Constitutional Reform in Italy: Past and Present

Yes or No? Mapping the Italian Academic Debate on the Constitutional Reform

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Abstract

The recent campaign for the constitutional referendum was perceived as highly divisive even in the academic world. The aim of this paper is to 'map' the academic debate concerning the Renzi-Boschi constitutional reform rejected by Italian people in the referendum held on 4 December 2016. This survey does not look at the contents of the reform, rather it focuses on the arguments employed by Italian academics either to support or question the reform. Special attention is paid to the initiatives and attitudes of the Italian Association of Constitutional Lawyers (AIC).

I. Introduction and Methodology

Despite the clear result of the recent constitutional referendum held on 4 December 2016, the campaign was highly divisive and dominated by a sense of uncertainty. This is also the feeling one has when looking at how scholars, especially constitutional law scholars, were split over the contents of the constitutional reform. Indeed, the campaign for the constitutional referendum was perceived as highly divisive even in the academic world, and this explains the decision of the *Associazione italiana dei costituzionalisti* (Italian Association of Constitutional Lawyers) (AIC) not to take an official position about the contents of the reform. After the referendum took place, as we shall see, this choice was harshly contested by a group of constitutionalists who had voted no.

Against this background, the aim of this paper is to 'map' the academic debate concerning the Renzi-Boschi constitutional reform rejected by Italians. A few words on what this paper is not about: we are not going to explain the contents of the constitutional reform, since they shall be treated in other

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contributions included in this special issue, and also because contributions in English on the subject have not been absent from legal journals and legal and political blogs.[1] Rather, we shall focus on the arguments employed by Italian academics either to support or question the reform. Among academics, the main, although not exclusive, contribution to the debate came, of course, from constitutional lawyers.[2]

The paper is structured as follows: before entering the debate, we shall clarify the main (but not exclusive) sources we have considered for this article.[3] In part II, we shall focus on the official position of the Board of the AIC. In part III, we shall review the main contents of the Manifestos of the 'yes' and 'no' camps. In part IV, we shall analyze the main scholarly initiatives in the immediate aftermath of the referendum. Finally, before concluding, we shall try to explain why academic constitutional lawyers were so intensely involved in the debate about the referendum and the subsequent referendum campaign.

As regards our sources of reference, we shall not primarily consider those books written by constitutional lawyers in order to present the contents of the Renzi-Boschi reform to the general public.[4] Since the debate has been huge, we have decided to select some publications that are generally considered as representative of the arguments employed by constitutional law scholars, starting with two *Manifestos*[5] signed by many legal scholars, two short books

[1] For instance: L. Violini and A. Baraggia, 'The Italian Constitutional Challenge: An Overview of the Upcoming Referendum' *I·CONnect. Blog of the International Journal of Constitutional Law and Constitution Making.org* (2 December 2016), available at http://www.iconnectblog.com/2016/12/the-italian-constitutional-challenge-an-overview-of-the-upcoming-referendum/ (last visited 20 March 2017); C. Joerges, 'After the Italian Referendum' *Verfassungsblog. On Matters Constitutional*, available at http://verfassungsblog.de/after-the-italian-referendum/ (last visited 20 March 2017); M. Simoncini, 'Analysis – Italy's Referendum: A Specter Haunting Europe?' *US Muslims* (3 December 2016), available at http://www.usmuslims.com/analysis-italys-referendum-a-specter-haunting-europe-13331h.htm (last visited 20 March 2017); M. Bassini and O. Pollicino, 'Nothing Left to Do but Vote – The (almost) Untold Story of the Italian Constitutional Reform and the Aftermath of the Referendum' *Verfassungsblog. On Matters Constitutional*, available at http://verfassungsblog.de/nothing-left-to-do-but-vote-the-almost-untold-story-of-the-italian-constitutional-reform-and-the-aftermath-of-the-referendum/ (last visited 20 March 2017); M. Goldoni, 'Italian Constitutional Referendum: Voting for Structural Reform or Constitutional Transformation?' *Verfassungsblog. On Matters Constitutional* (11 August 2016), available at http://verfassungsblog.de/italian-constitutional-referendum-voting-goldoni/ (last visited 20 March 2017).

