

Judicial Review and Political Bias: Moving from Consensual to Majoritarian Democracy*

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PRELIMINARY DRAFT

Abstract

Due to the collapse of the party system during the mid-nineties, Italy represents an interesting case study to test the effects of a moving from a consensual to a majoritarian democracy on judicial behavior at the level of the Constitutional Supreme Court. Using a dataset of 779 main reviews (*ricorsi in via principale*) from 1985 to 2005, and proposing new measures of political alignment within constitutional review, we analyze the effect of a change in the political party system on judicial behavior. We preliminarily find that the ruling of a majoritarian democracy tend to produce more political aligned decisions than in a consensual democracy.

JEL codes: K0

Keywords: Electoral Rules, Party Systems, Judicial Behavior, Italian Constitutional Court, Judicial Politics

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1 Introduction

Several theories compete to explain judicial decision-making: formalist theory, attitudinal model, and various versions of agency theories.¹ Formalists take the stance that judges simply interpret and apply the constitution and the law in a conformist view of precedents. Judges are largely guided by what the law says and abide by a strict legal authoritative interpretation. Quite differently, the attitudinal model sees judicial preferences, with special emphasis on ideology, as the main explanatory model (judges have a particular disposition and decide accordingly). Finally, agency theorists recognize the importance of judicial preferences but argue that they are implemented taking into account political and institutional realities (judges are willing to sacrifice their disposition in order to achieve other relevant goals).

This large literature has made significant contributions to the understanding of judicial behavior, both theoretically and empirically. Notwithstanding, this literature is largely US based and tends to ignore relevant aspects of a more civil law oriented environment. There is a growing empirical contribution investigating judicial behavior at the Supreme Court outside the US, with notable applications in Europe² and North America³, in Asia⁴, and in Latin America.⁵

We propose a further empirical contribution to this literature, which exploits a shock to the reference political system. Our tests allows us to check whether or not a move from a more fuzzy to a deeper clear cut system of political alliances have any impact of judicial behavior in terms of partisanship. Lijphart (1999) has proposed two models of democracy, consensual and majoritarian.⁶ In the consensual model, there is no clear political polarization; politics is fundamentally based on bargaining, compromise, and inclusiveness. In the majoritarian model, political parties are strongly polarized; politics is settled on significant competition, exclusivity, and straight opposition.⁷ Our hypothesis is that a majoritarian model polarizes judicial behavior, creating a division within the judiciary that reflects the party system (based on or organized around two coalitions). The consensual model, by contrast, favors

¹See, among others, Brenner and Spaeth (1988), Segal and Cover (1989), George and Epstein (1992), Epstein and Knight (1998), Segal and Spaeth (2002), Hansford and Springgs II (2006), Lax and Cameron (2007).

²Schneider (2005), Vanberg (2005), Amaral Garcia et. al. (2009), Franck (2009 and 2010), Garoupa et. al. (2013)

³Tate and Sittiwong (1989), Alarie and Green (2008), Green and Alarie (2009)

⁴Ramseyer and Rasmusen (2003), Ramseyer and Rasmusen (2006), Ginsburg (2003), Garoupa et. al. (2011), Escresa and Garoupa (2012)

⁵Chavez (2004), Helmke (2004), Iaryczower et. al. (2002 and 2006), Hilbink (2007), Kapiszewski and Taylor (2008), Carroll and Tiede (2011).

⁶Notice that in his classical book he considers the role of constitutional review. He establishes a correlation between the degree of judicial review and constitutional flexibility which in turn is related to the party and electoral systems. However, he simply assumes that constitutional review is performed by an independent third party and does not recognize the possible relationship between party system and judicial behavior. Ginsburg (2003) provides an identical discussion in the context of East Asia.

⁷The political economy literature has long ago recognized the relationship between electoral rules (party systems) and the behavior of political agents. See, among others Myerson (1993); Persson and Tabellini (1999 and 2000); Lizzeri and Persico (2001); Milesi-Ferretti et al. (2002).

compromise and agreement within the judiciary.

Our hypothesis can be understood both by a selection effect as well as incentives which reinforce each other. A majoritarian model induces the coalitions to select individuals that are perceived to be loyal (by mere coincidence of preferences). These coalitions are also the natural audience for the justices who can be potentially compensated at later stage by exhibiting loyalty. Therefore, we expect to have political labels such as socialist or conservative to describe judges. In a consensual model, appointments are likely to be more negotiated within the stable coalition and result in individual who are perceived to be faithful to model (that is, favor consensus over dissent). The absence of strong factions also shapes the natural audience and possible rewards.

Notice we are not saying that judges are more or less politicized under one particular model by comparison with the alternative model. In both models, consensual and majority, they are likely to be equal responsive to political variables. The point is that the response is revealed in different ways. In particular, we expect more explicit political alignment in a majoritarian model than in a consensual model.

