

# Toga Party: The Political Basis of Judicial Investigations against MPs in Italy (1983-2013)

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## Abstract

Why do judges prosecute the deputies of some parties more than others? According to a straightforward game of judicial activity against MPs, we argue that judges' investigations may depend on two factors: the political orientations of judges, and the interactions between judiciary and the parliament. Hence, we expect that judges decide to prosecute a member of the parliament when the judges' political orientations diverge from the political position of the deputy under investigation and the parliament is more likely to approve the proceedings. We provide a quantitative analysis focusing on the Italian Chamber of Deputies from 1983 to 2013. Investigations are measured looking at the requests to lift parliamentary immunity that judges have to send to the parliament before proceeding against a MP. The political orientations of judges are estimated according to the support to the different factions within ANM (the National Judiciary Association). Results show that political affiliation of judges significantly affects the decisions to prosecute some parties more than others. Besides, judges are influenced also by the inter-party conflict within the Parliament.

# Introduction<sup>1</sup>

Several works emphasize the importance of independent courts to resist arbitrary state power, safeguard individual rights (e.g., North and Weingast 1989) and preserve the democratic regime (Gibler and Randazzo 2011). Despite the attention devoted to the independence of the judiciary from political pressures, it is well established that courts are political institutions composed by justices that retain contrasting political positions (e.g. Bailey 2013; Martin and Quinn 2002; Robertson 1982). In fact, scholars suggest that judges' party affiliation may considerably affect judicial decisions (e.g. Brace and Hall 1997; Carrubba et al. 2012; Clark 2009; George and Epstein 1992; Humpries and Songer 1999; Kulik et al. 2003; Kstellec 2011; Nagel 1961; Songer 1982; Songer and Davis 1990; Tate 1981).<sup>2</sup>

However, most of studies look at judges democratically elected or appointed by political institutions, paying poor attention to political systems in which judges careers are more autonomous from politics. The present article fills this gap and shows that judge's political affiliation plays a crucial role even where judges are selected through competitive exams. Moreover, we examine the distinctive impact of both the judges' political orientations and the relations between judiciary and other political institutions (on this last point, see e.g. Clark 2009; Epstein and Knight 1998; Ferejohn et al. 2004; Vanberg 2001).

We focus on trial courts in Italy, where the judges enjoy a high level of formal independence from political power (Fabri 1997; Guarnieri 1992, 2003, 2011) and judiciary is strongly politicized (Bruti Liberati e Palamara 2011; Della Porta 2001; Freddi 1978; Morisi 1999). In particular, Italian judges have usually divided in factions, whose alignment reflects the traditional ideological left-right division. Accordingly, we estimate the political orientations of the judiciary on the basis of the strength of the rival factions within the ANM (the National Judiciary Association) and we find that judges' ideological views have significantly influenced the judicial investigations against MPs.

According to a straightforward model of judicial activity against MPs, we argue that judicial decisions to prosecute a member of the Parliament may depend on two factors: the political affiliation of judges and the relations between the judiciary and the legislative, which can authorize the investigation or not. Hence, we expect that judges decide to prosecute a MP when either their political orientations diverge from the political position of the deputy under investigation or the parliament is more likely to approve the proceedings.

Results show that political affiliation of Italian judges significantly affects the decisions to prosecute some parties more than others and the judicial activity is influenced also by the conflict within the Parliament. The main results hold even after controlling for intra-

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<sup>2</sup>See Hanretty (2013) for a partial exception.

party politics, a party's duration in office and the institutional changes occurred in Italy after 1993. In the next section we present the game of judicial activity against MPs and develop three hypotheses. Then, we describe the features of the Italian case, the data and the operationalization of the variables. Finally, we present the results and collect the main findings.

## 1 A game of judicial prosecution against MPs

In order to preserve the Parliament and its activities from the accusations that are baseless or grounded on partisan affiliation, in many European countries, MPs enjoy parliamentary immunity. In particular, in parliamentary systems such as Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Portugal, Spain and Sweden judges cannot prosecute a MP without prior authorization by the Parliament (McGee 2001). In these cases, judges must submit a formal request to the Parliament, asking to lift the parliamentary immunity of the MP under investigation.

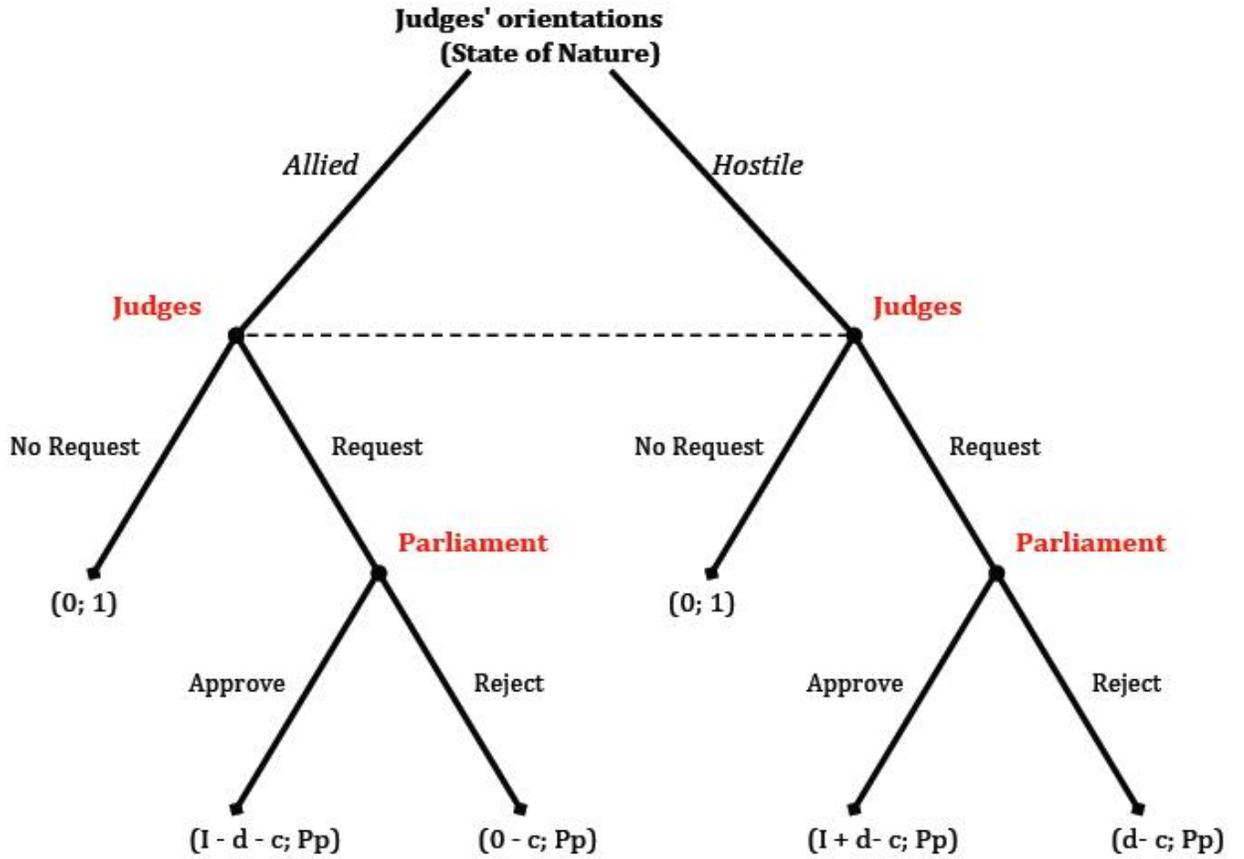
In this section, we present a straightforward game on the judicial-legislative relations where judges can bring MPs to trial on condition that the Parliament approves the proceeding. The game involves two actors - the judges of a public prosecutor's office and the Parliament - and relies on five assumptions. First, judges are appointed and assigned to a case independently from the preferences of political institutions. Second, judges operate with limited resources (for instance, time and budget). Third, submitting a request to the Parliament is costly (in terms of time and budget). Fourth, when judges submit a request, they always contribute to damage the reputation of the MPs involved, even when the Parliament does not authorize the proceeding.<sup>3</sup> Fifth, judges are political actors having their own ideological orientations.

