

Portugal in the
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Politics, Society, and Economics

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To my twin brother, Pepe. I miss you so much.

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3 Portugal's Semi-Presidentialism (Re)Considered: An Assessment of the President's Role in the Policy Process, 1976-2006

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Lobo¹*

This chapter investigates the policy-making role of Portugal's heads of state in the country's semi-presidential regime from 1976 to 2006. This is significant not only because Portugal is one of the world's oldest and most successful semi-presidential democracies, but also because there is an unresolved academic controversy regarding the most appropriate definition of its system of government. Moreover, there is a glaring gap in the comparative politics literature on Portugal in today's scientific *lingua franca*—that is, English. For example, the wide-ranging volume *Semi-Presidentialism in Europe*, edited by Elgie (1999), conspicuously does not feature a chapter on Portugal. This is ultimately due to this nation's small size and small political science community (including foreign experts on the country). Here we set out to fill this gap.

In the wake of the Third Wave of democratization, which began with Portugal's Revolution of the Carnations in 1974,² semi-presidentialism has become the most prevalent political regime in Europe, the continent historically associated with parliamentarism.³ Thus, there is now an acute need to understand how semi-presidentialism works. When the Portuguese president is considered, some influential studies have tended to downplay his role within the political system.⁴

These studies contend that Portugal should not be placed alongside semi-presidential regimes, but should rather be considered a parliamentary system.⁵ The rationale for this classification is that party system changes in the mid-1980s gave rise to single-party parliamentary majorities and cabinets, which in turn considerably strengthened the prime minister (henceforth PM or premier) within the executive branch to the detriment of the president, whose constitutional prerogatives had also been curtailed in 1982.

We consider this rationale to be inaccurate. Based on the work of Lobo, we argue that the growing power of the premier has derived largely from the reorganization of the executive branch and the "governmentalization" of parties—not from any major decrease in presidential powers.⁶ These developments have certainly contributed to solidify the position of the PM. However, the president has retained some key constitutional powers that render him politically relevant at all times, despite the curtailing of some of his prerogatives in 1982. Moreover, government instability in 1999 to 2005 showed how politically important he can still be. Indeed, in 2004, socialist president Jorge Sampaio announced that he would dissolve parliament and call fresh elections, regardless of the fact that the Assembly of the Republic had a working majority of two right-wing parties. The last time a Portuguese president had taken such an initiative had occurred under a similar cohabitation in 1982.

There are two plausible reasons why some scholars have inaccurately classified Portugal as a parliamentary system: lack of precise information on the extent and details of presidential powers and overemphasis on the aggrandizement of the premiership within the political system from 1982 onwards. The first reason is particularly compelling regarding comparativists. For example, in the updated Portuguese edition of his classic *Democracies*, Lijphart devotes only one paragraph to Portugal's system of government, and states that, although the 1976 Constitution had been modeled on the French one, in 1982 the president's powers were "severely" reduced, and the country "returned" to a parliamentary system.⁷ Note that this paragraph does not cite any book or article to support its contention. Interestingly enough, Sartori, also without citing any scholarly work, writes that "turning to Portugal, this is a case that can be dealt with quickly, for its semi-presidential experience was short lived: six years between 1976 and 1982."⁸ Then, in a footnote, he mistakenly asserts that "the 1982 Portuguese constitution eliminates the presidential power to dismiss cabinets or ministers . . . and all his legislative powers; and restricts the president's power to dissolve parliament as well as his pocket veto on legislation. By and large, the Portuguese president is thus left, from 1982 onward, with little more than the normal powers of normal parliamentary presidents."⁹

The paragraph above makes it crystal clear that more scholarly work (in English) on the evolution of presidential power in Portugal is urgently needed. In this chapter, we propose to contribute to this agenda. Initially, we survey the existing literature on the role of the Portuguese president in the policy process, and provide an overview of the constitutional articles that underpin presidential

power and how they have evolved. Then new data on the Portuguese chief of state's role in the policy process will be presented and discussed. We will focus on the president's role in cabinet appointment and dismissal; his powers to dissolve parliament; his influence over ministerial appointments; his prerogatives to refer legislative bills to prior judicial review; his veto powers; and his influence over agenda-setting through going-public tactics. Our conclusion stresses that Portugal remains solidly semi-presidential because the president still plays a relevant role in the policy process.

Portugal's Semi-Presidentialism in the Comparative Politics Literature

In Duverger's pioneering article, Portugal, together with the Weimar Republic and Finland, was characterized as a regime in which there was a balance between the presidency and the cabinet. In these three regimes, the constitution approximated political practice to the greatest extent, that is, with an effective power-sharing between the two organs of the executive branch.¹⁰

Subsequent studies have shown that dispositional differences regarding presidential powers and separation of assembly and cabinet survival are crucial for the characterization of sub-types within the semi-presidential family.¹¹ Let us delve into Shugart and Carey's influential treatise (1992). Initially, they quantitatively assess presidents' formal powers through ordinal scales. Presidential powers are divided in two categories: legislative powers and non-legislative powers. The overall measure of presidential power is the sum of the scores on six legislative powers and four non-legislative powers. Then Shugart and Carey distinguish between two types of semi-presidential systems: *premier-presidential* and *president-parliamentary*.

Premier-presidential regimes grant a popularly elected chief of state narrow powers over the cabinet and are also characterized by the separation of assembly and cabinet survival. The president has the power to appoint the PM, who, in turn, appoints the rest of the cabinet. The assembly, however, retains the power to dismiss the PM and the cabinet through a no-confidence vote. The French Fifth Republic is the prototypical *premier-presidential* regime.

President-parliamentary systems provide the chief of state with extensive powers over the cabinet (appointment and dismissal), but there is no separation of assembly and cabinet survival, for the assembly can also dismiss the cabinet. This is the only executive type under which the cabinet can be dismissed by both the head of state and the assembly. The Weimar Republic is the classic case of a *president-parliamentary* regime.