To investigate such hypothesis, we use a dataset on Italian Constitutional Court decisions from 1985 to 2005, focusing on decisions concerning main reviews (*ricorsi in via principale*). The Italian case is quite interesting since Italy was a consensual democracy until 1992 (with a proportional electoral system and a multiparty arrangement stabilized around a stable coalition of five parties that ruled since WWII) and emerged as a majoritarian democracy after 1996 (with plurality rule for electing the parliament and two well defined coalitions that alternated in power).

Our preliminary results provide significant support to our hypothesis. We detect more political alignment between the decision of the Court and the political majority after 1996, thus confirming a more polarized judicial behavior. Before 1992, we have no evidence of important political divisions in the Court and the evidence seems to indicate a more consensual judicial behavior.

2 The Institutional Framework

2.1 The Party System Break

The move from a First to a Second Republic took place in Italy without a formal constitutional reform, rather it was due to a political scandal burnt out in spring 1992 which has been called the Clean Hands (*Mani Pulite*) scandal. This scandal addressed a funding parties system extremely expensive and as well outside the realm of legality, and hit to death the coalition of parties at the government both at the national and the regional level.⁸ That coalition, based on a proportional electoral rule system, has been defined by some political scientists as a polarized pluralist systems [Sartori (1966 and 1976)], whereas others found it a multiparty system with a dominant party [Lijpart (1999)] or an imperfect two-party system [Galli (1966)]. Behind these definitions stands a system for which the electoral results

⁸Italy is divided in 20 Regions, 5 of which are ruled under Special Statutes and 20 by Ordinary Statutes.

were almost irrelevant to determine the ruling government color, with a dominant party, the Christian Democratic Party (DC), leading by itself for a certain period and from the very end of the seventies governing through a system of alliances with the Socialist Party (PS), the Republicans (PR), the Liberals (PL), and the Social Democrats (PSD), in the so-called Penta-Party coalition. From the very origin of the First Republic, the Communist Party (PC) was the main opponent party and, but for a few years between 1976 to 1979 (*Government of National Solidarity*), the PC was never part of the central government.⁹ However, the PC was more actively involved in leading regional governments, where it used to rule with and without the support of the PS. As a consequences, the color of regional governments, for instance, could change even during the same legislature period if the PS moved from an alliance with the DC to an agreement with the PC (see Tables in the Appendix for further details).

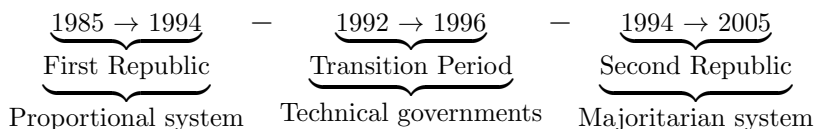
The 1992 earthquake stroke a worn-out political system in a moment of economic distress, at the verge of which both the DC and the PC arrived after undergoing multiple internal crises. In fact, in 1991 the PC disbanded and two new parties collected its members: Democratic Party of the Left (PDS) and Communist Refoundation (RC).¹⁰ The reason of such choice was related more to the events shaking east European countries than to internal Italian changes. The heirs of the PC were left out of from the scandals and in the period immediately after the break they regained political support for that.

As reaction to both the economic crisis and the scandal upheaval, the Penta-Party coalition (winners from 1992 national elections) sustaining technical governments until Italians were called to vote again in 1994 with a new electoral rule, through with the 75% of the seats in Parliament were assigned based on a majoritarian rule. A new political force came into play with a center right coalition lead by Silvio Berlusconi, who managed to be nominated head of the government for part of the new legislature. After internal disagreements to that coalition, a new technical government was established although it was mainly supported by the left wing parties.

It was only with the new elections in 1996 that a political stability was gained again and a turnover between a right and a left coalition was established. Regional governments reached a new balance pretty much in the same period, since their elections are dated around that time, with exceptions due to Regions with Special Statutes (see Tables in the Appendix).

Figure 1 summarizes the time line from the First to the Second Republic, focusing on the period analyzed in the empirical part.

Figure 1



⁹Even during these years, when Italian institutions feared the treat of the terrorist Red Brigades, the PC was not formally part of the central government but it rather supported it informally.

¹⁰For further details on the Italian party system, see Bull and Newell (2005).

2.2 The Italian Constitutional Court

The Italian Constitutional Court was established in 1955, although contemplated since 1948 by the Italian Constitution after WWII.¹¹ There are fifteen judges appointed by three different political actors (President of the Republic, both Houses of Parliament, and judges) who appoint five judges each. All of them are selected among active or retired judges, professors of law, or lawyers with more than twenty years of professional experience, for nonrenewable terms of nine years. Till 1992 the quota system used to select the Justices by the Parliament was quite apparent and well consolidated/documentated. After the 1996 national elections a similar balance has been reestablished. However the political chaos originated by the *clean hands* scandal provided a vacuum for the period between 1992 and 1994. The politicization of the Italian Constitutional Court has been studied by political scientists and legal economists [Guarnieri (2001); Breton and Frascini (2003); Fiorino et. al. (2007); Pederzoli (2008); Padovano (2009); and Dalla Pellegrina and Garoupa (2012)].