Judges move first. According the information available, they decide either to proceed against a MP or discard the prosecution. In other words they have to choose if requesting the Parliament to lift the immunity or abandoning the investigations. Where judges choose to submit the request, the Parliament votes by simple majority, approving or rejecting the proceeding. Since submitting a request is costly and the resources available are limited, judges cannot proceed any time. Hence, they need to focus on some cases instead of others. In brief, we expect that judges enjoy large discretionary power in using the resources at their disposal and selecting the MPs to be prosecuted. Besides, since we assume that judges are neither appointed by political institutions nor democratically elected, they do not pay any reputation costs for unpopular decisions and they do not need to rely on the support of politicians or public opinion.

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<sup>3</sup>Although the impact of judicial activity on MPs' careers varies across countries, scholars show that prosecutions and charges may have considerable effects on the electoral support and the chances of re-election (e.g., Chang, Golden and Hill 2010). However, these effects may depend on the type of charge: corruption charges are more likely to damage the electoral performance (Welch and Hibbing 1997), while speech prosecutions related to the politician's opinion can exert unintended consequences wielding a positive effect on vote share (van Spanje and de Vreese 2013).

Figure 1: Game of judicial activity against MPs



$I$  = new information on illegal activities

$d$  = damage to Mp reputation

$c$  = costs of submitting a request

$Pp$  = Parliament position

Given the large discretion in choosing which MPs to prosecute and whether to proceed or not, we contend that the judges' choice could be biased by their political affiliation. For the sake of damaging the reputation of unwanted MPs, judges may decide to focus more on crimes committed by MPs whose ideological views are far away from the judge's position. It follows that if the judges' political orientations are close to the political position of the deputy under investigation, judges are less prone to submit a request, because they prefer to use the resources at their disposal in other cases. On the contrary, when the judges' political positions strongly diverge from the position of the MP under investigation, judges are more likely to send the Parliament a request.

Of course, judges may have strong interests in prosecuting a MP regardless of their political affiliations. In fact, the judges utility function is also affected by their ambition and they evaluate the chance to succeed in convicting an MP also to gain fame, honour, and public visibility. In light of this, judges are willing to proceed against MPs to achieve new information on the illegal activities concerning their investigations as this additional information may help them to take the MP to trial.<sup>4</sup> Since the opportunity to try MPs depends on the approval by the Parliament, we expect that judges decide to proceed especially when the Parliament is prone to authorize the request.

Figure 1 resumes the role of judges' political affiliation and judicial-legislative relations. When the judges' positions diverge from the political position of the MP under investigation - in this case we consider the judges 'Hostile' - judges prefer to submit a formal request than abandoning the investigation. Indeed, submitting a request give them the opportunity to damage a politician aligned on different positions. On the contrary, when the judges' political orientations are close to the political position of the deputy under investigation - in this case we consider the judges 'Allied' - they are not interested in damaging the reputation of the politician involved and they prefer to discard the investigation.

Apart from their orientations, judges are likely to submit a request when the Parliament is likely to authorize the proceeding. If the Parliament approves the formal request, judges can bring the MP under investigation to trial and discover further details on the illegal practises that can be of use in the investigations. The benefits derived from achieving new information are greater than the costs of submitting the request (and the costs of damaging the reputation of MPs aligned on close positions when the judges are 'Allied').

## 2 Hypotheses

According to the game, we can produce testable hypotheses about the judicial activity against MPs. In this section we develop three hypotheses to explain why judges prosecute MPs of some parties more than others.

First of all, judges may exploit their role to further their political views. According to scholars' claim that a number of trials involving politicians have been made for political

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<sup>4</sup>This does not imply that judges will convict or plead guilty the MP under investigation.

aims (e.g., Kirchheimer 1961), we expect that judges prosecute some parties more than others on the basis of their own political orientations. As time and budget are limited, judges may decide to use the resources available to prosecute parties that are more distant from their positions.

*Hypothesis 1 (H1): The more judges' political orientations diverge from the ideological positions of a party, the more the judge is likely to proceed against that party*

Second, as judges need to bring politicians to trial in order to achieve further information, they are interested in taking into account the likelihood of approval by the Parliament. Hence, judges are expected to anticipate the decisions of the Parliament and proceed against a MP when the Parliament is more likely to authorize the formal request.

Basically, the likelihood of approval by the Parliament depends on how many MPs are willing to hand a colleague over the judges, contributing to ruin a MP's reputation or oust a colleague from the Parliament. It follows that a request has more chances to be approved if the MPs under investigation have more 'enemies' within the Parliament. We consider that these enemies are especially the MPs of opponent parties. Therefore, we expect that judges are more likely to prosecute a party as the seats of opponent parties increase. On the contrary, judges are not expected to prosecute the parties that rely on the support of a large number of allies within the Parliament, since they can veto the request.

*Hypothesis 2 (H2): Judges are more likely to prosecute a party, as the seats of opponent parties increase*

This second hypothesis focuses on the effects of party competition. However, MPs may share a common attitude towards judiciary regardless inter-party conflicts and divisions. In particular, they can agree on defending every colleague from judicial prosecutions, despite their different affiliations. Therefore, the chances of approval may depend on the extent to which MPs protect the Parliament's independence from the judicial activity. It follows that judges are less likely to prosecute a party when the other parties are not inclined to support any judicial initiatives.

*Hypothesis 3 (H3): Judges are less likely to prosecute a party, as the other parties are more inclined to protect the Parliament from judicial activity*

We test these three hypotheses on the Italian case, where judges are appointed by exams and usually align on the left-right dimension. Before showing the results, we briefly describe the relations between judiciary and politics in Italy.

### 3 Judges and politicians in Italy

The present study focuses on the Italy case, which is suitable for a number of reasons. First, Italian judiciary enjoys a high degree of formal autonomy from political institutions (Guarnieri 1992; 2003; 2011). Both the appointment of judges and the assignment of judges to a case are formally independent from political pressures.

In addition, prosecutor's offices have large discretion both in deciding how to use the resources available and selecting the cases on the basis of reports and complaints (Di Federico 1991; Fabri 1997). The wide autonomy of judiciary has even grown from the '80s, as the level of collusive practises between judges and politicians started to decrease (on the collusion between judges and politicians see Guarnieri 1991; Pizzorno 1992; Della Porta 2001).