[2] As a matter of fact, the *Manifesto* in favor of the reform was also signed by eminent economists, political scientists, and political theorists.

[3] However, sometimes we shall look at other sources, like books written by eminent constitutional law scholars.

[4] See discussion by E. Catelani, 'Tanti libri sulle riforme costituzionali: molta buona informazione, ma anche molte 'inesattezze' ' *federalismi.it* (3 November 2016), available at http://www.federalismi.it/nv14/articolo-documento.cfm?Artid=32828&content=Tanti+libri+sulle+riforme+costituzionali:+molta+buona+informazione,+ma+anche+molte+%27inesattezze%27&content_author=%3Cb%3EElisabetta+Catelani%3C/b%3E (last visited 20 March 2017).

[5] 'Basta un Sì. Il Manifesto', available at http://www.bastaunsi.it/manifesto/ (last visited 20

published by Giuffrè respectively devoted to the arguments in favor (by Beniamino Caravita)[6] and those against (by Alessandro Pace),[7] a special issue of *Questione Giustizia. Rivista trimestrale* hosting, among other things, an exchange between Luciano Violante[8] (supporting the adoption of the reform) and Valerio Onida[9] (advocating the rejection of the reform) and an issue of *Quaderni Costituzionali*,[10] hosting a sort of collective interview with ten common questions directed to almost thirty constitutional law scholars. While we are aware that these publications do not exhaust the richness of the debate, at the same time, we do think they can offer a very good overview of the arguments employed by scholars.

When looking at the arguments marshaled either in favor of or against the constitutional reform, we first tried to map the debate considering the nature of the arguments employed by constitutional law scholars (whether technical, cultural or political), but then we realized that this was possible only in very few circumstances, while in most cases it was very hard to separate the argumentative strands.[11] Sometimes, as a further confirmation of the non-feasibility of this approach, eminent figures of the AIC have had important political roles[12] and this has inevitably led them to conflate technical and political arguments during the campaign. Further, constitutional lawyers have massively engaged not only in debates with fellow academics but also in discussions with politicians and opinion leaders in the broadest sense.[13] Having in mind these methodological assumptions, however, it is possible to

March 2017); '56 costituzionalisti bocciano la riforma della costituzione Boschi-Renzi', available at https://coordinamentodemocraziacostituzionale.net/2016/04/29/56-costituzionalisti-bocciano-la-riforma-della-costituzione-boschi-renzi/ (last visited 20 March 2017).

[6] B. Caravita, *Referendum 2016 sulla Riforma costituzionale. Le ragioni del SÌ* (Milano: Giuffrè, 2016).

[7] A. Pace, *Referendum 2016 sulla Riforma costituzionale. Le ragioni del NO* (Milano: Giuffrè, 2016).

[8] L. Violante, 'La riforma costituzionale e il referendum. Le ragioni del SÌ' 2 *Questione Giustizia. Rivista trimestrale*, 23-31 (2016).

[9] V. Onida, 'La riforma costituzionale e il referendum. Le ragioni del NO' 2 *Questione Giustizia. Rivista trimestrale*,16-21 (2016).

[10] 'Dieci domande sulla riforma costituzionale' *Quaderni Costituzionali*, 219-353 (2016).

[11] See, for instance, R. Bin, 'Referendum costituzionale: cercasi ragioni serie per il NO' 3 *Rivista AIC*, 1-6 (2016), where the author, on one hand, admits some of the weaknesses of the reform but, on the other hand, also underlines the political importance of the reform 'I myself have written critical commentaries on the text approved by Parliament, which in some respects I apologize for the coquetry of quoting the title of one of my comments – "the worst possible" solutions; and yet I will vote YES' (translation by the authors).

[12] For instance, S. Ceccanti and R. Zaccaria. See also the very interesting considerations made by F. Palermo (currently a member of the Italian Senate), 'Riforma costituzionale: intervento in aula di Francesco Palermo' (17 July 2004), available at https://www.youtube.com/watch?ùv=KmX E5dQR6uI (last visited 20 March 2017).

