# From Legislation to Legitimation

## The Role of the Portuguese Parliament

Cristina Leston-Bandeira

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# From Legislation to Legitimation

This book is unique; it is the only book on the Portuguese parliament in English. The Portuguese parliament is a valuable case study to understand the different stages of development of a newly democratic parliament. *From Legislation to Legitimation* shows that, as democracy developed, the role of the Portuguese parliament changed considerably. Whereas in the first years of democracy the *Assembleia da República* was centred on its legislative role, during the second decade its legitimation role expanded, making scrutiny parliament's main function.

Using innovative research techniques, namely in the analysis of voting behaviour and of parliamentary debates-Cristina Leston-Bandeira develops Robert Packenham's concept of legitimation and applies it to an empirical analysis of parliament's legislative and scrutiny activity. These general findings are then applied and verified through a case study: the discussion of the Budget bills from 1985 to 1995. Moreover, Leston-Bandeira includes illuminating material from interviews with sixteen key Portuguese political actors, including the Portuguese Prime Minister from 1985 to 1995, Cavaco Silva. With its extensive and up-to-date empirical evidence, this book makes an important contribution to a more integrated understanding of Portuguese democracy, at the same time as it suggests new lines of research into the development of any newly democratic parliament.

**Cristina Leston-Bandeira** is a lecturer in legislative studies at the University of Hull. She has established herself as the leading expert on the Portuguese parliament. Her research interests also include new parliaments, and the use of the internet by parliament.

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*Cristina Leston-Bandeira*

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**For my boys, James, Tomás, Rafael and Mário  Without whom all of this would be superfluous**

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# Preface

My childhood was spent between political demonstrations and party meetings. As Portuguese democracy grew, so did I. Politics has always been in my life. Instead of being part of it, I opted to study it. As the study of Portuguese politics is still in its infancy, there is a huge amount of work to do. So I started at the beginning: parliament. Parliament is the best expression of the democratic ideals with which I grew up; this is why my interest for this institution has developed naturally over the years. There has been very little research on the Portuguese parliament, the *Assembleia da República,* and this book aims to provide a greater understanding of this institution. Most publications in the English language are outdated and provide a narrow-minded portrayal of the Portuguese parliament as a chaotic and irrelevant institution.

This book is based on my PhD research and dissertation,[1] carried out at the Centre for Legislative Studies at the University of Hull. The research was made possible thanks to a scholarship from the programme Praxis XXI of the Portuguese government, to which I am very grateful. The dissertation has been revised to include up-to-date information, but its main focus remains the same: the development of the Portuguese parliament over its second decade of democracy. Throughout my period of research, there have been a number of people to whom I am particularly grateful for their support, help and kindness.

I am grateful to Professor Lord Norton for his continuing support and for giving me the opportunity to publish and therefore to mature ideas as the research developed. I am also grateful to Phil Cowley for making me believe that, somehow, working on the Portuguese parliament is important, even in the home country of the mother of all parliaments. Thank you also for his, and Mark Stuart's, help with my many difficult, foreign expressions. Moreover, I am indebted to Professor Ed Page who gave me very good and stimulating advice on a number of occasions.

From Portugal, I am grateful to all the interviewees who contributed to this research: Fernando Amaral, Barbosa de Melo, Cavaco Silva, Manuela Ferreira Leite, Rui Machete, José Magalhães, Magalhães Mota, Alberto Martins, Mota Amaral, Luís Sá, Manuel dos Santos, Guilherme Silva, Silva Lopes, Octávio Teixeira and Helena Torres Marques. All of the interviewees have had a major role in the second decade of Portuguese politics and provided a fundamental contribution to this research. Sadly, the MP Luís Sá died in October 1999. By remembering here some of his words and work, I hope to pay a small tribute to this MP from whom we expected so much more. I am also grateful to Leonor Coutinho for sharing with me her personal experience as an MP. I am particularly indebted to Conceição Azevedo and Margarida Guadálpi from the *Divisão de Informação Legislativa e Parlamentar* [DILP]. They have both always answerered my queries with great patience and have provided access to key information in the archives of the DILP. I am also grateful to Pedro Magalhães for his comments and for our conversations on Portuguese politics.

I am equally thankful to Sheila Young and the Clarks: Jo, Will, Ed, Alex, John and especially Sally. Thank you for all of their help with Tomás and Rafael. I would have not made it without that support.

But of course, my main thanks go to James, who gave me much more than support and help. Thank you for all of the advice, for making me think clearly and for believing in my work. Finally, thank you to Tomás, Rafael and Mário for being *'a luz do nosso jardim'*.

## Note

1 A summarised version of my PhD thesis, adapted for the Portuguese public, was published in C.Leston-Bandeira, *Da Legislação à Legitimação: o papel do parlamento português* (Lisbon: Instituto de Ciências Sociais, 2002).