3 The Econometric Model

3.1 Model and Variables Definition

To test our main research question, we start defining the political affiliation of the petitioner, the lawmaker, and the court for each analyzed decision of the Court. First, we construct two dummies named respectively *Petitioner* and *Lawmaker*. *Petitioner* takes the value of 1 when: 1) the petitioner is the State/National Government and the Central Government is ruled by the PentaParty till 1994 or it is ruled by the Right Wing Coalition after 1994, or 2) the petitioner is a Regional Government and the Regional Government is ruled by the PentaParty till the first regional election after the 1992 break or it is ruled by the Right Wing Coalition after the first regional election after the 1992 break. To assign the color and composition of the ruling Government we use the year of the court decision. Analogously, the *Lawmaker* dummy is defined, but for year taken to define the national or regional legislature coalitions which the year of the reviewed law enactment.

The court political affiliation (*Court*) cannot be defined in terms of categorical variables, given we do not have the individual decisions. Therefore we opt for a continuous variable, that takes values between 0 and 1, since it represents a share. We are measuring the share of the Court aligned to the PentaParty from 1985 to 1993 and the share of the Court aligned to the Right Wing coalition from 1994 to 2005. In order to produce such measure, we count the number of aligned Justices out of the total number of Justices sitting in the Court for each decisions. At this stage, the number of the so-called neutral Justices is included in the denominator. Our measure allows us to weigh the marginal impact of a higher or lower incidence of a clear alignment, which in turns could have an effect also on the decisions of allegedly neutral Justices.

We then define the share of the Court aligned to the petitioner's party (*ali_petitioner*)

¹¹The law that defines its procedural rules was approved in 1953 and the Court started working in 1956.

and the share of the Court opposed to the petitioner’s party (*ali_opp_petitioner*). Since we have already defined the petitioner’s party, *ali_petitioner* is equal to the court political affiliation as described above, when the petitioner dummy takes the value of 1, and to $(1 - Court)$, when *Petitioner* is zero. The reason is intuitive: if the petitioner is affiliated to the PentaParty (before 1994) or to the Right Wing party (after 1994) the part of the Court aligned to him/her is the share of Justices affiliated to the PentaParty (before 1994) or to the Right Wing party (after 1994). Whereas if the petitioner does not belong to the PentaParty or to the Right Wing, then it is the share of the Court not affiliated with the PentaParty or to the Right Wing, which is aligned to the petitioner.

To define *ali_opp_petitioner* we take into account both the neutral Justices and that the Justices appointed under the First Republic still ruling after the break. The FR Justices will take some time to realign in the new Party system. Although it is unlike that they will be neutral, overall it is not possible to set the moment in which they will be associable to a new political affiliation. Their previous affiliation, under the FR system, might not be conclusive in terms of SR choice since we know that, for instance, several politicians from the Christian Democrats party move in the Left Wing coalition, while others ended up in the Right Wing together with many belonging to the Socialist Party. Hence, we generate the share of the First Republic Justices (*FRJudges*) and a share of the Neutral Justices (*Neutral*), as usual out of the number of Justices composing the Court at the decision level. *ali_opp_petitioner* is a continuous variable defined by the petitioner color. If the petitioner is aligned to the PentaParty or the Right Wing (*Petitioner*= 1) *ali_opp_petitioner* is the share of the Court not aligned to the PentaParty or the Right Wing including the neutral Justices $(1 - (Court + Neutral))$ or including both the neutral Justices and the FR Justices share if the decision year is after 1994 $(1 - (Court + Neutral + FRJudges))$. When the petitioner is not aligned to the PentaParty or the Right Wing (*Petitioner*= 0), *ali_opp_petitioner* is equal to the share of the Court aligned to the PentaParty or the Right Wing coalition including the neutral Justices $(Court + Neutral)$ or including both the neutral Justices and the FR Justices if the decision year is after 1994 $(Court + Neutral + FRJudges)$.

We follow a similar approach to define the share of the Court aligned to the lawmaker’s party (*ali_lawmaker*) and the share of the Court opposed to the lawmaker’s party (*ali_opp_lawmaker*), with the only difference being that we use the political affiliation of the lawmaker (*Lawmaker*).