[13] See eg C. Fusaro, 'Campagna referendum 2016 di Carlo Fusaro. Rendiconto delle attività, degli spostamenti e dei costi', available at http://www.carlofusaro.it/materiali/Rendiconto_Campagna_Ref_2016.pdf (last visited 20 March 2017).

pinpoint a specifically constitutional debate about the Renzi-Boschi constitutional amendment and the referendum vote.

II. The Official Position of the *Associazione Italiana dei Costituzionalisti* (AIC)

As already mentioned at the beginning of the article, due to the variety of views spread among its members, the Italian Association of Constitutional Lawyers[14] decided not to take an official position either for or against the constitutional reform. Quite reasonably, in our view, the Board of the Association decided to organize some initiatives, including a workshop held on 12 December 2016, one week after the referendum, instead of adopting a uniform position. However, this decision was harshly attacked, even after the result of the constitutional referendum, by some constitutional lawyers who voted no; in a letter which was echoed in the media, they accused the current Board of not having pointed out the ambiguities of the reform, and opting instead for a 'futile neutralism'.[15] Later on, a former President of the AIC, Federico Sorrentino, wrote an open letter, to which the current President of the AIC publicly responded (see part IV).[16]

The Board's neutral position can be traced back to the previous Board as well, since the previous Presidency, whose term lasted from 2012 to 2015, organized similar workshops, like the two held on 28 June 2013 and 28 April 2014. In the text of a newsletter dated 4 June 2013, this position was justified as follows:

> 'In a period in which many complain about the silence of the culture on issues of public debate, Italian constitutionalists feel a civic duty to contribute to ongoing processes in the manner that is best suited to their nature: that of independent reflection and scientific record on issues that

[14] The Italian Association of Constitutional Lawyers (AIC) was established in 1985: its chief institutional aim is to foster research and teaching in the field of constitutional law by promoting and coordinating conferences, seminars and collective research projects. The AIC is affiliated to the International Association of Constitutional Law (IACL). Its main organs are the General Assembly and the Board; the latter is elected for a three-year term. The President of the Association is elected within the Board.

[15] Part of the contents of the letter was disclosed by *Il Foglio*: M. Rizzini, 'Costituzione ed epurazione. Ha vinto il No, ma c'è chi vuole stravincere. Una lettera svela un clima robespierriano in seno all'Associazione italiana costituzionalisti', available at http://www.ilfoglio.it/politica/2016/12/10/news/referendum-costituzione-associazione-italiana-costituzionalisti-110283/ (last visited 20 March 2017).

[16] F. Sorrentino, 'Lettera aperta al Presidente AIC'; M. Luciani, 'Risposta del Presidente AIC', both available at http://www.associazionedeicostituzionalisti.it/lettera-aperta-al-presidente-aic.html (last visited 20 March 2017).

are directly pertinent to their areas of expertise'.[17]

In a subsequent newsletter dated 27 March 2014, the Board held that

> 'In the midst of political debate on reforms destined to impact our constitutional and institutional system, The Italian Association of Constitutional Lawyers cannot be absent. The AIC is the best source of constitutionalist culture of the Country. Making its own voice heard, in the ways appropriate for a scientific association, offering a qualified and independent contribution, corresponds to its *raison d'être*, in a season like this'.[18]

It is worth noting, however, that the AIC launched an open debate on the contents of the reform with a call for papers which resulted in the publication of over fifty contributions that appeared both in the *Rivista AIC* and in the *Osservatorio AIC*, the two official journals of the Association.[19] These publications offer further evidence of the different positions within the AIC and the variety of arguments exchanged in this debate. In this sense the Association indeed gave voice to the plurality of views. As mentioned, after the referendum there was another workshop held on 12 December 2016, which aimed to reunite the AIC and to favor a frank debate right after the referendum.