# List of abbreviations

| | |
|---|---|
| AD | *Aliança Democrática* [coalition between the PSD, the CDS and the PPM][1] |
| AR | *Assembleia da República* [Portuguese parliament] |
| ASDI | *Acção Social-Democrata Independente* [parliamentary grouping formed by PSD dissenting MPs] |
| CDS | *Centro Democrático e Social* [christian democrat, catholic, party] |
| CRP | *Constituição da República Portuguesa* [constitution of the Portuguese republic] |
| DAR | *Diário da Assembleia da República* [official journal of the Portuguese parliament] |
| DILP | *Divisão de Informação Legislativa e Parlamentar* [division on legislative information of the Portuguese parliament] |
| DR | *Diário da República* [state official journal, where all laws and decree-laws are published] |
| GOPs | *Grandes Opções do Plano* [bill on the major policy plans proposed each year] |
| ID | *Intervenção Democrática* [parliamentary group composed by MPs of the MDP] |
| LEOE | *Lei de Enquadramento do Orçamento de Estado* [law on the budget deliberation process] |
| MDP | *Movimento Democrático Português* [small left-wing party] |
| MP | Member of Parliament; in Portuguese, *Deputado (a) à Assembleia da República* |
| OE | *Orçamento de Estado* [budget bill proposed each year] |
| PAOD | *Período Antes da Ordem do Dia* [first part of a plenary session] |
| PCP | *Partido Comunista Português* [communist party] |
| PEV | *Partido Ecologista Os Verdes* [greens party] |
| PG (s) | Parliamentary Group (s) |
| PPM | *Partido Popular Monárquico* [small monarchic party] |
| PRD | *Partido Renovador Democrático* [left liberal party] |
| PS | *Partido Socialista* [socialist/social democrat party] |
| PSD | *Partido Social Democrata* [right liberal party] |
| PSN | *Partido da Solidariedade Nacional* [party representative of |

| | |
|---|---|
| | the pensioners] |
| RP | *Regimento* [rules of procedure of the Portuguese parliament] |
| UDP | *União Democrática Popular* [small left-wing party] |
| UEDS | *União da Esquerda para a Democracia Socialista* [parliamentary grouping formed by PS dissenting MPs] |

## Note

1 More detail is given in the following chapters on each party.

# Introduction

## Aims and object

The main aim of this book is to contribute to the knowledge on the Portuguese parliament, the *Assembleia da República*. Although already over 20 years old, this is still in many ways an unknown institution. There is very little literature on it and much of what exists is dated. This study seeks to fill a notable gap.

Given the lack of previous studies, many objects could have been chosen for this book. However, considering the non-existence of basic information (such as on the ruling framework and the scrutiny devices), this volume has necessarily to adopt a broad perspective. It is concerned with the overall *development of the Assembleia da República as a newly democratic institution*. For this, a period of 12 years has been chosen: 1983 to 1995, which includes three different political situations, a coalition, a minority and an absolute majority government. The main reason for the choice of this period is again linked with the absence of studies on parliament: only a very small part of existing literature has been dedicated to the period subsequent to 1985; most of the studies have focused on the first decade of Portuguese democracy (after 1974).[1]

Besides this, other reasons justify the choice of those 12 years in particular. 1987 was the first time that an absolute majority held by one party was elected to parliament; for the first time in Portuguese democracy, there was political stability and a full legislature period (four years) was completed. Thus, it is normal to expect considerable changes in the Assembleia after 1987, that is, in the V legislature. In 1991, the same absolute majority was re-elected to parliament for a further four years (VI legislature—1991–95). The repetition of two completed parliaments allows us to adequately understand the extent of the consequences of political stability for the development of a new institution.

In order to fully assess the changes brought in by the absolute majorities, two previous legislatures were also included in the period studied here: the III (1983–85) and the IV (1985–87). This allows us to include in the analysis two different political situations: a coalition government (III) and a minority one (IV). Hence, the study of the Assembleia over this period of 12 years will provide a thorough understanding of the variables and processes involved in the development of a new democratic institution, once the troubled years of transition to democracy had been overcome. When needed, information will also be given on the periods before and after 1983–1995. The analysis will be carried out basically through two dimensions: policy-making and legitimation.

## Methods and material used

The object adopted in this book is therefore of considerable breadth. This explains the variety of research methods and material used. The research at the base of this book divides into four different types: (1) analysis of the Rules of Procedure in force

throughout the period, (2) overall assessment of parliament's activity, (3) a case study (the deliberation process of the budget) and (4) an overview of the press coverage of parliament's activity.