As regards Portugal, Shugart and Carey distinguish between the period before and after the 1982 constitutional revision, a key moment that will be discussed in detail below. Between 1976 and 1982, the powers of the president add up to nine, whereas since the 1982 constitutional reform the authors consider

them to have decreased to six. Therefore, in the first period Portugal is characterized as belonging to the president-parliamentary type, and since 1982, to the *premier-presidential* category.¹²

More recently, Alan Siaroff (2003) analyzed nine key presidential powers in a host of countries where presidents are directly elected. Whereas Shugart and Carey had counted only constitutional powers, Siaroff included both constitutional and *de facto* powers. According to his scale, Portugal scores six in 1976–1982, and three since 1982. While in the former period the country's score is among the highest within the semi-presidential group of countries, in the latter the Portuguese president falls into an intermediate range. Thus, Siaroff and Shugart and Carey agree on the decrease in presidential powers since 1982. Overall, this finding has been widely corroborated by case studies, although there are a few exceptions (for example, Matos 1983).¹³

Despite this fundamental agreement on the decline of presidential powers after 1982, there are differences as to how to classify the post-1982 regime. As mentioned in the first section, in 1994 Sartori subtracted Portugal from the original list put forward by Duverger (because of the constitutional changes effected in 1982) on the ground that in practice the country worked like a parliamentary democracy.¹⁴ Others have partly concurred with Sartori, arguing that the 1982 constitutional reforms made the regime “more semi-parliamentary and less semi-presidential.”¹⁵ or that the country had a “parliamentary government conditioned by a presidential element.”¹⁶ Most authors, however, do contend that the regime remains semi-presidential.¹⁷

We strongly argue in favor of a constitutional reading of the semi-presidential nature of the regime, for Portuguese presidents have remained active and influential even at times of stable majority cabinets and are crucial players in times of government instability, as occurred between 2002 and 2004. This is what we will show below.

The President's Constitutional Powers

The choice of a semi-presidential system in 1976 arose from the need to reward the military for their role in the transition period, also reflecting recent political history and political culture.¹⁸ The toppling of the authoritarian regime in 1974 was staged not by political parties but by a group of military officers, the *Movimento das Forças Armadas* (Armed Forces Movement, MFA for short).¹⁹ Between 1974 and the promulgation of the Constitution in 1976, the MFA, allied with various left-wing groups, was the most important political actor amid great institutional uncertainty and fledgling parties.²⁰ Indeed, the Constituent Assembly, elected in April 1975, worked in tandem with a committee composed of the political parties and the MFA. Both agreed to a so-called Second Pact. All key items contained in this pact, signed in February 1976, were then incorporated into the final constitutional agreement, which the Constituent Assembly ratified.

As regards the presidency, the Second Pact stipulated that the chief of state should be directly elected. There was also a so-called “implicit” clause that emerged from the discussions about the Second Pact whereby the first president would be a military officer,²¹ thus granting the head of state the possibility of embodying both revolutionary and electoral legitimacy. Not only would that military officer be elected, he would also be Supreme Commander of the Armed Forces (art. 137) and preside over the Council of Revolution (art. 136). This sovereign body, composed solely of military officers, had exclusive legislative powers over military issues (art. 149) and acted as a *sui generis* Constitutional Council (art. 146). By presiding over the Council of the Revolution, the chief of state became the ultimate guarantor of the Constitution.

Beyond these important powers, the president could withdraw political confidence from the cabinet and thus force its resignation, given that the cabinet was politically accountable to both the president and the Assembly (art. 194). Also, the president nominated the PM, after “taking into account election results” (arts. 136 and 190). According to the 1976 Constitution, a newly formed cabinet did not have to receive a motion of confidence from the Assembly, a passive non-rejection by the Assembly sufficing for investing the cabinet.

To dismiss the government, two motions of censure had to be approved by an absolute majority of the MPs within a thirty-day period (art. 198). The cabinet had to resign if its program was rejected by a simple majority in the Assembly, or a motion of confidence was not approved. However, the Assembly would be dissolved by the president if the former rejected the governmental program three consecutive times, or, alternatively, if the Assembly unseated a third cabinet (art. 196). Coupled with the chief of state's revolutionary legitimacy, these provisions contributed decisively to strengthen presidential powers and restrict the government's accountability to the Assembly.

The president's legislative powers were rather wide-ranging. Beyond the legislative powers that presiding over the Council of the Revolution gave him—over military issues and the constitutionality of laws—the president had specific powers over foreign policy. Article 138 stipulated that the president ratified international treaties and had the power to declare war and make peace after approval by the Council of the Revolution. He could also declare a state of emergency. In addition, he was given veto power over Assembly-approved bills and decree-laws issued by the cabinet, under certain conditions (art. 278). A presidential veto could not be overturned if the vetoed bill had been initiated by the cabinet, although it could be re-proposed as an Assembly-initiated bill. When it came to Assembly-initiated bills, presidential vetoes could be overturned through a second roll-call vote by an absolute or a two-thirds majority of MPs, depending on the content of the bill. The president could also request that the constitutionality of either parliamentary or government bills be verified, either *ex ante* or *ex post*, by the Council of the Revolution.

Finally, under the 1976 Constitution, the president had other important powers. On the PM's proposal, he appointed all members of the cabinet, the president of the *Tribunal de Contas* (accounts tribunal), the *Procurador Geral*

da República (attorney general), and the state representatives in the autonomous regions (Madeira and Azores archipelagos). The regional governments elected in Azores and Madeira could be unseated by the president in certain circumstances.

In 1982 the Constitution was reformed so as to curtail the powers of the president and the military's role in the political system.²² The most important change effected by the reform was the dissolution of the Council of the Revolution, which meant the subordination of the armed forces to civilian control—the final step in the consolidation of democracy in Portugal.²³ In its place, a *tribunal constitucional* (constitutional court) was created, with its judges being appointed by parliamentary parties. This court was granted the power to verify the constitutionality of laws and epitomized the civilianization of the regime.