At the end of the day, in our view, the position is not so different from that assumed by the AIC in 2004 with regard to the reform which went on to be rejected by voters in 2006, although, on that occasion, the Association opened the debate by producing a document stressing the weaknesses of the proposed reform.[20]

III. The *Manifestos*

As noted above, a good summary of the arguments employed by constitutional law scholars is represented by the two official *Manifestos* signed by many scholars and former members of the Constitutional Court. With these documents as a starting point, one can summarize the arguments in favor of the reform as follows:

[17] 'Seminario: "I Costituzionalisti e le riforme" - Roma 28 giugno 2013' *Newsletter AIC* (dated 4 June 2013; translation by the authors).

[18] 'Comunicazione del 27 marzo 2014' *Newsletter AIC* (translation by the authors).

[19] 'Dibattito aperto sulla riforma costituzionale in *itinere*' available at http://www.associazionedeicostituzionalisti.it/dibattito-aperto-sulla-riforma-costituzionale-in-itinere-b5c.html (last visited 20 March 2017). Contributions available at http://www.rivistaaic.it/dibattito-aperto-sulla-riforma-costituzionale-in-itinere.html and http://www.osservatorioaic.it/dibattito-aperto-sulla-riforma-costituzionale-in-itinere-7e3.html (last visited 20 March 2017).

[20] S. Bartole, 'Invito al dibattito sulle riforme istituzionali', available at http://archivio.rivistaaic.it/dibattiti/revisione/bartole_invito.html (last visited 20 March 2017).

1. Overcoming so-called perfect bicameralism, with confidence entrusted solely to the Chamber of Deputies, and with a deeply restructured Senate. This – according to the supporters of the reform – would have put the regional and local authorities at the center of the political system.

2. Simplification of the legislative procedures, with the prevalence of the Chamber of Deputies (the political Chamber) which would have the last say, but with the possibility for the Senate to recall bills in order to constrain the political majority.

3. Reform of Title V of part II of the Constitution according to (this is *expressis verbis* written in the Manifesto) the guidelines given by the Italian Constitutional Court in its post-2001 case law. The reform would have also provided for the abrogation of the shared competencies and a rationalization of competencies and the bases for a collaborative regional model.

4. Reform of the normative power of the Government with the codification of many of the limits to the law decrees that had been devised by the case law of the Constitutional Court and, at the same time, the provision of a preferential procedure for the legislative bills of governmental initiative.

5. Reinforcement of the system of guarantees. This is the most heterogeneous point of the Manifesto, in which different measures included in the reform, such as the reinforcement of direct democracy (abrogative referendum, popular legislative initiatives), an *ad hoc* preemptive form of constitutional review for electoral laws and the establishment of a higher quorum to elect the President of the Republic, are grouped together.

6. An evident institutional simplification with the cancellation of the National Council for Economics and Labour (CNEL) and of the Provinces.

7. A cost reduction due to the decrease in the number of members of Parliament and other measures.

The reasons supporting the rejection of the constitutional reform were based on a (sometimes even completely opposite) reading of the proposed reforms. It is more difficult to classify the reasons provided by the academic opponents of the reform, as they range from concerns about method and legitimacy to substantive arguments. Among substantive arguments, in turn, a distinction might be traced between those that recognize the desirability of specific aspects of the reform but point to the flaws and inconsistencies of the text passed by Parliament, and those that openly question some of the innovations *per se*. In light of these premises, arguments against the reform can be summarized as follows:

1. The method: the reform would have been the direct offspring of a clear political majority, which at a certain point, seemed to condition the stability of the Government in charge on the approval of the reform. Although any constitutional reform is also, to a certain extent, a product of politics, this does not mean that constitutional reforms should be understood as the outcome of

political contingency. In this sense critics point to the example of the constitutional reform dated 2001, in which case the reform was supported by a majority and still created more conflicts than solutions.

2. Overcoming so-called perfect bicameralism, a goal frequently described as shareable, was established at a very high price, ie the depreciation of the new Senate, whose composition and functions were not considered appropriate to its new constitutional mandate.

3. A distinct argument against the new Senate claimed that the reform was in sharp contrast with the supreme principles of the Italian constitutional order, which cannot be altered even by constitutional amendment. More specifically, an indirectly elected Senate would have violated the fundamental principle of popular sovereignty (Art 1 para 2 Constitution); the confused provisions concerning composition and functions of the Senate would also have violated the principle of equality, conceived as rationality and reasonableness of the new norms.