(1) The *Rules of Procedure* is a fundamental document to understand the Portuguese parliament. Several revisions of this document have taken place, but no analysis has been undertaken. The comparative analysis undertaken of the old and the revised versions of the Rules of Procedure allows us to fully appreciate the changes undergone by this parliament. There were basically four revisions of this document: 1985, 1988, 1991 and 1993. The review of the different versions of the Rules of Procedure was carried out through a comparative analysis between the old and the new versions of all articles altered in each revision.[2]

(2) Since 1985, the Assembleia has published annual reports where information is given on parliamentary activity, namely on the deliberation process of the bills discussed in parliament and the scrutiny devices. The data analysed in this book on the overall parliamentary activity is based on these reports. It was from these, for instance, that a database was created on all of the bills discussed in parliament during those 12 years. For the period prior to 1985, the information was gathered directly from the Assembleia's archives.

(3) The deliberation process of the budget is used in this book as a way of obtaining detailed information about the role of parliament in policy-making and as a legitimation body. Because the whole of its deliberation process is recorded and published (unlike with ordinary bills), this case study gives access to information not available at an overall level (such as the second reading's proceedings). What is more, the budget is discussed every year, enabling a comparative analysis over the years. The information on this case study has been collected from the parliamentary papers reporting the debates (see the bibliography—8.1.2.6—for a full list of these papers). From these papers it was possible to build a database of the votes on the budget. Adding to this, several indicators were also collected on the style of debate carried out (such as length of the debate, number of speakers and type of intervention). This case study provides clearer information about parliament's role in policy-making than the overall data, and, moreover, it allows us to assess how the practice of parliamentary debate has developed over the years.

(4) In the face of the lack of information on Portuguese politics (after the transition period), a file describing the 1983–95 period was created from the press reports of the main Portuguese weekly newspaper, the *Expresso*. Besides this, an outline contents analysis has been carried out on the type and frequency of the news published in that newspaper about parliament. This has provided background information on the changes in the image of parliament over the 12 years considered.

Besides this, the author also carried out semi-structured interviews with a total of 15 political personalities:[3] Fernando Amaral, Barbosa de Melo, Cavaco Silva, Manuela Ferreira Leite, Rui Machete, José Magalhães, Magalhães Mota, Alberto Martins, Mota Amaral, Luís Sá, Manuel dos Santos, Guilherme Silva, Silva Lopes, Octávio Teixeira and Helena Torres Marques. All of these personalities are nowadays, or were some time between 1983 and 1995, MPs in the Assembleia da República, with the exception of Cavaco Silva who was Prime Minister between 1985 and 1995. All of these personalities

have had a major role in Portuguese politics, particularly during the period considered here (see Appendix I). Besides these politicians, the former director of parliament's main division dealing with legislative information, Margarida Guadálpi, was also interviewed. These interviews have provided valuable information not only on the broad development of the Assembleia, but also on the practical consequences of the revisions of the Rules of Procedure and, specifically, on the deliberation process of the budget.

## Book structure

The book is divided into three parts, comprising six chapters. Broadly speaking, the first part presents the context of Portuguese politics and the parliamentary institution, the second considers the roles of parliament in policy-making and legitimation, and the final part concentrates on the case study of the budget.

Chapter 1 explains the analytical framework adopted to analyse the development of the Assembleia da República from 1983 to 1995. It shows how the main analytical concepts are drawn from the work of authors such as Robert Packenham, Michael Mezey and Philip Norton. From this, two main analytical dimensions are defined: policy-making and legitimation. Complementing this, the chapter also stresses the importance of variables such as political change and legal framework in the analysis of a newly democratic institution such as the Assembleia. At the end of the chapter, the author suggests some propositions on the development of the Portuguese parliament in its second decade of democracy.

Chapter 2 describes the Portuguese context. It includes a section explaining the main characteristics of the political system, which is' a semi-presidential system with a strong parliamentary component. The proportional representation system is the elective method of most political organs. This is followed by two sections that describe the political periods, firstly since democracy was introduced in 1974 and then, in more detail, between 1983 and 1995.

Chapter 3 is dedicated to the Portuguese parliament: it presents this institution, its historical origins and its present structure. The first section addresses the historical evolution of parliamentarism in Portugal since 1820, when it was first introduced, until the setting up of democracy in the mid 1970s. It goes through the liberal monarchy period (1820–1910), the first republic (1910–26) and the Salazar dictatorship (1926–74). This historical description helps in understanding some of the constitutional and political choices made in the period 1974–76, when the first constitution and parliamentary institutions were established. The second section of this chapter presents the current main characteristics of the structure of the contemporary Portuguese parliament. It gives particular attention to the centrality of the parliamentary groups (to the detriment of MPs) in the organisation and the agenda of the Assembleia. It also describes the main ruling organs, the resources available and how parliamentary activity is organised.

The last section of this chapter is of particular importance: it deals with the revisions made to the Rules of Procedure. These revisions constitute an excellent indicator of the institutional development of the Assembleia da República. This section shows clearly that in the second decade of Portuguese democracy there was a strong rationalisation of parliamentary procedures: chamber dominance gave way to an empowerment of