Concerning the relationship between cabinet and the president, the most important change was that while the cabinet was still accountable to both the Assembly and president, it was now *politically* responsible only to the former. This meant that, in stark contrast to the original draft, the president could no longer dismiss the cabinet by invoking a lack of confidence. Yet note that this presidential power was only circumscribed, not eliminated, unlike what Shugart and Carey suggest.²⁴ Indeed, the president could still dismiss the cabinet in exceptional political circumstances “to ensure the regular functioning of democratic institutions.” The vagueness of this article suggests that under certain conditions—in times of political instability—the president retains the prerogative to unseat the cabinet.

The change in presidential powers was accompanied by an increase in parliament's powers vis-à-vis the cabinet. There was a simplification of the procedures to unseat a government. Now passing only one (instead of two in less than thirty days) motion of censure sufficed to bring the cabinet down (art. 198). It was also established that there would be a caretaker cabinet until the incoming cabinet's program was approved by parliament (art. 189), thus enhancing the accountability of the cabinet to parliament. From 1982 onwards, it was no longer after the president's nomination of the PM and the rest of the ministers, but with the approval of the governmental program, that the cabinet constitutionally came into being.²⁵ Thus, a previously existing loophole—whereby it was sufficient for the Assembly *not* to reject the cabinet for the latter to be invested—was eliminated. From 1982 onwards the presentation of the program to the Assembly had to be followed by a vote of confidence on the new cabinet (art. 195). Finally, the exclusive lawmaking domains of the Assembly were extended (arts. 167 and 168), there also being a greater specification of the terms upon which parliament could delegate legislative power to the cabinet.

Thus, the president's veto power was strengthened, because it became harder to overturn vetoes in a host of policy areas.²⁶ However, the president's pocket veto over both Assembly-initiated bills and cabinet-issued decree-laws was eliminated. This type of veto consisted of the ability to delay the promulgation of bills and decrees. The president also kept his powers over international relations, states of emergency, the appointment of higher officials, and the Madeira

and Azores governments. More recently, the 1989 reform gave the chief of state the prerogative to refuse referenda proposed either by MPs or the cabinet. A president's refusal kills the proposal, which cannot be tabled for the remainder of the legislative term, except if new elections are held or the cabinet is dismissed.

In short, the president's constitutional powers were indeed curtailed in 1982. The head of state's legislative powers were reduced through the elimination of the Council of Revolution as well as of his pocket veto. The president's influence over the policy process thus shrank, as he could no longer freely dismiss the cabinet, except in special circumstances. However, the president, who continued to be chief of the armed forces, retained considerable powers, including the appointment and dismissal (under special circumstances) of the cabinet, the dissolution of the Assembly, the power of referral of bills to the Constitutional Court, veto powers, and the power to appoint the holders of certain key offices in the public administration and in some political bodies, as specified above. It is the exercise of these powers from 1976 to 2006 to which we now turn.

The Power to Appoint and Dismiss the Cabinet and Dissolve Parliament

The Portuguese Constitution stipulates that the president nominates the PM while “taking into account elections results” (art. 136). This suggests that the head of state can become a decisive cabinet *formateur* if legislative elections do not produce a clear-cut outcome.

Since Portugal democratized in 1976, four parties have dominated the country's politics. With the exception of the Portuguese Communist Party (PCP), which was founded in 1921, all the others were created shortly before or after 1974. The Socialist Party (PS) was founded in 1973, the center-right Social Democratic Party (PSD) and the conservative Social Democratic Center/Popular Party (CDS/PP), shortly after the April 1974 Revolution. These four parties have averaged 90.6 percent of the vote over the past thirty years. However, the centrist parties, the PS and the PSD, have steadily controlled a larger percentage of parliamentary seats, while the communists and the conservative CDS-PP have been declining. The effective number of parliamentary parties has decreased from 3.2 between 1976 and 1987 to 2.4 since 1987 (see Table 3.1). This defragmentation of the Portuguese party system had a decisive impact on the duration of governments, which increased from the mid-1980s on.

During the first ten years of democracy there were ten constitutional cabinets, with none completing a full parliamentary term. After two short-lived governments fell due to lack of party support, in 1978, President Eanes decided to tinker with the so-called “presidentially-inspired” cabinets. These were administrations composed mostly of non-partisan figures. None of them lasted long,

however, because they had no stable parliamentary support. Those cabinets were opposed by the major parliamentary groups, which saw them as overt attempts to undermine both party and parliamentary control of government. Not surprisingly, the 1978 to 1979 period witnessed the formation of a solid inter-party consensus on the need to curtail presidential powers.

The cabinets from 1979 to 1983 had a stable right-wing legislative majority. However, the death of the premier in 1980 led to the formation of a new government which was considerably weaker and ultimately led PM Balsemão to try to find a replacement in December 1982. President Eanes rejected this alternative, deciding instead to dissolve parliament and call elections for January 1983. Note that this rejection by Eanes took place just after the 1982 constitutional reform. It indicates the extent to which the power to appoint the PM was maintained despite the reform.

Yet Eanes did not wield such power again. The next president, Mário Soares (1986-1996), the first civilian elected to the office, mostly faced majority cabinets that completed full parliamentary terms (1987-1995). When in 1987 the minority PSD government fell on a successful motion of censure initiated by left-wing parties, Soares refused to appoint a socialist PM, preferring to dissolve parliament and call fresh elections. Thus, the president's reading of the Constitution, together with strong centripetal changes in electoral behaviour in the mid-1980s, seemed to suggest that the president's role as *formateur* had become redundant.