4. The evoked simplification of the legislative procedure would have not represented an actual simplification, since the number of legislative procedures would have not decreased but increased (bicameral laws, laws adopted by the Chamber of Deputies only but with the possibility of amendment by the Senate, other distinct legislative procedures with the possibility for the Chamber of Deputies to reject possible amendments by a simple majority or an absolute majority), and this would have triggered new conflicts.

5. The Reform of Title V would have represented an evident step back in terms of decentralization of power, with an excessive centralization of power. Moreover, the abrogation of the shared competencies would not have necessarily decreased the litigation between the State and the Regions. Moreover, the Regions would have been deprived of real autonomy.

6. The real reduction of costs cannot be based on the sole elimination of the CNEL or Provinces or on the reduction of the number of the Members of Parliament, since it would also be dependent on the creation of better equilibria among political and administrative bodies. In this sense, many of the measures listed in the reform were labelled as merely rhetoric.

7. Critics of the reform also acknowledged the importance of some of the proposals (for instance the containment of the emergency normative powers of the Government), but since the question of the constitutional referendum could not be divided in many autonomous questions the overall assessment was negative. This point is connected to another ground for criticism: instead of adopting a single, big reform involving the revision of many articles of the Constitution and inevitably resulting in a very heterogenous referendum question the Government could have instead proposed different packages of reforms.[21]

[21] This is due to the origin of Art 138 of the Constitution, which was clearly devised thinking of punctual reforms instead of systemic reforms. This also explains why the requirement of the

The manifestos do not exhaust all the points raised by constitutional lawyers. For instance another point frequently recalled by the critics of the reform was the combination of the electoral law for the Chamber of Deputies (the so-called *Italicum*) and the institutional arrangement produced by the reform. The new electoral law, which was partially struck down by the Constitutional Court in January 2017,[22] did only apply to the Chamber and came into force *before* the referendum was held. This was a very frequent critique, which had induced the Government and the parliamentary majority to change, partially at least, their position in the last weeks of the campaign. A second point is closely linked to this one. In terms of legitimacy, critics of the reform argued that judgment no 1 of 2014 of the Constitutional Court, which had found many basic provisions of the electoral law then in force to be unconstitutional, had clearly undermined the political, if not the legal legitimacy of the sitting Parliament, and, consequently, of the reform itself.

IV. The Aftermath of the Referendum

On 8 October 2016, a couple of months before the referendum took place, the Board of the AIC announced a seminar regarding the future of the Constitution and Italian institutions, to be held on 12 December at the University 'La Sapienza' in Rome. According to the announcement, 'regardless of the result, the referendum will affect the destiny of our Constitution'. For that reason, 'collective reflection is necessary in the immediate aftermath of the vote'.[23] Meanwhile, as already mentioned, two public interventions of constitutional lawyers who had supported the no campaign during the campaign openly questioned the AIC's position in the run-up to the referendum.

In his introduction to the seminar, the President of the AIC stressed that the aftermath of the referendum, even in the event of a victory of the 'yes' vote, would inaugurate a 'very delicate constitutional phase'. On the one hand, popular approval of the reform would have demanded a number of implementing measures, while the text of the constitutional amendment was silent on some fundamental issues; on the other hand, the actual result of the

homogeneity of the question, a pillar of the constitutional case law (for instance Corte costituzionale 2 February 1978 no 16, *Foro italiano*, 265-266 (1978)) about abrogative referenda has not been extended to constitutional referenda *ex* Art 138 Constitution. V. Onida and B. Randazzo tried to challenge the heterogeneity of the question by asking the *Tribunale di Milano* to raise a constitutional question to the Italian Constitutional Court. The *Tribunale di Milano*, however, rejected their argument and did not trigger the control of constitutionality. See Tribunale di Milano 6 November 2016, available at http://www.lexitalia.it/a/2016/84031 (last visited 20 March 2017).

[22] Corte costituzionale 25 January 2017 no 35, available at www.cortecostituzionale.it.