Once defined the main variables of interest, and set the dependent variable (*Const*) equal to a dummy equal to 1 if the Court declares the constitutionality of the reviewed law and 0 otherwise, we estimate the following model:

$$\begin{aligned}
Const_{it} = & \gamma_r + \lambda_t + \theta_1 Ali_petitioner_{it} + \theta_2 Ali_lawmaker_{it} + & (1) \\
& \theta_3 Ali_opp_petitioner_{it} + \theta_3 Ali_opp_lawmaker_{it} + \\
& \alpha Petitioner_{it} + \beta Lawmaker_{it} + \tau Court_{it} + \\
& Z'_{it}\omega + X'_{it}\delta + \varepsilon_{it}
\end{aligned}$$

Where γ_r = Macro Areas Fixed Effects, λ_t = Year Fixed Effects, $i= 1, 2...779$ decisions, and $t= 1985...2005$. Z' is vector of variables, which weight for the Justices pre-Court working background, and X' is a vector of variables, which measure the court composition in terms of its electoral bodies. Hence, Z' includes the share career judges of the Court (*Career*) and the share of law professors/legal scholars (*Law*), whereas X' comprehends the proportion of the Court appointed by both Houses of the Parliament (*Parliament*), by the President of the Republic (*President*), and by the Magistracy (*Magistracy*).

Controlling for the petitioner, the lawmaker, and the court political alignment, the fixed effects, X' , and Z' , a marginal increase in the alignment of the Court with the petitioner should increase the probability of a declaration of the unconstitutionality of the law. A similar effect is expected to be driven by a marginal increase in the share of the court opposed to the lawmaker. A reverse effect is expected when there is an increase in the proportion of the Court aligned to the lawmaker or opposed to the petitioner (see Table 1 for a summary of the expected effects). Basically, we are assuming that moving from the consensual to the majoritarian democracy the described effects turn out to be more significant. In order to test for this expectation, we run model 1 on 4 periods of interest: the First Republic period (1985-1994), the First Republic without the transition period (1985-1992), the Second Republic period (1994-2005), and the Second Republic without the transition period (1996-2005).

Table 1 about here

3.2 Robustness Checks

As robustness checks, we verify the consistency of our results under the following scenarios:

1. When there is a mixed political affiliation;
 - (a) For regional laws, when the lawmakers belong to different parties;
 - (b) For national laws, when the petitioners belong to different parties;
2. When there is alignment between the lawmaker and the petitioner;
3. The alignments concern the rapporteur and the president of the Court;
4. When the transition period is considered.

Once the legislator' level comes into play, we construct a dummy variable equal to 1 if the reviewed law is regional and 0 if it is national (*reg_law*). Distinguishing between national and regional legislations allows to check: 1) when the State is the petitioner against laws promulgated by Regions which have different political colors, and 2) when Regions with different political affiliations pool together as petitioners against a National Law. Both in the first and in the second case we could expect that the Court's decisions deal with a lower political biased issue and therefore we might want to check if our results are consistent once these decisions are dropped by the considered sample.

In addition to the mixed alignment checks, we construct a dummy to control for those decisions for which the petitioner has the same affiliation of the lawmaker, which can be quite the case during the First Republic (see Table 5).

We consider the case in which there is an alignment between the petitioner and the decision Rapporteur (*ali_pet_rapporteur*) and the petitioner and the President of the Court (*ali_pet_president*), as well as the alignment between the lawmaker and the decision Rapporteur (*ali_law_rapporteur*) and the petitioner and the President of the Court (*ali_law_president*).

Finally, we check model 1 only on the transition period decisions (from 1992 to 1996).

4 Descriptives Statistics and Results

4.1 Data

We collected the 779 main reviews (*ricorsi in via principale*) ruled by the SC from 1985 to 2005. When the multiple issues decided in the same sentence are considered we end up with 926 issues. Finally, we count for the fact that constitutional reviews might be filed by more than one Region and that the Government could appeal to the SC against the laws approved by different Regions although related to the same topic. This is why, as shown in Table 2, once the regional level is included, we have a final dataset of 1,371 decisions. These decisions concerned laws or legislative decrees both at the national and at the regional (or provincial) level enacted from 1976 to 2005 as shown in Table 3.

Tables 2 and 3 about here

In Table 4 we report the composition of the Court in a dynamic setting, moving from the First to the Second Republic. During the First Republic, it is apparent the overwhelming majority of the PentaParty components of the Court, with a small opposition made by those Justices elected among the Communist Party adherents. The heritage of the First Republic is still an important element in the years after the break, as detected but the percentage of FR Justices.¹² As a matter of fact, a new Court majority (8 Justices out of 15) appointed under the new party system has been established only in 1997, given that 2 Justices were appointed in 1995, 5 in 1996, and 1 in 1997. A higher incidence of Justices affiliated to the Left Wing coalition start to become apparent after 1996.

Table 4 about here

Table 5 presents descriptives statistics for the four periods of interest as previously defined.

Table 5 about here

¹²There are 7 Justices nominated in the neighbor of the party system collapse: 1 in 1990 (Granata), 3 in 1991 (Guizzi, Mirabelli, and Vassalli), 1 in 1992 (Santuosso), and 2 in 1993 (Ruperto and Vari).