However, recent political developments under the Sampaio presidency (1996-2006) show that such a role can reemerge once governments prove to be weak, as they did between 2001 and 2005. After a mediocre result in local elections for the Socialist Party in 2001, premier Guterres resigned. President Sampaio decided to dissolve parliament and fresh legislative elections were held in 2002.²⁷

Those elections were won by the center-right PSD, but without an absolute majority of seats, thus prompting the party to form a coalition with the CDS-PP. Against the background of a deepening economic crisis and divergence from the EU average, PM Durão Barroso announced in 2004 that he was resigning his office to become president of the European Union's Commission. Sampaio accepted Durão Barroso's chosen successor, Santana Lopes, then mayor of Lisbon, on the grounds that "as long as the government produced by the legislative elections continues to display consistency, political will and legitimacy, the resignation of the prime minister per se is not a sufficient reason to . . . hold snap elections."²⁸ Four months later, following the resignation of a minister, Sampaio decided to dissolve parliament on the claim that the government was ineffective.²⁹ Unlike the power to dismiss the government, which was to be used after 1982 only to "ensure the regular functioning of institutions," the power to dissolve parliament remained unconstrained since 1976, thus necessitating no formal justification. The president's two key decisions in 2004—to invite the mayor of Lisbon to form a government and then, to unseat him—were a strong

reminder that, despite constitutional changes, the role of the president in the appointment and dismissal of cabinets and the dissolution of parliament remains crucial in times of government instability. President Sampaio's last term (2001-2006), in particular, illustrates the way whereby the chief of state can become pivotal once the government is perceived as weak.

The Strengthening of the Premier at the Expense of Cabinet Ministers

The 1982 constitutional reforms surely curtailed some presidential prerogatives. Moreover, the fifteen years following those reforms also witnessed the growing power of the premier. It was the undeniable aggrandizement of the premiership within the political system that led many analysts to declare semi-presidentialism dead in Portugal and proclaim the country a parliamentary system. This analytical step supposed a zero-sum game between the two heads of the executive branch. Based on the work of Lobo,³⁰ we argue that this is inaccurate.

Lobo shows that the growing power of the premier has derived largely from the reorganization of the executive branch and the "governmentalization" of parties, not from any major decrease in presidential powers. Thus, a proper assessment of the distribution of actual power in a semi-presidential democracy should take into account the relative policy influence of three distinct players within the political system; namely (a) the head of state, (b) the premier, and (c) cabinet ministers. Under such a scheme, if one assumes that total policy influence always adds up to a constant (say, one), it is therefore possible that an increase in b's influence does not necessarily lead to a decrease in a's. That is what happened in Portugal after 1982, as we shall show below.

Let it be stated again that political developments after 1982 have certainly contributed to solidify the premier's position. The growth of prime ministerial power in Portugal can be understood from an analysis of the policy-making instruments the head of government has at her disposal. In essence, the resources available to the premier have been strengthened—particularly since 1987—through the reorganization of the PM's office, the increase in support structures, and the appointment of ministers without portfolio to oversee other ministers' work.

Besides the resources at the disposal of the PM vis-à-vis other cabinet members, it is important to ask whether the working methods in government tend to be collective or individual. This is a relevant question for this section, because prime ministerial power is enhanced if the methods are individual.

Available research shows that the cabinet has generally not been the preferred venue for strategic political coordination. Instead, political decision-making takes place in an inner cabinet, formed around the premier, and including mostly senior party members. Note that most inner cabinet members are also

senior party members. Thus, policymaking has remained collective in Portuguese cabinets, even if it is not open to all cabinet members. This also means that parties continue to be the key agents in the policy process, given that practically all members of inner cabinets are senior party members.

It is important to stress, however, that the main governing parties—the PS and the PSD—have become governmentalized. By governmentalization of parties, we refer to the process by which the party leadership bodies become increasingly composed of government members when the party holds executive offices.³¹ This control of the party's executive bodies by the PM and her cabinet serves to minimize the party's independent input in governmental affairs.

Thus, it is clear that after 1985, there was a successful attempt to strengthen the core executive by solidifying the position of the premier, to the detriment of cabinet ministers. Nevertheless, the role of the president has remained important because he is the cabinet *formateur* at times of government instability, and has preserved important instruments to intervene in the policy process, as we shall see below.

Presidential Influence over Ministerial Appointments

Ministerial appointments are the core personnel decisions in systems in which the cabinet is accountable to the legislature.³² Traditionally in Europe, such appointments have been virtually monopolized by the governing political parties. Under semi-presidentialism, however, as recently argued by Amorim Neto and Strøm (2006), ministerial appointments may instead become a tug-of-war between a premier and a president with different partisan preferences, depending on their political circumstances and bargaining power.³³ During times of unified government, cabinet formation bargaining between the president and the premier is made easier because both prefer to appoint co-partisans. However, during cohabitation, presidents prefer their co-partisans to the ones in the premier's party (or coalition), or favor non-partisan ministers as a second best option. Thus, Amorim Neto and Strøm (henceforth ANS) contend that the proportion of non-partisan cabinet ministers is a measure that well captures the actual influence of the head of state, be he either popularly elected or parliament-selected, over the policy process.

Based on a sample of 134 European cabinets representing twelve semi-presidential and twelve purely parliamentary regimes in the 1990s, ANS show that the incidence of non-partisan appointments rises with electoral volatility and is higher under minority than under majority governments. There is also support for the hypotheses that non-partisan cabinet members are more common under presidents who are popularly elected and possess more extensive legislative powers. Finally, the authors find significant evidence that the heightened efficiency concerns that might accompany an economic crisis consistently and surprisingly lower the incidence of non-partisan appointments. Evidence from Por-

Table 3.1 Key political and economic attributes of executives and parliaments in Portugal, 1976–2006