Second, the saliency of judicial activity against MPs makes Italy an interesting case study. The role of judges became relevant especially after 1992, when the judicial inquiry *Mani Pulite* (Clean Hands) shed light on the illegal linkages between politics and business showing that the party system was permeated by political corruption (for more details see Ricolfi 1993; Della Porta and Vannucci 1999; Curini and Martelli 2009: 177). This scandal, famous under the name of *Tangentopoli* (Bribesville), contributed to destroy the Italian party system and started the transition to the Italian Second Republic (1994-present). Parties that were leading actors during the so-called First Republic (1948-1993), such as the Christian Democracy (DC), the Italian Socialist Party (PSI), the Italian Socialist Democratic Party (PSDI), the Italian Liberal Party (PLI), and the Italian Republican Party (PRI) dissolved after the scandal.

The clash between politicians and the Bench continued in the Second Republic: one of the main actor involved in this strife is the leader of the centre-right coalition and former Prime Minister, Silvio Berlusconi, who has been repeatedly charged with different accusations (Bellamy 2006; Edwards 2005); to defend himself from alleged 'judicial persecution' (Reuters 2013), the centre-right coalition passed legislation meant to 'prevent Berlusconi and his collaborators from being prosecuted' (Pasquino 2007: 49; Sartori 2002).<sup>5</sup>

Third, despite the autonomy of the Bench, in the Italian context the politicization of judiciary is a somehow self-evident phenomenon. The political orientation of judges is clearly disclosed, for instance, when they are affiliate with a political party and jump into politics.<sup>6</sup>

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<sup>5</sup>Between 2001 and 2003, during the Berlusconi II cabinet, several such laws were approved: some forms of 'false accounting' were decriminalized; restrictions were imposed on the international requests for judicial assistance (*rogatorie*); a revised version of the 'legitimate suspicion' law was passed to protect the accused from any alleged prejudice of the judges; finally, the five most-important political office holders (such as the Prime Minister and the Head of State) were declared immune from criminal prosecution for the length of their office (so called '*Lodo Alfano*'). Most of these laws were rejected by the Constitutional Court. See Edwards (2005) for further details.

<sup>6</sup>This issue was so relevant that in 1987 the ANM had to take position on it, declaring the incompatibility between political participation or membership in a political party and affiliation with the ANM itself. This formal ban, however, did not halt the politicization of the judiciary, as we will see.

Over the decades, many former Italian judges have run for the Parliament and became MPs. The list includes the former Head of State, Eugenio Scalfaro (DC) and the hero of *Mani Pulite*, Antonio Di Pietro, who joined the centre-left coalition becoming senator and minister before creating his own party (Italy of the Values, IDV). Famous members of the *Mani Pulite* team, like Gerardo D'Ambrosio, Gherardo Colombo and Francesco Saverio Borrelli have been elected MPs or were openly affiliated with the Italian Democratic Party (PD) while Tiziana Parenti quitted the same team to support Berlusconi and was elected MP with Forza Italia (FI).

On the whole, judges joined different parties, covering all the spectrum of the left-right ideological dimension (Paciotti 1999). To mention few recent examples, judges like Alfredo Mantovano, Nitto Palma and Franco Frattini (former minister of foreign affairs and EU commissioner) have sided with the centre-right coalition and are now members of the People of Freedom party (PDL) while others like Luciano Violante (former president of the Lower Chamber), Giuseppe Ayala, Anna Finocchiaro became foremost politicians within the Democrats of the Left (DS) and the PD.

In 2013 two famous anti-mafia prosecutors, Pietro Grasso and Antonio Ingroia ran in the general election. Grasso was elected in the PD list and became president of the Senate, while Ingroia created his own left-wing electoral cartel, Civil Revolution, together with Di Pietro and Luigi De Magistris, former prosecutor and mayor of Naples. Ingroia ran for the premiership and, despite he failed to pass the election threshold, his attempt to create a rally with other former judges revived the debate over the existence of a 'toga party' (*partito delle toghe* or *partito dei magistrati*, in Italian) composed by left-wing judges united against Berlusconi.

Far from being trivial, the judicial politicization has roots in the divisions within the ANM (Della Porta 2001; Freddi 1978; Morisi 1999). Since the '60s the ANM is organized like a parliament. It regularly holds congresses and internal elections contested by teams of candidates that group together creating rival factions and presenting contrasting motions to shape the ideological views and the behaviour of the association. These factions in turn are kind of parties, with their own ideology, conventions, membership card and press (Bruti Liberati and Palamara 2009; Pepino 2002). Throughout the ages we account four main relevant subgroups: *Magistratura Indipendente* (Independent Bench), the most conservative faction; *Magistratura Democratica* (Democratic Bench) and *Movimento per la Giustizia* (Movement for the Justice) the two progressive factions openly linked with the left; *Unità per la Costituzione* (Unity for the Constitution), the largest subgroup that gathers moderate members of both sides.<sup>7</sup>

Politicians usually complain about the effect of political bias in the judges' positions on

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<sup>7</sup>ANM factions can be aligned along a classical ideological scale. For instance, *Magistratura Democratica* overtly defines itself as a left-wing group, based on a progressive cultural and political background, prone to support the stakes of underprivileged citizens and to look for a link with left-wing organizations. Conservative factions instead uphold the apolitical nature of the judiciary, even though judges belonging to *Magistratura Indipendente* were linked to right-wing parties and organizations and this faction share conservative values (Pepino 2002). Note that even in other countries judges are normally associated with ideological views ascribable to the traditional left-right dimension (e.g., Robertson 1982).

charges and prosecutions. Over the last decades, this issue has been raised in particular by Silvio Berlusconi, who has often claimed to be the victim of left-wing judges (Corriere della Sera 2009; Reuters 2013; Squires 2013). Despite the demagogic and partisan nature of Berlusconi's claims (Taruffo 1998), the possible effects of the judicial politicization constitute a point worth examining in order to understand more in depth the relations between judiciary and political institutions. This is ever more intriguing since the judges contributed to alter the Italian political system at the end of the First Republic, while in the Second Republic most of the political agenda was stuck on this heated debated topic.

## 4 Data and variables

The article tries to assess the determinants of judges' behaviour analyzing the investigations made against Italian MPs from 1983 to 2013. We will evaluate the impact of any political bias in the preferences of judges as well the backward effect of party's strength and divisions within the Parliament. Given the nature of our hypotheses, political parties are the units of analysis. This section provides details about the dependent and independent variables employed.