4.2 Results

We present results for model 1 in the four periods first excluding the shares of the court opposed to the petitioner and the lawmaker (Table 6) and then including them (Table 7). The very first evidence show an effect on the Court political partisanship related to the move from the consensual to a majoritarian democracy. Although this effect is not robust to the full estimation of model 1.

Tables 6 and 7 about here

When the model is tested on sub-sets of decisions, grouped according to the national or regional nature of the reviewed laws, it is apparent that the first effect detected in Table 6 is reaffirmed, robust to the full specification, only for those decisions dealing with national legislation (see Table 9).

Tables 8 and 9 about here

Our results are robust to the the checks listed in subsection 3.2. In particular, there are only 3 cases¹³ in which the State filed for the review of regional laws (lawmaker) when Regions have different political colors, and as such they did not change the results. However, we count 128 decisions for which Regions of different political colors (petitioner) filed for the review of State laws. Even when those are dropped, the results of model 1 stand unchanged. The same results are confirmed even when controlling for *ali_pet_rapporteur*, *ali_law_rapporteur*, *ali_pet_president*, and *ali_law_president*. Results of testing model 1 on the transition period do not address any significant behaviors during that period.

5 Conclusive Remarks

Our paper addresses political partisanship in constitutional review, in particular, when moving from a consensual to a majoritarian democracy (concepts that rely fundamentally on different electoral rules). We study how these distinctions affect and influence judicial review. In particular, we use a structural break in the Italian party system to evaluate changes in the pattern of political bias exhibited by the constitutional judges. Our preliminary results provide significant support against a formalist interpretation of judicial behavior. They also seem to indicate more alignment in a majoritarian rather than in a consensual model.

¹³Sentences n.119/1985; 162/2004; and 62/2005.

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Tables

Table 1: Model Previsions

Dependent Variable		Ali_petitioner (if it increases)	Ali_lawmaker (if it increases)	Ali_opp_petitioner (if it increases)	Ali_opp_lawmaker (if it increases)
Const	1	↓			↓
	0		↑	↑	

Table 2: Decisions According to the Decision Year

Year	Decisions	Decided Issues	Per Region Issues
1985	19	22	35
1986	16	19	35
1987	29	35	59
1988	106	121	148
1989	31	36	57
1990	46	53	70
1991	26	38	68
1992	32	45	84
1993	30	39	63
1994	44	58	77
1995	42	49	66
1996	25	29	33
1997	21	21	25
1998	11	14	23
1999	24	25	26
2000	26	31	37
2001	26	33	41
2002	12	14	30
2003	48	57	93
2004	80	87	168
2005	85	100	133
Total	779	926	1,371

Table 3: Decisions According to the Reviewed Law Year

Year	Decisions			Decided Issues			Per Region Issues		
	Tot.	NL	RL	Tot.	NL	RL	Tot.	NL	RL
1976	6	0	6	8	0	8	9	0	9
1977	12	3	9	13	3	10	14	3	11
1978	13	7	6	16	9	7	19	12	7
1979	6	0	6	7	0	7	7	0	7
1980	10	3	7	11	3	8	14	6	8
1981	24	13	11	28	15	13	41	28	23
1982	20	11	9	21	12	9	27	18	9
1983	11	4	7	13	6	7	19	12	7
1984	13	11	2	16	14	2	36	34	2
1985	17	10	7	19	12	7	34	25	9
1986	20	9	11	23	10	13	29	16	13
1987	15	6	9	18	8	10	25	15	10
1988	26	7	19	30	9	21	36	15	21
1989	41	17	24	50	21	29	81	52	29
1990	34	13	21	40	18	22	58	36	22
1991	34	25	9	49	36	13	94	81	13
1992	33	21	12	46	29	17	73	56	17
1993	34	17	17	45	23	22	64	42	22
1994	34	12	22	44	16	28	62	34	28
1995	40	8	32	43	9	34	48	14	34
1996	35	13	22	39	16	23	52	26	26
1997	33	9	24	41	16	25	50	24	26
1998	27	14	13	30	17	13	37	24	13
1999	15	12	3	18	15	3	22	19	3
2000	10	5	5	13	6	7	22	15	7
2001	22	14	8	23	15	8	39	31	8
2002	75	33	42	84	36	48	133	84	49
2003	66	39	27	73	44	29	127	88	39
2004	48	25	23	59	34	25	94	69	25
2005	3	0	3	4	0	4	5	0	5
Total	777*			924*			1,371		

Notes: *= the total numbers differ from the issues reviewed per year since two decisions concern regional laws promulgated in different years. They count in the regional level analysis. *Tot.*= Total; *NL*= National Laws; *RL*= Regional Laws.