President and his Party	Cabinet (begin date)	Parties	Size of Legislative Support (1)	Electoral Volatility (1)	Legislative Fragmentation (2)	Type of Cabinet	Recession in the previous year? (3)	Share of Non-Partisan Ministers (4)
Ramalho Eanes (Military Officer, Non-partisan)	Mário Soares (Jul 1976)	PS	40.7	11.3	3.4	Minority	yes	27.8
	Mário Soares (Jan 1978)	PS and CDS	56.7	11.3	3.4	Majority	no	12.5
	Nobre da Costa (Aug 1978)	N. A.	0	11.3	3.4	Minority	no	100
	Mota Pinto (Nov 1978)	N. A.	0	11.3	3.4	Minority	no	100
	Lurdes Pintassilgo (Jul 1979)	N. A.	0	11.3	3.4	Minority	yes	100
	Sá Carneiro (Jan 1980)	PSD, CDS, PPM	51.2	10.5	3.9	Majority	no	7.1
	Pinto Balsemão (Jan 1981)	PSD, CDS, PPM	53.6	4.6	4.0	Majority	no	11.1
	Pinto Balsemão (Sep 1981)	PSD, CDS, PPM	53.6	4.6	4.0	Majority	no	6.7
Mário Soares (PS)	Mário Soares (Jun 1983)	PS and PSD	70.4	11.2	3.3	Majority	yes	5.9
	Cavaco Silva (Nov 1985)	PSD	35.2	22.5	4.2	Minority	no	20.0
	Cavaco Silva (Aug 1987)	PSD	59.2	23.2	2.4	Majority	no	5.9
	Cavaco Silva (Oct 1991)	PSD	58.7	9.5	2.2	Majority	yes	16.7
Jorge Sampaio (PS)	A. Guterres (Oct 1995)	PS	48.7	18.2	2.5	Minority	no	42.1
	A. Guterres (Oct 1999)	PS	50.0	3.9	2.6	Minority	no	22.7
	Durão Barroso (Apr 2002)	PSD and CDS/PP	51.8	8.8	2.6	Majority	yes	20.0
	Santana Lopes (Jul 2004–Mar 2005)	PSD and CDS/PP	51.8	8.8	2.6	Majority	yes	34.8

Sources: (1) Magalhães (2003), Gunther and Montero (2001); (2) Freire and Lobo (2006); (3) The measure of recession is based on Alesina and Perotti (1995). According to this measure, a country is in recession in year *t* if its growth rate in *t* is 1% below the average growth rate in the previous two years. Economic data was culled from OECD Factbook 2006; and (4) Lobo (2000) and Guedes (2004).

tugal in 1976 though 2004 fits nicely with most of the hypotheses put forward by ANS (see Table 3.1).

In 1976 to 1982, when the system of government was president-parliamentary, and the president was therefore very strong, we observe the highest shares of non-partisan cabinet members for the whole 1976 to 2004 period. After 1982, when the regime became *premier*-presidential, the type of cabinet (majority versus minority) became the overriding factor in determining the level of partisanship, with minority cabinets displaying a higher average of non-partisan cabinet members (28.3 percent) than majority administrations (16.7 percent), as expected by ANS. Interestingly, after 1982, cabinets appointed one year after a recession have on average a lower share of non-partisans than cabinets invested one year after an economic expansion, thus confirming ANS's non-intuitive hypothesis.

The President's Veto and Referral Powers

In this section we empirically assess how Portuguese presidents have been wielding what many analysts consider to be the touchstones of their constitutional prerogatives, namely their veto and referral powers. Recall that the president's veto power was actually enhanced by the 1982 revision. Since then the veto has been one of the hallmarks of presidential power and should be understood as a kind of *ex post* mechanism to control the cabinet and parliament.³⁴ For example, President Mário Soares, a socialist, vetoed key policy initiatives of the centrist cabinets led by PM Cavaco Silva, with whom Soares "cohabited" during his two terms in office.³⁵ By using his veto powers—which he did particularly frequently during his second term—Soares was able to push Cavaco Silva's policy initiatives closer to the preferences of the median voter in the presidential election, which leaned to the left. Such evidence makes it crystal-clear that Portuguese presidents must be seen as more than figureheads. They actually affect government policy by exercising their formal powers and political clout. In sum, despite the 1982 constitutional revision, presidents have managed to retain an important policy-making role, albeit a negative one, mainly due to their ability to block the governmental agenda through the use of the veto.

Table 3.2 displays the number of vetoes issued per president and legislature, along with the total number of laws passed. It is clear that Mário Soares, who had to endure cohabitation cabinets during all his ten years in office, was the president with the highest number of political vetoes and the highest average of vetoes per laws passed. This clearly shows that Portuguese presidents who are politically at odds with the premier have the wherewithal to make themselves heard in the policy process.

Table 3.2 Presidential vetoes per president and legislature

President	Legislature	Largest cabinet parties	N of laws passed	Political vetoes and constitutionality-related vetoes	Average vetoes per N of laws passed	Average by president
Eanes	1976-1980	PS*	341	10	2.9	2.1
	1980-1983	PSD-CDS	119	5	4.2	
	1983-1985	PS-PSD	303	1	0.3	
Soares	1985-1987	PSD	163	3	1.8	2.9
	1987-1991	PSD	405	10	2.5	
	1991-1995	PSD	305	12	3.9	
Sampaio	1995-1999	PS	479	5	1.0	2.3
	1999-2002	PS	198	6	3.0	
	2002-2005	PSD-CDS	250	10	4.0	

Source: Division of Legislative and Parliamentary Information at the Assembly of the Republic, Dossier decretos, vetos, mensagens do Presidente da República e Leis, Coleção Legislação, n° 35, 2005.

Notes: * Together with the CDS in the 2nd cabinet.

The other significant negative power Portuguese presidents have is their ability to refer parliament- and cabinet-initiated bills or cabinet-issued decrees for prior judicial review by the Constitutional Tribunal. As seen above, this prerogative was created in 1982. Upon a president's request, the Tribunal must, within twenty days, rule whether a bill passed by the Assembly or a cabinet decree is constitutional.

The president-activated Constitutional Tribunal has been active in Portugal's political life. According to Magone, the Tribunal has reviewed important pieces of legislation supported by sizeable legislative majorities, such as the anti-corruption law, the law on incompatibilities, and the Official Secrets Act, all passed in 1993 under the second majority single-party cabinet led by Cavaco Silva.³⁶ Thus, the president's referral power is a relevant check on parliamentary majorities in Portugal, thus providing further evidence on the president's key role in the policy process.