### 4.1 *Dependent variable*

We measure the judicial activity against MPs employing the information about the requests sent by judges to the Chamber of Deputies (*Richieste di Autorizzazione a Procedere*, RAP). According to the Article 68 of Italian Constitution, judges cannot try members of the Parliament without prior authorization by the Chamber of Deputies or the Senate.<sup>8</sup> Therefore, if a judge intends to prosecute a deputy, it has to request the Chamber of Deputies to lift the parliamentary immunity. This request is sent firstly to the Minister of Justice, which transmits it to the President of the Chamber. Then, the President announces the request to the deputies and sends it to a relevant committee (so called *Giunta per le autorizzazioni a procedere*).<sup>9</sup> Once the committee has evaluated the content of the request, it submits to the deputies a proposal for approval or rejection. Hence, the deputies vote to approve or reject the request.<sup>10</sup>

Judges cannot prosecute deputies for opinions expressed or votes cast in the exercise of their office. After a constitutional reform made in 1993, judges can request the Parliament to lift the parliamentary immunity only in a limited number of circumstances, i.e., when they ask to arrest or keep a parliamentarian in state of detention, to proceed in body

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<sup>8</sup>Except when the MP is caught in the act (D'Aniello e Sclafani 1991: 3-4). Flagrancy, however, restricts the discretion available to the judge, hence it is not particularly intriguing for our purpose.

<sup>9</sup>This constitutes the entire procedure that a request should follow. In real facts, as emphasized by Ricolfi (1993: 21), usually it has been in force a simplified procedure, involving a lower number of stages.

<sup>10</sup>From 1948 to 1987, Parliament approved about 20% of requests (Cazzola 1988: 113). According to the data available at the official site of the Chamber of Deputies, from 1994 to 2013, the Parliament has approved about one third of the requests.

or house search, to use interception of conversations or communications or to seize mail or correspondence.

So far, scholars have used judicial requests to measure the involvement of MPs in cases of political corruption (Golden and Chang 2001; Chang 2005) and the effect of this involvement on the chances of re-election (Chang, Golden and Hill 2010). Although requests can be a relevant tool to examine in depth the mechanism of corruption, they are related to uncovered and alleged crimes only. For this reason, and given the wide discretion available to judges, the RAPs seem more an indicator of judicial activity against MPs rather than a whole description of their illegal activities. In other words, we claim that if party  $i$  is involved in more requests than rival parties, this does not necessarily implies a higher level of corruption of party  $i$ , instead, this clearly attests that judges prosecuted it more than others.

We focus on the requests submitted to the Chamber of Deputies between 1983 and 2013, a period during which the judiciary is both formally independent and not prone to collude with politicians. In this lapse of time judges sent, overall, 1256 requests involving 1399 deputies. However, only some of them are of political interest. Accordingly, we retain only requests concerning non-opinion crimes related with political activity because judges have more discretion here, given that these investigations often do not rely on strong evidence.<sup>11</sup>

We discard violations concerning organized crime (e.g., mafia) because they follow specific procedures and provide judges with additional resources; this extra-budget allocation lessens the constraints due to the 'scarce resources' paradigm stressed in our theoretical framework.

The data analyzed consist of requests sent to MPs charged with crimes against public administration,<sup>12</sup> such as corruption, misappropriation and abuse of power, as well illegal party funding.<sup>13</sup> From 1983 to 2013, 526 such requests involving 589 deputies have been submitted. The number of MPs involved in requests reached its peak between 1992 and 1994, during the *Tangentopoli* years, and considerably decreased afterward, due to the constitutional reform approved by the Parliament in 1993, which reduced the opportunity for judges to ask the Parliament to lift the immunity.

The dependent variable - RAP - is the ratio between the number of party  $i$ 's MPs receiving a request in year  $j$  and the total number of MPs belonging to the same party in that year. Some MPs are involved in several requests in the same year. Since they often receive several requests concerning the same crime, we take account of the number of MPs involved in each year rather than the number of requests.<sup>14</sup> Therefore, if a MP is involved in five requests in the same year he/she will be counted only once.

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<sup>11</sup>Opinion crimes have been excluded also due to their 'backlash effect', which can frustrate the judges' attempts to damage the reputation and the vote share of the parties under investigation (van Spanje and de Vreese 2013).

<sup>12</sup>These crimes are related to the articles 314 to 335 of Italian penal code.

<sup>13</sup>We include the cases of illegal party funding, because often in Italy they are strongly related with other crimes against public administration (see Hopkin 2004; Rhodes 1997).

<sup>14</sup>A different operationalization does not alter our results.

## 4.2 Independent variables

Here are our main independent variables. The first hypothesis on the effect of judges' ideological orientations is tested through an interaction between the policy position of party  $i$  and variables related to the share of votes won by ANM factions in internal elections. To assess the robustness of our findings we measure the ideological orientation of the courts through different variables. *Leftist judges share* is a party-invariant variable that records the national share of votes won by the left-wing factions (MD and MG) in the previous ANM elections; it accounts for the probability that when citizens report a crime the case will be assigned to a left-wing judge.

Two other variables assess the propensity of left-wing (or right-wing) courts to investigate some parties more than others. *Red courts* measures the average share of votes won by left-wing factions in the courts that proceed against party  $i$  on year  $j$ , compared to their overall share of votes at the national level (for parties that do not receive any RAP in that year); analogously, *Blue courts* records the share of votes won by the right-wing faction (MI) in the same courts.

*Party Position* (PP), has been measured from the Italian Legislative Speeches dataset (ILS) using the categories traditionally included in the RILE scale (e.g., Ceron 2012b; Curini 2011; Curini and Ceron 2012; Curini and Martelli 2009).<sup>15</sup> These data are based on a manual codification of all the investiture debates of the Italian governments following a coding scheme similar to that of the Comparative Manifesto Project.<sup>16</sup> Negative values indicates left-wing parties while right-wing parties have positive values.<sup>17</sup>

The second hypothesis is tested through *Coalition size*, which measures the share of seats belonging to party  $i$  or to its allies. It accounts for the ability of each party to resist and pose a veto on the request. This depends on party's strength but also on its link with other allies and it is partially related to the degree of party system competitiveness. For instance, in a low competitive parliamentary arena many parties have many allies and their ability to resist to the judiciary is higher. Therefore, in this case we would expect

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<sup>15</sup>The results hold when using the Gabel and Huber (2000) 'vanilla method' to estimate left-right positions.

<sup>16</sup>For each debate, the authors selected and codified the speech released by the party leader (or by a relevant representative) plus the Prime Minister's programmatic speech. The method adopted to codify speeches was similar to that employed by the well-known CMP to analyse the contents of party electoral programs (see Budge et al., 2001; for a detailed description). In each legislative speech the authors identified the number of quasi-sentences and assigned each of them to a number of pre-established categories that form the classification scheme. To take account of the Italian political context the original 56 categories of the CMP dataset were increased to 68. The dataset contains the percentage of the total text of legislative speech that deals with these categories. The dataset has been updated until May 2013 and includes information about a few additional debates over crucial votes of confidence (i.e., the debate related to Prodi I vote of no-confidence and two debates faced in 2010 by Berlusconi IV cabinet).

<sup>17</sup>Given the high number of cabinets (61 in 67 years), ILS data based on investiture speeches allow to track changes in party policy positions on the left-right scale and on the justice dimension almost year by year. Furthermore, compared with CMP data, ILS allows to assess the positions of parties that form between the elections (i.e., due to party fission) and to distinguish parties that run the election as a cartel and split afterwards.

a lower rate of prosecution. On the contrary, in highly competitive arenas, when the parliament is almost evenly split, the support that each party can enjoy against judicial activity is lower: few defections from their allied can make the difference in denying or approving the request. Finally, the coalition size is minimum for marginal parties in both competitive and non-competitive contexts. These parties are isolated and less able to resist to judicial activity, making judges more prone to send a request.