Table 4: Court Composition

Year	%PP	%Opponent	% Neutral	%FR	%Right	%Left
1985	0.71	0.07	0.21	.	.	.
1986	0.70	0.09	0.21	.	.	.
1987	0.66	0.15	0.19	.	.	.
1988	0.66	0.13	0.21	.	.	.
1989	0.66	0.13	0.20	.	.	.
1990	0.66	0.14	0.20	.	.	.
1991	0.54	0.16	0.30	.	.	.
1992	0.61	0.13	0.26	.	.	.
1993	0.64	0.15	0.21	.	.	.
1994	0.09	0.02	0.26	0.63	0.00	0.00
1995	.	.	0.32	0.58	0.00	0.10
1996	.	.	0.30	0.46	0.05	0.19
1997	.	.	0.30	0.23	0.09	0.38
1998	.	.	0.28	0.22	0.12	0.38
1999	.	.	0.26	0.21	0.14	0.40
2000	.	.	0.20	0.14	0.14	0.52
2001	.	.	0.20	0.00	0.16	0.62
2002	.	.	0.07	0.00	0.20	0.73
2003	.	.	0.00	0.00	0.29	0.71
2004	.	.	0.00	0.00	0.29	0.71
2005	.	.	0.00	0.00	0.33	0.67

Notes: %*PP*= Share of the PentaParty Judges; %*Opponent*= Share of Communist Judges; %*Neutral*= Share of Neutral Judges; %*FR*= Share of Judges appointed during the First Republic; %*Right*= Share of Right Wing Judges; %*Left*= Share of Left Wing Judges.

Table 5: Descriptives for the 4 periods

	FR	FR no transition	SR	SR no transition
Ali_petitioner	0.56 (0.14)	0.56 (0.14)	0.57 (0.33)	0.57 (0.27)
Ali_lawmaker	0.60 (0.11)	0.60 (0.11)	0.43 (0.33)	0.50 (0.28)
Ali_opp_petitioner	0.36 (0.34)	0.35 (0.34)	0.51 (0.27)	0.50 (0.19)
Ali_opp_lawmaker	0.21 (0.23)	0.21 (0.23)	0.33 (0.24)	0.38 (0.20)
Petitioner	0.69 (0.46)	0.70 (0.46)	0.38 (0.49)	0.37 (0.48)
Lawmaker	0.89 (0.31)	0.89 (0.31)	0.63 (0.49)	0.59 (0.48)
Court	0.64 (0.06)	0.64 (0.06)	0.19 (0.13)	0.24 (0.10)
Neutral	0.22 (0.05)	0.22 (0.05)	0.12 (0.14)	0.08 (0.12)
Career	0.40 (0.04)	0.41 (0.04)	0.35 (0.06)	0.33 (0.06)
Law	0.47 (0.05)	0.47 (0.05)	0.60 (0.06)	0.62 (0.06)
Parliament	0.25 (0.05)	0.25 (0.05)	0.27 (0.09)	0.29 (0.07)
President	0.34 (0.05)	0.34 (0.05)	0.36 (0.05)	0.36 (0.05)
Magistracy	0.40 (0.06)	0.40 (0.05)	0.35 (0.06)	0.33 (0.06)
Petitioner=Lawmaker	0.59 (0.49)	0.59 (0.49)	0.31 (0.46)	0.30 (0.46)
Regional Law	0.33 (0.47)	0.34 (0.47)	0.38 (0.49)	0.36 (0.48)

Notes: Standard Deviations in brackets. *FR*= First Republic period (1985-1994), *FR no transition*= First Republic without the transition period (1985-1992), *SR*= Second Republic period (1994-2005), and *SR no transition*= Second Republic without the transition period (1996-2005).

Table 6: Results: Model

VARIABLES	FR	FR no transition	SR	SR no transition
ali_petitioner	-0.04 (-0.13)	-0.05 (-0.18)	-0.33 (-1.57)	-0.68** (-2.09)
ali_lawmaker	0.23 (0.28)	0.86 (0.95)	-0.03 (-0.13)	-0.37 (-1.02)
Control Variables	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes
Macro Area FE	Yes	Yes	Yes	Yes
Observations	631	555	566	446
Pseudo Log-Likelihood	-375.69	-327.83	-351.49	-270.55

Notes: Declaration of constitutionality is the dependent variable. Control variables are *Petitioner*, *Lawmaker*, *Court*, *Career*, *Parliament*, and *President*. Marginal effects reported. *FR*= First Republic period (1985-1994), *FR no transition*= First Republic without the transition period (1985-1992), *SR*= Second Republic period (1994-2005), and *SR no transition*= Second Republic without the transition period (1996-2005). Robust z-statistics clustered at the case level in brackets. Significance at the 10% level is represented by *, at the 5% level by **, and at the 1% level by ***.