Table 3.3 Constitutional referral of laws per president*

	Parliament-Initiated Laws	Cabinet-Initiated Laws	Total per Mandate	Total per President
Soares I	11 (8)	5 (5)	16 (13)	43 (30)
Soares II	17 (14)	10 (3)	27 (17)	
Sampaio I	3 (2)	2 (1)	5 (3)	16 (11)
Sampaio II	8 (8)	3 (0)	11 (8)	
Total	39 (32)	20 (9)	59 (41)	59(41)

Source: Documentation provided by the Presidency of the Republic.

Note: * In brackets are the laws that were considered unconstitutional.

Table 3.3 reports the number of parliament- and cabinet-initiated bills referred to the Constitutional Tribunal by Mário Soares and Jorge Sampaio, along with the number of laws that were actually deemed unconstitutional. Again, Soares referred 250 percent more laws to the Tribunal than Sampaio (forty-three versus sixteen), although the frequency with which referred laws were deemed unconstitutional is basically the same for both (around 70 percent). In short, veto and referral powers give Portuguese presidents a considerable say in policymaking.

Framing the Political Agenda through "Going Public Tactics"

Portuguese presidents have another relevant way to influence the policy process in addition to the direct use of their constitutional prerogatives, namely going public tactics. This aspect of presidential activism has been completely ignored but for the work of Serrano (2002). Walking in this author's footsteps, this section delves into what in the Portuguese political jargon is called "open presidencies," originally conceived by President Soares and maintained both by Sampaio and more recently by Cavaco Silva, under different designations. An "open presidency" would take place when the chief of state would spend a considerable amount of time in a given region (usually two weeks) and quasi-officially turn the latter into the seat of the presidency. This sort of political tour would then attract a lot of media attention—regionally and nationally—thus enabling the president to informally frame the country's political agenda.

In the vast literature on U.S. presidents, it is often argued that the latter "go public" and use the pressure of popular opinion to prompt Congress to approve their policy initiatives. Kernell (1993) offers one of the best accounts of why and how U.S. presidents employ "going public strategies" to get more leverage with an opposition Congress: U.S. presidents go public to overcome political fragmentation in Washington, DC. In a similar vein, Linz contends that Latin American presidents do roughly the same when they resort to plebiscitary appeals to the masses against unbending legislatures.³⁷ We are not contending that Portuguese presidents behave like their counterparts in the Americas as far as political communication is concerned. That is why we downgrade "going public strategies" to "going public tactics." Yet, there is a striking resemblance between the motivation underlying Portugal's open presidencies and that of the more histrionic practices often observed on the other side of the Atlantic.

As much as recourses to the "bully pulpit" by American presidents and to plebiscitary appeals by their Latin American colleagues often take place in the context of divided governments in the U.S. and minority administrations south of the Rio Grande, open presidencies in Portugal were devised precisely in the context of cohabitation.

Open presidencies seem to have generated the consequences expected by those who have masterminded them. In this respect, Soares once asserted that

"the mere suggestion that I was going to hold an open presidency made the government and parties to examine the local situation: the government would be prompted to act; the opposition to highlight delays and unfulfilled promises."³⁸ Another piece of evidence that such presidential initiatives were successful in framing the political agenda is that they clearly angered the cabinet. In the 1992 Convention of his party (the PSD), Premier Cavaco Silva avowed that "the forces blocking [governmental action] have a clear face," and sternly warned that he would not permit an influential presidency to turn into an interfering one.³⁹ Note that the premier of a cohabitation publicly acknowledged that the president was influential. In his turn, Jorge Sampaio, a president who shared power mostly with his socialist co-partisans, as well as Cavaco Silva, centered his open presidencies on social issues, such as social inclusion, citizenship, and health and education, thus helping to put pressure on the government to expedite action on these policy areas.⁴⁰

All told, Portuguese presidents can use political communication tools that are certainly not available to parliament-selected or monarchical chief of states in Western Europe and allow the former to voice opinions that frame the country's political agenda and prompt governments to act. The comparative literature on semi-presidentialism would be well advised to take stock of the relevant consequences of such "going public tactics" when analyzing presidential power in Portugal.

Conclusion

To use Shugart and Carey's terminology, in 1976 Portugal began its experiment with semi-presidentialism by adopting its president-parliamentary variety. In 1982 the country shifted to *premier*-presidentialism, and has remained so since then. This unique interaction of the two different kinds of semi-presidentialism with a changing multiparty system has given rise to an ample range of governing formulas: presidential, single-party minority, majority coalition, near majority single-party, single-party majority cabinets, let alone periods of cohabitation and unified executives. This is an eloquent sign of a flexibility that has helped consolidate one of Western Europe's youngest democracies. Moreover, even under such diversity of governance patterns, the policy role of the president has never been rendered irrelevant to the point of justifying the classification of Portugal as a parliamentary system. While it is true that the 1982 constitutional reform eliminated the possibility of undisguised presidential government, presidents have remained important in policymaking, particularly due to their use of the presidential veto and dissolution powers.

Yet the extent of Portuguese presidents' policy influence depends crucially on the type of cabinet with which he shares power. On the one hand, whenever the president faces a majority cabinet, his influence is reduced. Although a president's veto over cabinet decrees is formally definitive since it cannot be over-

ridden, a majority government can simply reintroduce a previously vetoed decree as a standard legislative bill, and have the latter passed by the Assembly, a situation that often occurs with such bills. On the other hand, a president facing a minority cabinet whose composing parties he opposes can be more influential. Since the presidency became civilianized and particized in 1986, however, this situation only took place very briefly at the beginning of Soares's first presidential term.