The third hypothesis is related to Parliament's attitude towards judicial prosecutions and it is tested through the variable *Attitude towards judiciary*. This variable is based on the ILS data and records the average position on the justice dimension, weighted by the number of seats of all other parliamentary parties but the one involved in the judicial request, under the assumption that each party always protect its members. Negative values attest that on average the parliament supports the autonomy of the judiciary, while positive values indicate that MPs favour a greater control by the cabinet. Hence, lower values means that MPs are more open to judicial investigations whereas higher values indicate that MPs are more willing to protect their colleagues from judicial investigations.

Besides, we control for some confounding factors. Since the life of ruling parties is more under public scrutiny compared to opposition parties, judges may have an incentive to investigate them in order to gain fame; furthermore, the link between political corruption and lack of alternation in power is well established (Horowitz et al. 2009; Kunicová and Rose-Ackerman 2005; Pellegata 2012; Tavits 2007), hence we want to control for the potentially higher level of corruption within parties that have long been in power. For these reasons we include the variable *Years Continuously Spent in Office (YCSIO)*, which records the number of years during which a party has been continuously in power without alternation.

Intra-party politics is another relevant determinant of political corruption (Golden and Chang 2001; Kato and Mershon 2006) as internal competition between rival party factions foster the recourse to illegal party funding and clientelism (Chang and Golden 2006). This may increase corruption and the incentive to investigate on it, given that judges can take advantage of intra-party division to succeed when sending a RAP. We control for the internal level of fragmentation through the *Effective Number of Factions, ENF* (Ceron 2011, 2012a). This index is built analyzing the congresses held by Italian parties and measures the number of factions that contest each congress, weighted by their respective share of votes won in the internal election.<sup>18</sup> It is equal to one if parties are not factionalized or their congresses gone unchallenged, and increases as the number and the size of minority factions grow.

Given that around two thirds of the RAP analyzed were sent between 1992 and 1994, we include a dummy variable to detect the *Tangentopoli* years. Finally we add to the model the lagged value of the dependent variable, to control for serial correlation.

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<sup>18</sup>The index has been measured applying to the intra-party politics the same formula used to assess the effective number of parties (Laasko and Taagepera 1979).

## 5 Analysis and results

The dataset contains repeated observations nested within parties, hence the analysis has been carried out through an OLS with fixed effects by party.<sup>19</sup> Five different models have been provided. In model 1 and 2 we include only the variables directly related to our hypotheses. Model 1 operationalizes the ideological preferences of the judiciary through the national vote share of left-wing ANM factions, while model 2 uses data measured within each court. From model 3 on, we add the control variables. In model 4 we replicate model 3 focusing on right-wing ANM factions, to double-check the effect of judges' political views. Finally in model 5 we re-run the analysis on a subsample including only the RAP sent after 1994. By doing so, we evaluate whether our results hold even in the Second Republic, when the Italian political system experienced several institutional reforms related to the immunity of MPs, the public administration, and the electoral system, aspects that could be relevant in this work.<sup>20</sup> Furthermore, splitting the analysis allows to assess the dynamics of judicial investigation during the twenty-year conflict between Silvio Berlusconi and the Bench. Table 1 reports the results.

The empirical results provide strong evidence in favour of H1. The interaction between party position and the ideological preferences of the judiciary is significant across all models and this finding holds even after inclusion of control variables. Figure 2, based on model 3, provides a substantive interpretation of this result and plots the marginal effect of an increase in *Red courts* as party's ideological placement changes. As the percentage of judges affiliated with left-wing factions increases, the court shifts to the left and will act more against parties that stands on the right side of the political spectrum.

For instance, any 10% increase in the share of *Magistratura Democratica* (and *Movimento per la Giustizia*) raises by 3.5 points the RAP sent against right-of-centre parties and by 1.3 the requests related to centrist parties if compared to moderate and extreme left parties that are not damaged by the growth in the number of left-leaning judges.

What is more, the politicization of the judiciary does not affect only left-wing courts. Model 4 confirms that this effect works in both directions. As the percentage of right-leaning judges grows, the courts will investigate less against MPs of moderate and right-wing parties. All else being equal, if the vote share of the conservative faction *Magistratura Indipendente* increases by 10%, right-wing parties will receive 5% less requests than the left. These findings prove that judges are more willing to proceed against politicians that are ideologically far away from their own preferences.

Finally, model 5 tries to answer to the twenty-year Italian debate on the politicization of the judiciary testing whether this effect persists after 1994. The result holds, though it is more consistent when considering conservative faction as opposed to the others (moderate and left-leaning). Right-wing parties tend receive a lower number of RAP from courts where, on average, the vote share of conservative faction is higher. Conversely, as the

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<sup>19</sup>Using fixed effects or clustering observations per Legislatures does not alter the results

<sup>20</sup>On the relation between corruption and the electoral system see Kunicová and Rose-Ackerman (2005) and Tavits (2007).