[23] 'Comunicazione dell'8 ottobre 2016' *Newsletter AIC*.

referendum had made it necessary to address a great number of questions which had been left unresolved pending the referendum. Moreover, a seminar held some days after the referendum would make it possible to trace a clearer distinction between 'scientific dialectic' and the conditioning influence of 'day-to-day politics'.[24] Thus, the seminar addressed the virtues and possible flaws regulated by Art 138 of the Constitution, the impact of the rejection of the Renzi-Boschi reform on the Italian legal order, and the role of constitutional lawyers as it had emerged from the referendum campaign.[25]

Finally, it deserves mention that the President of the AIC made reference not only to the past attitudes of the Italian Association under similar circumstances, but also to the behavior of comparable learned societies elsewhere in Europe, first and foremost the *Vereinigung der deutschen Staatsrechtslehrer* (VDStRL) in Germany. In this respect, it is interesting to develop a brief digression on how German scholars have retrospectively assessed the role of the VDStRL during the history of the Federal Republic. Since the 1960s, increasing diversity among German public lawyers strengthened the idea that 'unity in public law scholarship' is a task that demands continuous discussion in the framework of 'confrontational scientific discourse'. Thus, the *Vereinigung* is ' "a fabric of pluralistic structures and attitudes", from which it can draw its own scientific force'.[26]

V. Concluding Remarks: Why Were Scholars so Intensely Involved in the Campaign? An Explanatory Attempt

Before concluding, another point deserves clarification: why were constitutional lawyers so intensely involved in the discussion about the reform and the referendum campaign? Why were these issues so sharply contested?

One possible answer lies in the extreme weakness of political parties and their apparent inability to formulate significant policy orientations: that is why experts, most notably constitutional lawyers, have come to the forefront in the discussion.

But we think that two other possible reasons, both well-rooted in Italian constitutional history, coincide in explaining this development.

The first reason has to do with the early steps of the reform process at the

[24] See M. Luciani, 'Introduzione' 1 *Rivista AIC*, 1-2 (2017).

[25] At the date of 15 February 2017, the proceedings of the seminar include an introduction and concluding remarks by M. Luciani, and contributions by A. Anzon, A. Cerri, A.A. Cervati, M. Cosulich, E. Lamarque, and A. Lucarelli. They are published in *Rivista AIC* and available at http://www.rivistaaic.it/seminario-la-costituzione-dopo-il-referendum-12-dicembre-2016.html (last visited 20 March 2017).

[26] H. Schulze-Fielitz, 'Staatsrechtlehre als Mikrokosmos. Eine einleitende Vorbemerkung', in Id, *Staatsrechtslehre als Mikrokosmos. Bausteine zu einer Soziologie und Theorie der Wissenschaft des Öffentlichen Rechts* (Tübingen: Mohr Siebeck, 2013), 3, 24 (translation by the authors).

beginning of the current parliamentary term, in Spring and Summer 2013. In the inaugural address of his second term, President Giorgio Napolitano deplored the

> 'unforgivable (…) failure to make any headway on the reforms – limited and targeted as they were – pertaining to the second part of the Constitution, reforms that took such effort to agree on and yet which never managed to break the taboo of "equal bicameralism" '.[27]

On 11 June 2013, a Prime Minister's decree established a Commission (*Commissione per le riforme costituzionali*) entrusted with

> 'laying down propositions for amending the Second Part of the Constitution, (…) with regard to the form of state, the form of government, bicameralism and the norms related thereto, and relevant ordinary laws, with specific regard to the electoral laws'.

The Commission, chaired by the Minister responsible for Constitutional Reform,[28] was made up of thirty-five 'wise men' (and women), mainly (but not exclusively) chosen among academic constitutional lawyers. At the same time, a seven-member Drafting Committee (*Comitato per la redazione delle proposte di riforma*) was also established. This move of the Enrico Letta Government was not entirely unprecedented: in fact, after the victory of center-right parties at the general election of 1994, Silvio Berlusconi's first Government established a Study Committee for Institutional, Electoral and Constitutional Reform. However, its size was comparatively reduced and constitutional reform was not one of the main and most urgent points on the political agenda in that parliamentary term. In 2013, by contrast, the appointment of the Commission for Constitutional Reform and the final output of its activities were carefully monitored by the media.