At any rate, the second cohabitation period between President Soares and Premier Cavaco Silva showed how important the veto power can be. Soares used it as an *ex post* mechanism to influence Cavaco Silva's policy initiatives. The head of state also strengthened his hand vis-à-vis the premier through "open presidencies."

In addition, it should also be stressed that the president's veto power was actually enhanced by the 1982 revision. Since then the veto has been the touchstone of presidential power in Portugal and should be understood as a kind of *ex post* mechanism to control the cabinet and parliament. No other popularly elected president in Western Europe has this kind of reactive power, not even the powerful French head of state. In addition, Portuguese presidents, unlike their Austrian and Icelandic counterparts, have not abdicated their powers. By using their veto powers and "going public tactics," presidents are able to push the premier's policy initiatives closer to the preferences of the median voter in the presidential election. Thus, Portuguese presidents must definitely be seen as more than figureheads.

Furthermore, heavy emphasis should be placed on the fact that the undeniable aggrandizement of the premier that took place after 1987 was carried out not at the expense of the president but to the detriment of cabinet ministers. Greater prime ministerial powers led many analysts to immediately equate it with a weaker, waning presidency and declare semi-presidentialism moribund. We hope to have demonstrated this is plainly inaccurate.

It is important not to underestimate the president's ability to shape public perceptions of the cabinet, and thus of government policy, through political vetoes but also by referring legislation to the Constitutional Court, even if the use of such prerogatives does not necessarily lead to the enactment of the policies preferred by the chief of state. Also, going beyond these constitutional instruments, under Mário Soares the presidency developed a special relationship with the media by holding "open presidencies." These initiatives, which have been continued by successive presidents, have given the head of state a say in agenda-setting. Moreover, the open presidencies demonstrate that the president's role in the policy process can become larger than the Constitution would suggest. This is especially true in the president's second (and final) term, when the president is free of reelection calculations and can thus more easily assert himself as a de facto counterweight to cabinet policies.

Finally, this chapter also contributes to the debate on whether politics in democratic societies have become presidentialized, as argued recently by

Poguntke and Webb (2005). According to these authors, democracies "are becoming more presidentialized in their actual practice, without changing their formal structure, that is, their regime type" (1), meaning that PMs have become more powerful through increasing executive resources, wider autonomy vis-à-vis the parties, and the growing personalization of election campaigns. Following Lobo (2005a), we have argued that in Portugal in 1987 to 1999, constitutional, party system, and organizational changes led to the growth of prime ministerial power. However, even at the height of the premier's power, the PM was never independent of the parties, as shown in the composition of inner cabinets within the executive (Lobo 2005a: 279). Moreover, the strengthening of the PM's role was overwhelmingly contingent on party system changes after 1987 and ultimately dependent on election results (Lobo 2005a: 271-284). Thus, the Portuguese experience suggests that it is safer to speak of changes in prime ministerial power as a result of party system changes rather than the presidentialization of democracy *tout court*.

Notes

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2. S. Huntington, *The third wave: Democratization in the late twentieth century* (Norman: University of Oklahoma Press, 1991).
3. Octavio Amorim Neto and K. Strøm, "Breaking the parliamentary chain of delegation: Presidents and nonpartisan cabinet members in European democracies," *British Journal of Political Science*, vol. 36, (2006): 619-643.
4. Henceforth we will refer to the president as he and to the prime minister or premier as she.
5. T. Bruneau et al., "Democracy, Southern European style," in *Parties, Politics and Democracy in the New Southern Europe*, ed. N. Diamandourous and R. Gunther (Baltimore: Johns Hopkins University Press, 2001). J.G. Canotilho and V. Moreira, *Fundamentos da Constituição* (Coimbra: Coimbra Editora, 1991). A. Lijphart, *As democracias contemporâneas* (Lisbon: Gradiva, 1989). Pereira, A. G. *O Semipresidencialismo em Portugal* (Lisbon: Ática, 1984). G. Sartori, *Comparative constitutional engineering* (London: MacMillan, 1994).
6. M.C. Lobo, "The presidentialisation of Portuguese democracy?" in *The Presidentialisation of Parliamentary Democracies?* ed. P. Webb and T. Poguntke (Oxford: OUP, 2005a). Lobo, *Governar em Democracia* (Lisbon: ICS, 2005b).
7. Lijphart, *As democracias contemporâneas*, 274. In fairness to Lijphart, it should be stressed that in *Patterns of Democracy*, he places Portugal alongside the semi-presidential systems (1999: 119).
8. Sartori, *Comparative constitutional engineering*, 129.
9. Sartori, *Comparative constitutional engineering*, 138.

