:

1. public administration expenditures for goods and services offered by the private sector
2. services offered by public administration
3. authoritative powers of public administration (e.g. tax controls)

Regarding the conditions which favour corruption, the committee singled out the following:

1. the overextension of government and public administration in the management of the economy
2. a very cumbersome legal framework which gives a large discretionary power to the bureaucracy
3. the way the administrative decentralization was implemented (e.g. no fiscal accountability for local authorities)
4. political funding
5. confusion within the role of the politicians and bureaucrats
6. weakness and inefficiency of the public administration and of the procedures
7. ineffective system of controls
8. distrust of the citizens in the judiciary
9. economic distortions determined by inefficient markets
10. low prestige of the government officers

The committee provided for a long list of recommendations (23) subdividing them in three categories according to their possible implementation in the short, medium and long term. In the subsequent years, these findings and recommendations were certainly taken into account in the public debate and some were also partially translated into actual laws.

⁶ Camera dei Deputati, *Rapporto del Comitato di Studio sulla Prevenzione della Corruzione, Atti Parlamentari*, Roma, ottobre 1996

LEGISLATIVE FUNCTION

The main corpus of criminal sanctions in the public sector is contained in the penal code (approved under Royal Decree No. 1398 of 19 October 1930; amended by Law No. 86 of 26 April 1990; and partly amended subsequently by Law No. 181 of 7 February 1992).

Most of the anti-corruption laws have though been implemented after 1992.

In September 1996, the Chamber of Deputies appointed also the Special Commission for the Prevention and Repression of Corruption, to examine the best-suited projects of laws to fight corruption. The Special Commission, which worked until the end of March 1998, prepared a draft legislation, which was approved unanimously taking into account two “principles of law” – 1. a high level of performance and 2. impartiality in administrative organisation (principles already embodied in Article 97 of the Constitution). The remaining 29 articles contained tough measures designed to prevent or repress corruption in public administration. These included four new provisions⁷:

- the introduction of a “Guarantor of Legality and Transparency in Public Administration Work”;
- transparency in political and administrative activity through the publication of the income and assets of everyone holding a political or administrative post;
- the registration and control of associations and companies that do lobbying work;
- the publication of an “Official Bulletin of Contract Work in the Public Administration”.

The only draft law which had a follow-up and was actually approved was the Law No. 97 of 27 March 2001 on the relationship between the penal code and the disciplinary measures affecting public officers. The law provides for the immediate transfer of public officers under investigation and the dismissal in case of definitive sentence. This law was amended afterward and has been recently criticised in the mass-media as a classic example of measures which are not actually implemented (most of the public officers under investigation maintain their positions and even if found guilty are not dismissed). As it happens with other repressive laws, sometimes political constraints, such as the opposition by the trade unions to punish misbehaviour in the public administration, tend to make repressive rules less effective than preventive ones⁸.

In 1993, Legislative Decree No. 29 (as amended) and Law No. 537 introduced additional important provisions relating to a number of issues, including the fight against corruption, and drew a sharper distinction between administrative management and direct influence on political power in connection with organisational procedures and public sector work.

⁷ Ufficio Studi della Camera dei Deputati, *Da Tangentopoli ad oggi: i principali interventi in tema di reati contro la pubblica amministrazione*, Roma, maggio 2007

⁸ *Ibidem*

Similarly in 1994, Law No. 109 (Framework Law on Public Sector Work), as subsequently amended, provided for the following in relations between public administrators and contractors:

- the setting up of the Observatory for Monitoring Public Sector Work and the Related Authority (*Osservatorio per la vigilanza sui lavori pubblici e la relativa Autorità*), which was assigned specific “obligations to report” (*obblighi di denuncia*) (Article 4, Law No. 109/1994); a sole official to be responsible for the programming, planning, allocation and performance of the work;
- a division between planning and the awarding of contracts and concessions;
- measures to limit unlawful behaviour, reduce the instances of collusion and corruption, and make them more easily verified.

Three laws in 1997 (No. 59, 94 and 127) together with the above mentioned Legislative Decree No. 29, later embodied in the Law No. 165 of 2001, provide for a general framework of administrative reform including decentralisation, the reorganisation of the state administration, completing the privatisation of the public sector, the simplification of laws and procedures, the speeding up of controls, and a radical alteration of the state budget⁹. These laws which do not have the fight against corruption as an immediate objective, are aimed at fostering administrative impartiality, a high level of performance, and developing a new and direct approach to service and responsibility on the part of the administration towards citizens. They certainly are giving a contribution to weakening the “conditions that favour corruption” as described by the above mentioned Cassese Study Committee. The implementation of this kind of legislation has not always been easy for the strong resistance within the bureaucracy and the trade unions. Nevertheless, great steps forward have been made in reducing corruption in the country. As acknowledged by many analysts and scholars, as well as by international statistics (TI index)¹⁰, Italy has improved its standards¹¹.

OVERSIGHT FUNCTION

There is no permanent parliamentary commission in charge of conducting general anti-corruption enquiries or controls. A Commission for the Prevention and Fighting Corruption in Public Administration (*Alto Commissario per la prevenzione e il contrasto della corruzione e delle altre forme di illecito nella pubblica amministrazione*) does exist under the control of the executive branch.

Parliament as a whole, and individual members, can monitor the work of the public service closely and any member can raise specific matters, using the parliamentary power of inspection

⁹ *Ibidem*

¹⁰ Transparency International (TI). *Global Corruption Report* (2003); (2005); (2006). Berlin, Germany: TI

¹¹ Arnould Miguet, *Political Corruption and Party Funding in Western Europe An Overview*, London School of Economics April 2004

(*sindacato parlamentare ispettivo*). They may put official questions, orally or in writing, to the government or individual ministers on any aspect of government activity, including public sector corruption. This power has been used often by parliamentarians, mainly to have more in-depth knowledge of single episodes correlated with corruption, generally emerged by mass media coverage or judiciary actions.

Either or both houses may set up special commissions of enquiry, consisting of members of parliament, on matters of public interest including corruption in public life, using the same powers as criminal investigators (as in the Commission of Enquiry into the P2 lodge).

In particularly serious cases, Parliament has established standing parliamentary commissions to secure information, make enquiries or monitor developments. One such is the Parliamentary Commission on the Mafia, covering all aspects of this organisation including material corruption, both active and passive, at all levels of the public sector, and corruption of public officials.

CONCLUSION

This preliminary survey is not a complete examination of the legislation and of other activities carried out by the Italian Parliament in curbing corruption. Further inquiry is also needed for a more in-depth analysis on the effects of legislation cited above or on those which will be examined later. This is particularly true regarding the aspect of transparency for which we still need documentation from the offices of the Parliament (*Ufficio studi e documentazione* of *Camera and Senato*).

So far, we certainly can affirm that in the last 10 years Italy made great progress in fighting corruption. Progress is more evident in the sector of political corruption, where, also the current political dynamics allow mechanisms of checks and balances due to the harsh competition between the two coalitions. Other sectors, affected by structural inefficiencies (e.g. some local services, university and so on) are still affected by mismanagement that can easily favour corruption.