Table 7: Results: Model with Opponents

VARIABLES	FR	FR no transition	SR	SR no transition
ali_petitioner	-0.30 (-0.83)	-0.41 (-1.00)	-0.34 (-0.89)	-0.52 (-1.37)
ali_lawmaker	0.18 (0.19)	0.62 (0.60)	-0.10 (-0.22)	-0.31 (-0.58)
ali_opp_petitioner	-1.12 (-1.57)	-1.27 (-1.51)	-0.01 (-0.04)	-0.22 (-0.84)
ali_opp_lawmaker	-0.50 (-0.41)	-0.77 (-0.56)	0.04 (0.19)	-0.04 (-0.17)
Control Variables	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes
Macro Area FE	Yes	Yes	Yes	Yes
Observations	631	555	566	446
Pseudo Log-Likelihood	-374.59	-326.69	-351.46	-270.09

Notes: Declaration of constitutionality is the dependent variable. Control variables are *Petitioner*, *Lawmaker*, *Court*, *Career*, *Parliament*, and *President*. Marginal effects reported. *FR*= First Republic period (1985-1994), *FR no transition*= First Republic without the transition period (1985-1992), *SR*= Second Republic period (1994-2005), and *SR no transition*= Second Republic without the transition period (1996-2005). Robust z-statistics clustered at the case level in brackets. Significance at the 10% level is represented by *, at the 5% level by **, and at the 1% level by ***.

Table 8: Results: Only Regional Laws

VARIABLES	FR	FR no transition	SR	SR no transition
ali_petitioner	-0.04 (-0.15)	-0.11 (-0.31)	-0.40 (-0.77)	-0.55 (-1.06)
ali_lawmaker	-0.83 (-0.71)	-1.23 (-0.68)	-0.05 (-0.07)	0.32 (0.36)
ali_opp_petitioner	-0.05 (-0.09)	-0.18 (-0.25)	0.23 (1.08)	0.09 (0.25)
ali_opp_lawmaker	-1.02 (-0.46)	-1.93 (-0.70)	-0.25 (-0.77)	-0.06 (-0.18)
Control Variables	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes
Macro Area FE	Yes	Yes	Yes	Yes
Observations	425	364	338	279
Pseudo Log-Likelihood	-243.03	-207.84	-194.91	-152.79

Notes: Declaration of constitutionality is the dependent variable. Control variables are *Petitioner*, *Lawmaker*, *Court*, *Career*, *Parliament*, and *President*. Marginal effects reported. *FR*= First Republic period (1985-1994), *FR no transition*= First Republic without the transition period (1985-1992), *SR*= Second Republic period (1994-2005), and *SR no transition*= Second Republic without the transition period (1996-2005). Robust z-statistics clustered at the case level in brackets. Significance at the 10% level is represented by *, at the 5% level by **, and at the 1% level by ***.

Table 9: Results: Only National Laws

VARIABLES	FR	FR no transition	SR	SR no transition
ali_petitioner	0.34 (0.18)	-0.43 (-0.21)	-2.19** (-2.09)	-2.63** (-2.31)
ali_lawmaker	0.78 (0.65)	1.41 (1.16)	1.09 (1.23)	0.41 (0.44)
ali_opp_petitioner	-0.27 (-0.10)	-0.94 (-0.35)	-0.18 (-0.22)	-0.10 (-0.12)
ali_opp_lawmaker	-1.29 (-0.68)	-1.07 (-0.59)	-0.44 (-1.08)	-0.56 (-1.37)
Control Variables	Yes	Yes	Yes	Yes
Year FE	Yes	Yes	Yes	Yes
Macro Area FE	Yes	Yes	Yes	Yes
Observations	206	188	226	165
Pseudo Log-Likelihood	-123.66	-111.06	-127.67	-89.14

Notes: Declaration of constitutionality is the dependent variable. Control variables are *Petitioner*, *Lawmaker*, *Court*, *Career*, *Parliament*, and *President*. Marginal effects reported. *FR*= First Republic period (1985-1994), *FR no transition*= First Republic without the transition period (1985-1992), *SR*= Second Republic period (1994-2005), and *SR no transition*= Second Republic without the transition period (1996-2005). Robust z-statistics clustered at the case level in brackets. Significance at the 10% level is represented by *, at the 5% level by **, and at the 1% level by ***.

Appendix

Table A1: National Elections

Date	Winning Coalition	Government Coalition
June 20, 1976	NS	NS
June 3, 1979	PP	PP
June 26, 1983	PP	PP
June 14, 1987	PP	PP
April 4, 1992	PP	
June 28, 1992 to April 28, 1993		Amato
April 28, 1993 to May 10, 1994		Ciampi
March 27, 1994	R	
May 10, 1994 to January 17, 1995		Berlusconi
January 17, 1995 to May 17, 1996		Dini L
April 21, 1996	L	L
May 13, 2001	R	R

Notes: *PP*= PentaParty Coalition; *L*=Left Wing Coalition; *R*= Right Wing Coalition. Amato, Ciampi, and Dini Governments are regarded as technocrats' government. However, they were supported by specific political coalitions. *NS*= National Solidarity (*Solidarieta' Nazionale*). From 1976 to 1979 a broad coalition was at the national government, which included an informal participation also of the Communist Party. A broader national government coalition was pushed by the Seventies Red Brigade terrostatic treat. Source: Italian Ministry of the Interior.