10. M. Duverger, "A new political system model: Semi-presidential government," *European Journal of Political Research* vol. 8, (1980): 187.
11. M.S. Shugart and J. M. Carey, *Presidents and Assemblies* (NY: Cambridge University Press, 1992).
12. Shugart and Carey, *Presidents and Assemblies*, 156-60.
13. O. Amorim Neto, "Portugal: Changing patterns of delegation and accountability under the president's watchful eyes," in *Delegation and accountability in Western European parliamentary democracies*, ed. K. Strom, W. Mueller, and T. Bergman (Oxford: Oxford University Press, 2003). A. Araújo and C. Tsimaras, "Os poderes presidenciais nas constituições grega e portuguesa," in *O Direito* (Jul-Dec 2000), 381-413. A. Araújo, "El Presidente de la República en la evolución del sistema político de Portugal," in *Portugal: democracia y sistema Político*, ed. A. Barreto, B. Gomez Fortes, and P. Magalhães (Madrid: Siglo Veintiuno, 2003). M.B. Cruz, *Instituições políticas e processos sociais* (Venda Nova: Bertrand, 1995). A. Freire and A.C. Pinto, *O poder dos presidentes* (Lisbon: Campo da Comunicação, 2005). M. Lucena, "Semipresidencialismo: Teoria geral e práticas portuguesas (I)," *Análise Social*, vol. XXXI (1996): 831-892. J. Miranda, "A experiência portuguesa de sistema semipresidencial," *Direito e Cidadania*, vol. 1 (1996): 9-25. J.R. Novais, *Semipresidencialismo* (Coimbra: Almedina, 2007). M.R. Sousa, *O sistema de governo português antes e depois da Revisão Constitucional* (Lisbon: Cognition, 1984). M.R. Sousa, *O sistema de governo português* (Lisbon: Assoc. Académica FDUL, 1992). Metcalf (2000) adds to the list of Shugart and Carey a seventh power, judicial review, whose scores also vary from 0 to 4. If we use the seventh power proposed by Metcalf, Portugal scores 13 in 1976-1982 and 10 in 1982 to present.
14. Sartori, *Comparative constitutional engineering*, 129.
15. T. Bruneau, et al., "Democracy," 42.
16. Canotilho and Moreira, *Fundamentos da Constituição*. A.G. Pereira, *O Semipresidencialismo em Portugal* (Lisbon: Ática, 1984), 53.
17. Amorim Neto, "Changing patterns." Araújo, "El Presidente de la República Cruz." Freire and Pinto, *O poder dos presidentes*. J. Miranda, "A experiência portuguesa de sistema semipresidencial," *Direito e Cidadania*, vol. 1 (1997): 9-25. Novais, *Semipresidencialismo*. G. Pasquino, *Sistemas políticos comparados* (Cascais: Principia, 2005). M.S. Shugart, "Semi-presidential systems: dual executive and mixed authority patterns." *French Politics*, vol. 3 (2005): 323-351. Shugart and Carey, *Presidents and Assemblies*. Sousa, *O sistema de governo português*. For a complete list of studies contending that Portugal should be classified as semi-presidential, see Araújo and Tsimaras (2000: 399-402), and Novais (2007).
18. M.B. Cruz, *Instituições políticas e processos sociais* (Venda Nova: Bertrand, 1995), 223.
19. K. Maxwell, *The making of Portuguese democracy* (Cambridge: Cambridge University Press, 1995). I. Rezola, *Os militares na Revolução de Abril: O Conselho da Revolução e a transição para a democracia em Portugal* (Lisbon: Campo da Comunicação, 2006).
20. L. Graham and D. Wheeler, *In search of modern Portugal: The revolution and its consequences* (Madison: University of Wisconsin, 1983).
21. A.G. Pereira, *O Semipresidencialismo em Portugal* (Lisbon: Ática, 1984), 42-43.
22. For an account of the goals of the right-wing government which oversaw the constitutional revision, see Lopes and Barroso (1980).
23. J. Linz and A. Stepan, *Problems of democratic transition and consolidation* (New York: Johns Hopkins, 1996).

24. Shugart and Carey, *Presidents and Assemblies*.
25. D.F. Amaral, *Governos de gestão* (Lisbon: author's edition, 1983).
26. The 1982 reform increased the number of policy areas on which a two-thirds majority is needed to overturn a presidential veto, namely legislation regarding a state of siege or emergency, the organization of the Armed Forces, the organization of the Constitutional Court, and the regulation of elections (Magalhães, 1989:113). These new powers are better understood bearing in mind the previous version of the Constitution. In 1976-1982 the president held a say in these policy areas because he also presided the Council of the Revolution, which functioned as a *sui generis* Constitutional Court and also legislated on all matters regarding the Armed Forces.
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28. Jorge Sampaio's speech on occasion of the decision to nominate Pedro Santana Lopes as the next prime minister (downloaded in 2004 from www.presidencia.pt).
29. A. Freire and M.C. Lobo, "The Portuguese 2005 legislative election: Return to the Left," *West European Politics*, vol. 29 (2006): 581-588. Gabriel, *Confidencial*. P.S. Lopes, *Percepções e realidade* (Lisbon: Aletheia, 2006).
30. Lobo, "The presidentialisation of Portuguese democracy?" and Lobo, *Governar em Democracia*.
31. M.C. Lobo, "El incremento del poder del primer ministro en Portugal desde 1976," in *Portugal: Democracia y Sistema Político*, ed. A. Barreto, B. Gomez, and P. Magalhães (Madrid: Siglo XXI, 2003). Katz and Mair (1994) and Biezen (2003) show that seats on European parties' executive bodies have been increasingly held by the party-in-office.
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33. O. Amorim Neto and K. Strom, "Breaking the parliamentary chain of delegation: Presidents and nonpartisan cabinet members in European democracies," *British Journal of Political Science*, vol. 36 (2006): 619-643.
34. Amorim Neto, "Portugal: Changing patterns." Araújo, "El Presidente de la República." Freire and Pinto, *O poder dos presidentes*. A. Magalhães, *As armas dos fraccos: o veto político e a litigância constitucional do Presidente da República. Actas do I Encontro Nacional de Ciência Política* (Lisbon: Bizâncio, 2001). Novais, *Semipresidencialismo*.
35. J. Aguiar, "A história múltipla," *Análise Social*, vol. XXXI (1996): 1235-1281. M.B. Cruz, "O Presidente da República na génese e evolução do sistema de governo português," *Análise Social*, vol. XXIX (1994): 255-56. M. Frain, "As relações entre o presidente e o primeiro-ministro em Portugal: 1985-1995," *Análise Social*, vol. XXX, (1995): 668. Magalhães, *As armas dos fraccos*, 496. J.M. Magone, *European Portugal: The difficult road to sustainable democracy* (New York: St. Martin's Press, 1997), 42.
36. Magone, *European Portugal*, 52.
37. J. Linz, "Presidential versus parliamentary democracy: Does it make a difference?" in *The Failure of Presidential Democracy: The Case of Latin America*, vol. 2, ed. J. Linz and A. Valenzuela (Baltimore: Johns Hopkins University Press, 1994), 29.
38. Quoted in Avillez (1996: 75).
39. Quoted in Cruz (1995: 259).
40. Source: Documentation Services of the Presidency of the Republic.