However, the activities of the Commission were hardly immune from day-to-day political contingencies. In Summer 2013, two of its members, Lorenza Carlassare and Nadia Urbinati, resigned in order to show their radical disagreement with the Government, supported by a precarious coalition of center-left and center-right parties. In this respect, it is useful to consider the manner in which Italian constitutional culture has been marked by the memory of the Constituent Assembly of 1946-1948. According to standard studies in Italian constitutional history, and in spite of the dramatic national and international developments during those months, the Constituent Assembly and the Government of the day succeeded in preserving the distinction between,

[27] English translation of the speech available at http://presidenti.quirinale.it/elementi/Continua.aspx?tipo=Discorso&key=2700 (last visited 20 March 2017).

[28] Himself a historian, specialized in Gaullist France.

respectively, constitutional politics and day-to-day politics.[29]

On 17 September 2013, the Commission for Constitutional Reform published a final report of its activities, *Per una democrazia migliore*.[30] Whether or not the proposal of a majority of the members of the Commission was more radical than the text of the Renzi-Boschi reform lies outside the purposes of this paper.[31] What should be mentioned is that the final report reflects the nature of the Commission as a non-political forum for discussion. On each topic – bicameralism, legislative procedure, regional and local Government, form of government, voting system, and direct democracy – the objections raised by individual members are duly reported. In a way, this final report 'photographed' 'the state of the art of bipartisan institutional reformism'.[32] Meanwhile, it also revealed the existence of significant points of disagreement among its members on a number of fundamental issues. Moreover, other scholars clearly disagreed not only on the proposals of the Commission, but also on how its role had been conceived from the outset.[33]

There is also a second, long-standing reason for the intense involvement of constitutional scholars in this debate: many of those who took sides regarding the reform saw it as possibly the last stage in the 'second phase' of the constitutional history of the Italian Republic, dominated by discussions about the reform of the Constitution (just like the previous phase had been dominated by the implementation of constitutional provisions). In this respect, and regardless of the result of the referendum vote, the Renzi-Boschi constitutional reform seemed to acquire special significance, even beyond its specific contents and contingent goals.

To sum up, in this paper we have presented the main features of the academic debate on the Renzi-Boschi constitutional reform which preceded and followed the referendum. In our view, the analysis has shown that discussions among constitutional lawyers were part of, and clearly connected to, the wider debate about the reform. This might explain the apparent success, even in non-specialized debates, of quite technical arguments like the possible effects of the combination of constitutional reform and electoral reform.

However, it is also possible to identify arguments which are specific to the academic discussion. These concern both the method and contents of the ultimately unsuccessful reform; in all their diversity, they generally reveal an

[29] See eg E. Cheli, *Il problema storico della Costituente* (Napoli: Editoriale Scientifica, 2008).

[30] Available at http://bpr.camera.it/bpr/allegati/show/CDBPR17-127 (last visited 20 March 2017).

[31] See eg S. Curreri, 'Riforma costituzionale e forma di governo' *Istituzioni del federalismo*, 15, 17-18 (2016).

[32] C. Fusaro, 'Per una storia delle riforme istituzionali (1948-2015)' *Rivista trimestrale di diritto pubblico*, 431, 505 (2015).

[33] See eg G. Azzariti, 'Interrogativi minimi sulla relazione della Commissione governativa per le riforme costituzionali', available at http://www.costituzionalismo.it/notizie/612/ (9 October 2013) (last visited 20 March 2017).

effort to contextualize the proposed amendments and to interpret them in the framework of the Constitution as a whole. The Renzi-Boschi reform only affected provisions of the Second Part of the Constitution, concerning the 'Constitutional Order of the Republic' (*Ordinamento della Repubblica*): however, both supporters and opponents of the reform stressed its links with (and possible impact on) the first part the constitutional charter ('Citizens' Rights and Duties', *Diritti e doveri dei cittadini*).