Table A2: Regional Elections: Ordinary Statute Regions

Regions	1975- 1980	1980- 1985	1985- 1990	1990- 1995	1995- 2000	2000- 2005	2005- 2010
Abruzzo	PP	PP	PP	PP	L	R	L
Basilicata	PP	PP	PP	PP	L	L	L
Calabria	PP	PP	PP	PP	R	R	L
Campania	PP	PP	PP	PP	R	L	L
Emilia Romagna	NPP	NPP	NPP	NPP	L	L	L
Lazio	NPP	NPP/PP	PP	PP	L	R	L
Liguria	NPP	PP	PP	PP	L	R	L
Lombardia	PP	PP	PP	PP	R	R	R
Marche	PP/NPP	NPP	NPP	NPP	L	L	R
Molise	PP	PP	PP	PP	L	R*	R*
Piemonte	PP	PP	PP	NPP	L	L	R
Puglia	PP	PP	PP	PP	R	R	L
Toscana	NPP	NPP	NPP	NPP	L	L	L
Umbria	NPP	NPP	NPP	NPP	L	L	L
Veneto	PP	PP	PP	PP	R	R	R

Notes: *PP*= PentaParty Coalition; *NPP*= No PentaParty Coalition, which includes the Communist Party; *L*=Left Wing Coalition; *R*= Right Wing Coalition. In some cases the presence of in the ruling coalition of the Communist Party depends on the alliances policy of the Socialist Party: this is why we can have that during a same legislature there is shift from *NPP* to *PP* or viceversa. *R**=Elections in Molise were held in 2001 and 2006 rather than 2000 and 2005. The election dates were for all on: June 15, 1975; June 8, 1980; May 12, 1985; May 6, 1990; April 23, 1995; April 16, 2000. Source: Italian Ministry of the Interior.

Table A3: Regional Elections: Special Statute Regions

Regions	1973- 1978-	1978- 1983	1983- 1988	1988- 1993	1993- 1998	1998- 2003	2003- 2006
Friuli Venezia Giulia	PP	PP	PP	PP	R	R	L
Valle d'Aosta	PP	AUT	AUT	AUT	AUT	AUT	AUT
Trentino Alto Adige	AUT	AUT	AUT	AUT	L	L	L
Bolzano	AUT	AUT	AUT	AUT	L	L	L
Trento	PP	PP	PP	PP	L	L	L
	1974- 1979	1979- 1984	1984- 1989	1989- 1994	1994- 1999	1999- 2004	2004- 2009
Sardegna	PP	PP	PP	PP	R	R	L
	1976- 1981	1981- 1986	1986- 1991	1991- 1996	1996- 2001	2001- 2006	
Sicilia	PP	PP	PP	PP	R	R	

Notes: *PP*= PentaParty Coalition; *L*=Left Wing Coalition; *R*= Right Wing Coalition; *AUT*=Regional Parties connected to territorial and linguistic concerns. In Friuli Venezia Giulia and Valle D'Aosta elections took place on June 25, 1978; June 26, 1983; June 26, 1988; June 6, 1993; May 31, 1998, and June 8, 2003. In Trentino Alto Adige elections took place on November 11, 1978; November 20, 1983; November 20, 1988; November 21, 1993, November 22, 1998; and October 26, 2003. Bolzano and Trento are the two autonomous provinces in Trentino Alto Adige. Source: Italian Ministry of the Interior.

Table A4: Regional Governments during the National Transition Period

Regions	1992	1993	1994	1995
Abruzzo	PP	PP	L	L
Basilicata	PP	PP	PP	PP
Calabria	PP	PP	L	L/R
Campania	PP	PP	PP	PP
Emilia Romagna	NPP	NPP	NPP	NPP
Lazio	NPP	NPP/PP	PP	PP
Liguria	NPP	PP	PP/L	L
Lombardia	PP	PP	L	R
Marche	PP/NPP	NPP	NPP	NPP
Molise	PP	PP	PP	PP
Piemonte	PP	PP	PP/L	L/L
Puglia	PP	PP	PP	PP
Toscana	NPP	NPP	NPP	NPP
Umbria	NPP	NPP	NPP	NPP
Veneto	PP	PP/L	L/R	R
Friuli Venezia Giulia	PP	PP/R	L/R	L*
Valle d'Aosta	AUT	AUT	AUT	AUT
Trentino Alto Adige	AUT	L	L	L
Bolzano	AUT	L	L	L
Trento	PP	PP/L	L	L
Sardegna	PP	PP	PP/R	R
Sicilia	PP/NPP	NPP	NPP	NPP

Notes: *PP*= PentaParty Coalition; *NPP*= No PentaParty Coalition, which includes the Communist Party; *L*=Left Wing Coalition; *R*= Right Wing Coalition; *AUT*= Autonomous Parties. Source: Italian Ministry of the Interior and regional websites. *= till 1998.