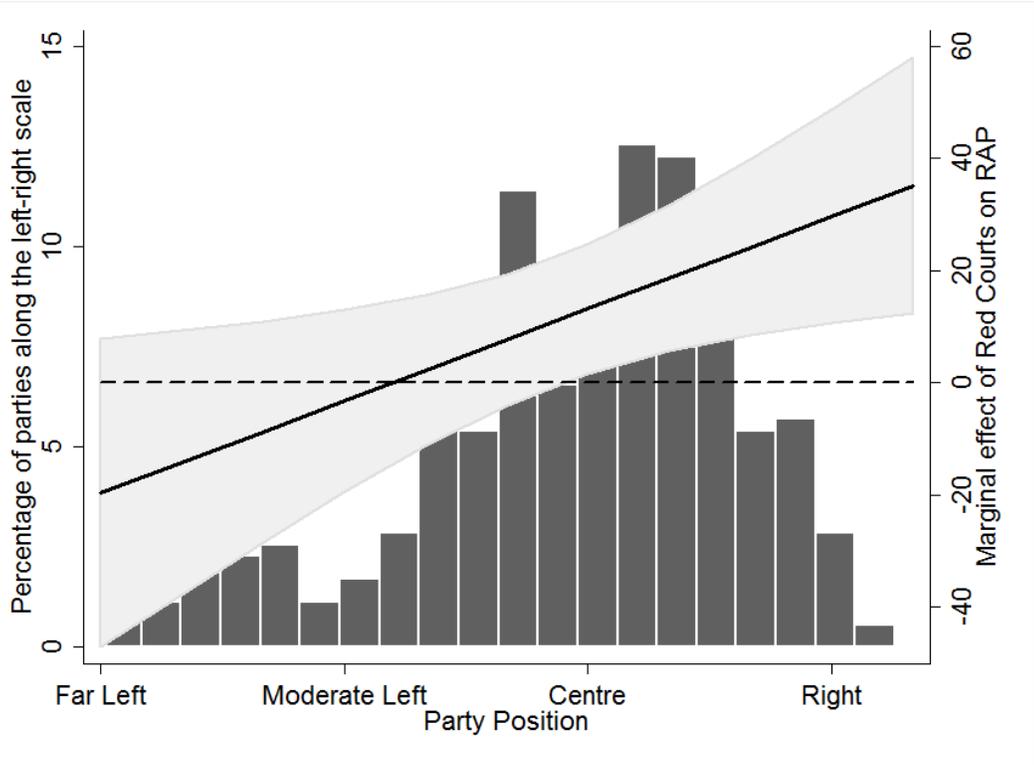
Table 1: OLS regression of RAP

Parameters	(1)	(2)	(3)	(4)	(5)
Party position	-0.272*** (0.092)	-0.237*** (0.075)	-0.212** (0.082)	0.167* (0.089)	0.021 (0.015)
Leftist judges share	27.366*** (5.554)				
Leftist judges share X PP	0.833*** (0.247)				
Red courts		28.232*** (4.598)	13.220** (5.887)		
Red courts X PP		0.785*** (0.209)	0.548** (0.229)		
Blue courts				-21.803*** (6.424)	-5.899*** (1.253)
Blue courts X PP				-0.849*** (0.322)	-0.113* (0.063)
Coalition size	-13.201*** (3.045)	-12.916*** (2.974)	-6.271* (3.565)	-6.081* (3.486)	-0.395 (0.463)
Attitude t/ judiciary	-0.868 (0.553)	-0.256 (0.556)	-0.458 (0.587)	-0.481 (0.563)	-0.025 (0.078)
YCSIO			0.303* (0.181)	0.349** (0.170)	0.115*** (0.024)
ENF			0.526 (0.696)	0.485 (0.685)	0.026 (0.107)
Tangentopoli			6.919*** (1.209)	6.665*** (1.167)	
RAP ( $t - 1$ )			-0.155** (0.062)	-0.119* (0.062)	0.094* (0.048)
Constant	-2.215 (2.311)	-2.243 (2.053)	-2.436 (2.468)	7.014*** (2.687)	1.388*** (0.403)
$N$	344	344	303	303	187
$R^2$	0.145	0.187	0.291	0.314	0.302

Standard errors in parentheses

\*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$

Figure 2: Marginal effect of Red Courts on RAP conditional on the Party Position (with 95% confidence interval). The values of all other variables are set at their mean



number of non-conservatives judges grows, the investigations made against right-wing parties increase.

The hypotheses related to the role of parliament provide contrasting evidence. In line with H2, *Coalition size* is always negative and significant (except in model 5). The percentage of investigations made by the judiciary decreases if parties can rely on a large number of allies to veto the requests. Large coalition of parties are able to resist to the judiciary and this effect pre-empts judges from sending a request.

This result seems to imply that, *ceteris paribus*, in low competitive party systems the judiciary will be less prone to prosecute parties retaining a strong and safe majority.<sup>21</sup> On the contrary, judges will act only when the ruling coalition is already weakened. Therefore the degree of party system competitiveness could be a predictor of the level of judiciary activity. Conversely, the parliament's *Attitude towards judiciary* does not seem to play a role: the parliament does not behave as a corporate actor, instead inter-party conflicts and divisions existing within the parliamentary arena prove to be relevant.<sup>22</sup>

To conclude, almost all the control variables display significant coefficients. In line with the expectations, *YCSIO* increases the number of requests: due to their potentially higher level of corruption, judges intervene more if parties have long been in office; note that the incentive to proceed against them is higher when they have many enemies and *Coalition size* is lower.<sup>23</sup> Conversely, intra-party politics does not seem to matter: the coefficient of *ENF* retains the expected sign but the effect is not statistically significant. The dummy *Tangentopoli* is positive and significant and the percentage of RAP increases by more than 6% in those years. Finally the lagged value of RAP is significant as well even though its overall impact is negative, and becomes positive when considering the Second Republic only.

## 6 Conclusion

The present work examines the political basis of judicial investigations focusing on the ideological preferences of judges and the interplay between the judiciary and the parliament. The judge's decision to request to lift the parliamentary immunity has been

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<sup>21</sup>The result holds after controlling for ruling parties through a dummy variable equals to one if the party is in office and zero if not.

<sup>22</sup>Note, however, that this effect seems to interact with the previous one. If we include in the analysis the multiplicative term between *Coalition size* and the attitude of the median MP toward the judiciary, we find a significant effect of the interaction: parties with more enemies will be targeted by a higher percentage of RAP, though this effect is stronger when the Parliament is on average favorable to protect the autonomy of the judiciary and vanishes when the median MP strongly oppose its independence from political control. This result suggests that the shield against investigations can be provided either by a party's allies or by the whole Parliament when it acts as a corporate actor, willing to protect its members.

<sup>23</sup>In fact, when testing the interaction between *Coalition size* and *YCSIO* we observe that an increase in the number of enemies is more damaging (in term of RAP received) in parties that held power for a long period of time while and, conversely, having been in office for a long time becomes damaging only after the party has lost the majority (i.e., when *Coalition size* is lower or equal to 0.5)

modelled in a game theoretical framework. Due to the pressure generated by scarce resources and the strong discretion available to the judiciary, the choice to proceed against a MP belonging to one party or another depends on two factors: the judge's partisanship and ideological preference, on the one side, as well as ambition and need for more information, on the other. Accordingly, we hypothesized that judges submit more requests against parties that are ideologically distant from their own political views, and they are more willing to proceed when the Parliament is likely to authorize the request.

These hypotheses have been tested on the Italian case (1983-2013) through a new dataset containing updated information on the RAP sent to the Chamber of Deputies, which is a measure of the judicial activity against MPs, as well as on the ideological positions of the judiciary, determined according to the vote share won by the rival (progressive or conservative) factions within the ANM.

First, the analysis confirms that the judge's choice to prosecute a MP is affected by the balance between rival parties in the parliamentary arena, hence, the degree of party system competitiveness could be a predictor of the level of judiciary activity. In light of this, when exogenous shocks related to national security (war, terrorism) or financial/economic crises generate national solidarity bringing rival parties to work together, the parliament will be strong enough to overrule any request made by the judiciary; judges can anticipate this behaviour and do not intervene. Conversely, parties that held power for a long will be prosecuted only when their parliamentary strength is already declining.

Second, our results provide strong evidence for the impact of judges' preferences on judicial investigations. All else being equal, courts with a higher number of left-leaning judges belonging to the ANM factions *Magistratura Democratica* and *Movimento per la Giustizia*, tend to act more against right-wing parties. The politicization of the judiciary, however, yields effects on both sides: an increase in the vote share of right-wing factions decreases the percentage of requests sent against right-wing parties if compared to left-wings. This effect holds even in the Italian Second Republic.

On the one side, our findings support Berlusconi's claim that 'part of the judiciary has swept away an entire political class' and *Magistratura Democratica* 'formed a tendency which carried out political activity in the form of investigations, trials, sentences [...] so as to attack political enemies' (Edwards 2005: 27). On the other side, Berlusconi is wrong as he withhold that the judiciary was politicized well before *Tangentopoli* and, on top of that, the effect of politicization damaged left-wing as well right-wing parties depending on the share of progressive or conservative judges, which varies across time and space (courts).

