

Federalization is popular with the North but resisted by the South

Italy takes the slow boat to federalism

BY FRANCESCO PALERMO AND JENS WOELK

OVER THE LAST 10 YEARS, ITALY HAS BEEN IN THE process of federalizing. Delays along the way have led to a federal constitutional framework around a centralist political culture. At the same time, the rich regions of the North are demanding more autonomy, while the poorer regions of the South are worried that further federalization will widen the economic gap between the two parts of the country.

From the time of Italian unification in 1871 until 1948, Italy had a unitary form of government. It was only with the Republican Constitution of 1948 that an innovative, but also feeble, experiment with regionalization was conducted.

After the Second World War, not all Italian regions were treated equally. From the very beginning, Italian regionalism was characterized by its asymmetrical design, as a matter of constitutional law and in terms of implementing the powers that were transferred to the regions. Despite constitutional provisions for one standard regional design for the whole country, only five special or autonomous regions were established. All five were in the periphery: three in the Alpine region in the north, with historic minority groups, Aosta Valley, Trentino-South Tyrol, Friuli-Venezia Giulia; and the two main islands of Sicily and Sardinia. There were international obligations imposed by the peace treaty between Italy and the Allied Powers after the Second World War and fears about a possible secession of these peripheral areas. Each of the five regions has a special statute,

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In Italy, the regions of the North start just above Rome. Differences between North and South led to a movement for federalism that is stronger in the North.

which is essentially a basic law that has full constitutional authority.

The third way

As an innovative experiment, the regionalization of the whole country mapped out a “third way” between a federal and a unitary system, to avoid too great an asymmetry between these areas and the rest of the territory. However, this two-track regional design, set out in the Constitution of 1948, was not fully developed until the 1970s. By 1972, the ordinary regions were given devolved legislative powers. Eight of these 15 ordinary regions are in the North: Piedmont, Emilia-Romagna, Liguria, Lombardy, Marches, Tuscany, Veneto and Umbria. Two are considered to be divided between North and South: Lazio (Latium) and Abruzzo. The other five are in the South: Apulia, Basilicata, Calabria, Campania and Molise. Since the early 1970s, a permanent increase in the regional powers gradually narrowed the gap between the so-called ordinary and special regions. The path has been neither straightforward nor coherent, influenced by shifting political priorities and the Constitutional Court. As there is still no constitutionally guaranteed institutional representation of regional interests at the central level, extending federalism essentially meant challenging national laws in the Constitutional Court. These conflicts and Constitutional Court rulings emphasizing co-operation and consultation led to the gradual empowerment of the regional level and to a system that can be described as co-operative regionalism.

A series of important reforms of the public administration and the system of local self-government were adopted between

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the late 1980s and the late 1990s. These reforms encouraged the more active regions to start developing their potential for self-government. Political demands for more self-government became an absolute priority for the rich and industrialized northern regions – demands which were also echoed by the government in Rome. Initially, the devolution of powers was primarily seen as a means for reducing expenditures by the national government. Pressures by a federalist, and on occasion secessionist, political party, the Northern League, made federal reform a political issue requiring constitutional reform.

Steps toward federalism

In 1999 and 2001, two constitutional amendments were approved which considerably increased the powers of the ordinary regions. The first reform introduced the direct election of regional presidents. It also strengthened the regions' constitutional autonomy, as the basic regional laws are now to be enacted by the ordinary regions themselves in a special procedure. The second reform of 2001 completely reshaped the constitutional provisions concerning relations between the national government and the regions, following decisions by the Constitutional Court.

The reform declares all component units of the republic to be equal – the national government, regions, provinces and municipalities. While this sounds unusual for a federal system, it does express the concept of functional spheres rather than hierarchical levels of government. The two-track asymmetry – involving ordinary and autonomous regions – is confirmed, but further differentiation is now possible upon the request of single ordinary regions. Most importantly, the reform drastically changes the distribution of legislative and administrative powers between the national government and the regions.

The Constitution now lists all legislative powers of the national government as well as the fields of concurrent legislation in Article 117. Now, the residual powers lie with the regions. Administrative powers are no longer connected with legislative ones, but rather are distributed in a flexible manner under Article 118. The new provision for fiscal federalism allows for partial financial autonomy of subnational entities in Article 119. As well, all regions must establish a consultative body for the representation of local authorities within their territories.

Until the early 1990s there was an unwritten pact between North and South allowing Italy to devalue the Lira as a means of maintaining its competitive footing with other European countries. The economically depressed and dependent South, for its part, used public expenditure as a means of stimulating consumption. Then there were pressures to reduce the public debt and overall public expenditure in order for Italy to enter the European Monetary Union. The collapse of the North-South pact undermined the equilibrium between northern and southern regions on regional expenditure and tax policy. Corruption scandals in the early 1990s led to the demise of the old order with the dissolution of the Christian Democratic Party and the Socialist Party. This collapse of the old political order helped to increase the pace of these changes and a budgetary crisis made the introduction of a number of vital structural reforms even more urgent.

Slow implementation

Six years after the passage of the constitutional amendments, the reform is far from complete. Although some amendments came into effect immediately, such as the new distribution of legislative powers, the new lists were found to be incomplete and to contain many overlaps, giving rise to an enormous increase in the number of controversies. The Constitutional Court had to face the fundamental task of redefining the competencies. Frequently, this provided a rationale for expanding the role of the national government through the assumption of jurisdiction over cross-cutting issues instead of over narrow jurisdictional matters, and the interpretation of the national government as guardian of the national interest.

A second group of reform provisions required further detailed legislation, especially in the field of fiscal federalism. Unfortunately, the centre-right coalition government under then prime minister Silvio Berlusconi, elected immediately after the approval, did not show any interest in implementing the reform inherited from the previous government. Thus, only two statutes of implementation were adopted, in 2003 and 2005, and the issue of financial relations is still unresolved.

In addition, Berlusconi's government – including the right-wing Northern League, which sought more radical results – presented its own, more far-reaching constitutional counter-reform. This proposal affecting 53 articles of the whole Constitution was finally adopted by the centre-right coalition's majority in Parliament in November 2005. However, its entry into force was prevented when 61 per cent of voters opposed it in a referendum in June 2006. This referendum took place just after Berlusconi's government lost the general elections. The new government under Prime Minister Romano Prodi has since assumed the initiative and is attempting to complete the implementation of the 2001 reform.

However, even the regions were not that diligent in capitalizing on the new opportunities for reform, and the process of passing new basic laws has been very slow.

Flaws in the system

Further constitutional reform seems unlikely at this point. The next steps in Italy's federalization process likely will be the implementation of fiscal federalism provisions and perhaps some shifts in competencies. For example, there is wide agreement that energy must be a national competence, not a shared one.

At the moment, Italy can best be described as a devolutionary asymmetric federal system in the making. The term devolutionary is appropriate because powers have been transferred from the national government to the regions; asymmetric reflects that there are two types of regions and the implementation of federalism differs from region to region; and "federalism in the making" specifies that even after the reform of 2001, the term "federal" or "federalism" does not appear in the Constitution. Federalism in Italy will come about in a step-by-step basis, starting with the approval of the new basic law by each region, and by each region taking full advantage of the opportunities to move forward with the reform. Italy's constitutional framework certainly allows for a federal form of governance. It is now up to the politicians to assume their responsibilities. 