In light of this, the politicization, per se, would not be problematic for the quality of the democracy, in particular if pluralism is guaranteed and a virtuous equilibrium is reached between left-leaning judges investigating on right-wing parties and vice versa. A potential threat could instead derive from the existence of a 'judicial bias'. Drawing on the extensive literature on the 'media bias' (e.g., Groseclose and Milyo 2005), we argue that judges' ideological views can be worrisome only if they stand far away from the prefer-

ences of citizens, and are skewed in a well-defined distinct direction.

The fact that judges behaviour is affected by their partisanship may not sound surprising since previous studies disclose such relation in other countries, particularly in the United States where judges are directly elected. This work, however, improves on existing literature showing that a similar pattern applies to the Italian case, which is peculiar due to the non-elective appointment of judges and the striking *de jure* and *de facto* independence granted to the judiciary (Riós-Figueroa and Staton 2012). Despite this strong autonomy, judicial decisions are affected by ideology even in the Italian case.

While the politicization of the Bench would not be much problematic if judges are selected through competitive elections, the relevance of political and factional partisanship raises some concerns about the legitimacy and accountability of their choices if they are not. Additionally, the strong autonomy of the judiciary combined with potential ideological biases becomes troublesome in term of equilibriums between the different political institutions given that independence is not a guarantee of impartiality.

Going beyond the role of the courts, this concern also applies to all the other institutions deemed to be neutral and autonomous from partisan pressures, such as independent authorities (Elgie and McMenamin 2005), bureaucracy, central banks, as well the media and public broadcasters (Hanretty 2010). Future researches should assess what level of objectivity can be reached within these institutions and investigate on how different rules increase or reduce the (effect of) ideological bias.

In the wake of the twenty-year Italian debate on the politicization of the judiciary, these findings urge a reform of the courts to further the legitimacy and accountability of judges' behavior as well the fairness of their investigations.

## References

- Bailey, M. A. (2013), Is Today's Court the Most Conservative in Sixty Years? Challenges and Opportunities in Measuring Judicial Preferences, *The Journal of Politics*, doi: 10.1017/S0022381613000443
- Bellamy, R. (2006) An Italian Story? Berlusconi and Contemporary Democratic Politics, *Modern Italy* 11(3): 347-351
- Brace, P.R. and Hall, M.G. (1997), The Interplay of preferences, Case Facts, Context, and Rules in the Politics of judicial choice, *Journal of Politics* 59(4): 1206-31
- Bruti Liberati, E. and Palamara, L. (2009), *Cento Anni di Associazione Magistrati*, IPSOA Gruppo Wolters Kluwer, available at <https://associazionemagistrati.it/media/52313/Centenario.pdf>
- Carrubba, C., Friedman, B., Martin, D. A. and Venberg, G. (2012), Who Controls the Content of Supreme Court Opinions?, *American Journal of Political Science* 56(2): 400-412
- Cazzola, F. (1988), *Della corruzione. Fisiologia e patologia di un sistema politico*, Bologna, Il Mulino
- Ceron, A. (2011), Correnti e frazionismo nei partiti politici italiani (1946-2010): un'analisi quantitativa delle mozioni congressuali, *Rivista Italiana di Scienza Politica* 41(2): 237-264
- Ceron, A. (2012a), *Intra-party Politics and Party System: Factional Conflict, Cooperation and Fission within Italian Parties*. Doctoral dissertation, Università degli Studi di Milano.
- Ceron, A. (2012b), Bounded Oligarchy: How and When Factions Constrain Leaders in Party Position-Taking, *Electoral Studies* 31:689-701.
- Chang, E.C.C. (2005), Electoral Incentives for Political Corruption under Open-List Proportional Representation, *Journal of Politics* 67(3): 716-730
- Chang, E.C.C. and Golden, M. (2006), Electoral Systems, District Magnitude and Corruption, *British Journal of Political Science* 37(1): 115-137.
- Chang, E.C.C., Golden, M. and Hill S. (2010), Legislative Malfeasance and Political Accountability, *World Politics* 62(2): 177-220
- Clark, T.S. (2009), The Separation of Powers, Court Curbing and Judicial Legitimacy, *American Journal of Political Science* 53(4): 971-989
- Corriere della Sera (2009), Berlusconi a Ballarò: "L'opposizione in Italia sono i giudici comunisti", 27 October 2009, available at [http://www.corriere.it/politica/09\\_ottobre\\_27/ballarò-berlusconi\\_35eaa774-c348-11de-9afa-00144f02aabc.shtml](http://www.corriere.it/politica/09_ottobre_27/ballarò-berlusconi_35eaa774-c348-11de-9afa-00144f02aabc.shtml)
- Curini, L. (2011). Government survival the Italian way: The core and the advantages of policy immobilism during the First Republic. *European Journal of Political Research* 50(1): 110142.
- Curini, L. and Ceron, A. (2012), The assertion strength of parties during policy government negotiations: parliamentary dynamics and spatial advantages in the First Italian Republic, *Journal of Legislative Studies*, doi:10.1080/13572334.2012.743722.
- Curini, L., and Martelli, P. (2009), *I partiti nella prima Repubblica: Maggioranze e governi dalla Costituente a Tangentopoli*. Carocci: Roma.

- D'Aniello M., Sclafani, F. (1991), *Autorizzazioni a procedere: Analisi del fenomeno nel Parlamento italiano (1948-1991)*. Il Senato della Repubblica, Napoli: Edizioni Scientifiche Italiane.
- Della Porta D., and Vannucci, A. (1999), *Un paese anormale*, Roma-Bari: Laterza
- Della Porta D. (2001), A judges' revolution? Political corruption and the judiciary in Italy, *European Journal of Political Research* 39(1): 1-21
- Di Federico G. (1991), Obbligatorietà dell'azione penale, coordinamento delle attività del pubblico ministero e loro rispondenza alle aspettative della comunità, in Gaito A. (eds.) *Accusa Penale e ruolo del pubblico ministero*, Napoli: Jovene
- Edwards, P. (2005), The Berlusconi Anomaly: Populism and Patrimony in Italy's Long Transition, *South European Society and Politics* 10(2): 225-243
- Elgie, R. and McMenamin, I. (2005), Credible Commitment, Political Uncertainty, or Policy Complexity? Explaining the Discretion Granted to Independent Administrative Authorities in France, *British Journal of Political Science* 35: 531-548
- Epstein, L. and Knight, J. (1998), *The Choices Justice Make*, Washington DC: CQ Press
- Fabri, M. (1997), Discrezionalità e modalità di azione del pubblico ministero nel procedimento penale, *Polis* 11(2): 171-192
- Ferejohn, J., Rosenbluth, F. and Shipan, C. (2004), Comparative Judicial Politics, in Boix, C. and Stokes, S., *Handbook of Comparative Politics*, Oxford; Oxford University Press
- Freddi G. (1978), *Tensioni e conflitto nella magistratura. Un'analisi istituzionale dal dopoguerra al 1968*, Roma-Bari: Laterza
- Gabel, M. and Huber, J. (2000), Putting parties in their place, *American Journal of Political Science* 44: 941-103.
- George, T. E. and Epstein L. (1992), On the Nature of Supreme Court Decision Making, *American Political Science Review* 86(2): 323-37
- Gibler, D. M. and Randazzo, K. A. (2011), Testing the Effects of Independent Judiciaries on the Likelihood of Democratic Backsliding, *American Journal of Political Science* 55(3): 696-709
- Golden, M. and Chang E.C.C. (2001), Competitive Corruption: Factional Conflict and Political Malfeasance in Postwar Italian Christian Democracy, *World Politics* 53(4): 588-622
- Guarnieri C. (1991), Magistratura e politica: il caso italiano, *Rivista Italiana di Scienza Politica* 21(1): 3-32
- Guarnieri C. (1992), *Magistratura e politica in Italia. Pesi senza contrappesi*, Bologna: Il Mulino
- Guarnieri C. (2003), *Giustizia e Politica*, Bologna: Il Mulino
- Guarnieri C. (2011), Magistratura e politica: un'integrazione difficile?, *Democrazia e Diritto* (3): 27-38
- Hanretty, C. (2010), Explaining the De Facto Independence of Public Broadcasters, *British Journal of Political Science* 40: 75-89
- Hanretty, C. (2013), The Decisions and Ideal Points of British Law Lords, *British Journal of Political Science* 43: 703-716, doi:10.1017/S0007123412000270

- Hopkin, J., (2004), The Problem with Party Finance: Theoretical Perspective on the Funding of Party Politics, *Party Politics* 10(6): 627-651
- Horowitz, S., Hoff, K. and Milanovic, B. (2009), Government Turnover: Concepts, Measures and Applications, *European Journal of Political Research* 48(1): 107-129.
- Humpries, M.A., Songer, D.R. (1999), Law and Politics in Judicial Oversight of Federal Administrative Agencies, *Journal of Politics* 61(1): 207-220
- Kastellec, J.P. (2011), Hierarchical and Collegial Politics on the U.S. Courts of Appeals, *Journal of Politics* 73(2): 345-361
- Kato, J. and Mershon, C., (2006), Internal Party Organization in the Italian Christian Democrats and Japanese Liberal Democrats: Factional Competition for Office, Clientelism, and Corrupt Exchanges, in Kawata, J., (a cura di), *Comparing Political Corruption and Clientelism*, New York, Cambridge University Press
- Kirchheimer, O. (1961) *Political Justice. The Use of Legal Procedure for Political Ends*. Princeton, NJ, Princeton University Press.
- Kulik, C.T., Perry, E.L. and Pepper, M.B. (2003), Here Comes the Judge: The Influence of Judge Personal Characteristics on Federal Sexual Harassment Case Outcomes, *Law and Human Behavior* 27(1): 69-86
- Kunicová, J. and Rose-Ackerman, S. (2005), Electoral Rules and Constitutional Structures as Constraints on Corruption, *British Journal of Political Science* 35(4): 573-606.
- Laasko, M. and Taagepera, R. (1979), Effective Number of Parties: A Measure with Application to West Europe, *Comparative Political Studies*, 12: 3-27.
- Martin, A. D. and Quinn, K. M. (2002), Dynamic Ideal Point Estimation via Markov Chain Monte Carlo for the US Supreme Court, 1953-1999, *Political Analysis* 10: 134-153.
- McGee S. (2001), Rules on parliamentary Immunity in the European Parliament and the Member States of the European Union, *ECPRD Paper*, available at <https://ecprd.secure.europarl.europa.eu/ecprd/pub/publication.do?start=10>
- Morisi, M. (1999), *Anatomia della magistratura italiana*, Bologna: Il Mulino
- Nagel S. (1961), Political Party Affiliation and Judges' Decisions, *American Political Science Review* 55(4): 843-850
- North, D. and Weingast, B. (1989). Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in 17th Century England, *Journal of Economic History* 49: 803-832.
- Paciotti, E. (1999), *Sui magistrati. La questione della giustizia in Italia*, Bari: Laterza.
- Pasquino, G. (2007), The Five Faces of Silvio Berlusconi: The Knight of Anti-politics, *Modern Italy* 12(1): 39-54
- Pellegata, A. (2012), L'alternanza dove non te l'aspetti. L'impatto dell'alternanza di governo sul controllo della corruzione nelle democrazie consensuali, *Rivista Italiana di Scienza Politica* 42(1): 93-114.
- Pepino, L. (2002), Obiettivo 2: Appunti per una storia di Magistratura democratica, *Questione Giustizia* 12(1): 1-35
- Pizzorno A. (1992), La corruzione nel sistema politico, in Della Porta D. (eds.), *Lo scambio occulto*, Bologna: Il Mulino

Reuter (2013), Berlusconi's fate highlights problems in Italy's judicial system, 9 August 2013, available at <http://uk.reuters.com/article/2013/08/09/uk-berlusconi-justice-idUKBRE97800020130809>

Rhodes, M. (1997), Financing Party Politics in Italy: A Case of Systemic Corruption, *Western European Politics* 20(1): 54-80

Ricolfi, L. (1993), *L'Ultimo Parlamento*, Roma: La Nuova Italia Scientifica

Riós-Figueroa, J. and Staton, J. K. (2012), An Evaluation of Cross-National Measures of Judicial Independence, *Journal of Law, Economics, and Organization*, doi:10.1093/jleo/ews029

Robertson, D. (1982). Judicial Ideology in the House of Lords: A Jurimetric Analysis, *British Journal of Political Science* 12: 1-25

Sartori, G. (2002), Conflitto d'interessi, in F. Tuccari (eds) (2002), *Il governo Berlusconi*, Roma-Bari: Laterza, 2133.

Songer D.R. (1982), Consensual and Nonconsensual Decisions in Unanimous Opinions of the United States Courts of Appeals, *American Journal of Political Science* 26(2): 225-239

Songer D.R., Davis S. (1990), The impact of Party and Region on Voting Decisions in the United States Courts of Appeals, 1955-1986, *Western Political Quarterly* 43(2): 317-334

Taruffo M. (1998), Berlusconi teorico del diritto, della giustizia, e d'altro, *Il Mulino* 47(5): 901-913

Squires N. (2013), Silvio Berlusconi laments 'communist' judges making him pay divorce settlement, Telegraph 09 January 2013, available at: <http://www.telegraph.co.uk/news/worldnews/silvio-berlusconi/9790161/Silvio-Berlusconi-laments-communist-judges-making-him-pay-divorce-settlement.html>

Tate C.N. (1981), Personal Attribute Models of Voting Behavior of U.S. Supreme Court Justices: Liberalism in Civil Liberties and Economics Decisions, 1946-1978, *American Political Science Review* 75(2): 355-367

Tavits, M. (2007), Clarity of Responsibility and Corruption, *American Journal of Political Science* 51(1): 218-229.

Vanberg, G. (2001), Legislative-Judicial Relations: A Game-Theoretic Approach to Constitutional Review, *American Journal of Political Science* 45(2): 346-361

Van Spanje, J. and de Vreese C. (2013), The good, the bad and the voter: The impact of hate speech prosecution of a politician on electoral support of his party, *Party Politics*, doi:10.1177/1354068812472553

Welch S., Hibbing J.R. (1997), The Effects of Charges of Corruption on Voting Behavior in Congressional Elections, 1982-1990, *Journal of Politics* 59(1): 226-239