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The Referendum in the Portuguese Constitutional Experience

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Citation

Rodrigues, A. F. G. (2013, December 18). *The Referendum in the Portuguese Constitutional Experience*. *LUP Dissertations*. Leiden University Press, Leiden. Retrieved from <https://hdl.handle.net/1887/22936>

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Cover Page



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The handle <http://hdl.handle.net/1887/22936> holds various files of this Leiden University dissertation.

Author: Rodrigues, António Filipe Gaiao

Title: The referendum in the Portuguese constitutional experience

Issue Date: 2013-12-18

**THE REFERENDUM
IN THE PORTUGUESE CONSTITUTIONAL EXPERIENCE**

Leiden University Press

Cover design: Maedium, Utrecht

ISBN 978 90 8728 206 6

NUR 823

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The Referendum in the Portuguese Constitutional Experience

PROEFSCHRIFT

ter verkrijging van
de graad van Doctor aan de Universiteit Leiden,
op gezag van Rector Magnificus prof. mr. C.J.J.M. Stolker,
volgens besluit van het College voor Promoties
te verdedigen op 18 december 2013
klokke 08.45 uur

door

António Filipe Gaião Rodrigues

geboren te Lissabon (Portugal)

in 1963

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 prof. J. Bettencourt da Câmara (Technical University of Lisbon,
 Portugal)

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 prof. dr. M.L.J. Wissenburg (Radboud Universiteit
 Nijmegen)
 prof. dr. W.J.M. Voermans

Acknowledgements

My best thanks to Prof. Grahame Lock, Prof. João Bettencourt da Câmara, Leiden University, Library and Archive of the *Assembleia da República*, National Library of Portugal, Alison Smith, Catarina Ferreira da Silva and Ana Rodrigues.

Le peuple est admirable pour choisir ceux à qui il doit confier quelque partie de son autorité (...). Le peuple ne doit entrer dans le gouvernement que pour choisir ses représentants.

Montesquieu

La souveraineté ne peut être représentée, par la même raison qu'elle ne peut être aliénée. (...) Les députés du peuple ne sont donc ni peuvent être ses représentants, ils ne sont que ses commissaires; ils ne peuvent rien conclure définitivement. Toute loi que le peuple en personne n'a pas ratifiée est nulle; ce n'est point une loi.

Rousseau

The Referendum in the Portuguese Constitutional Experience

Abstract

The referendum is one of the most studied and practiced institutions of semi-direct democracy around the world, in several latitudes and historical times, in different systems and political regimes, at international, national, regional or local levels, with different legal frameworks and with various political consequences. However, Portugal, whose constitutional experience begins in 1820 with the liberal revolution, had its first democratic referendum only in 1998. On the other hand, there is no significant research on the referendum in Portugal, and certainly none that studies it from its inception. The object of this study is to fill this obvious gap, and to address the actual place of the referendum in Portuguese political life and debate.

In the first place, we shall try to conceptually characterize the referendum, in order to establish its fundamental typologies regarding the most relevant experiences in this field and to situate the case for and against the referendum as an expression of semi-direct democracy in the political and philosophical debate of different historical moments. In the next chapters, entirely dedicated to the Portuguese case, we shall present the historical evolution of the national and local referendum in the constitutional and political life in Portugal since 1820. An added emphasis will be given to the referendum experience of the Portuguese democracy born in 1974, particular attention being paid to the political debate about the formal introduction of the referendum in the 1976 Constitution and to the concrete experience of referendums proposed and held since then. Finally, we shall try to understand the role of the referendum as an instrument of democracy and citizenship in Portugal, at different levels of its possible application.

Het Referendum in de Portugese Constitutionele Ervaring

Abstract

Het referendum is een van de meest bestudeerde en beoefende instellingen van semi-directe democratie in de wereld, in verschillende breedten en historische tijden, in verschillende systemen en politieke regimes op internationaal, nationaal, regionaal of Hlokaal niveau, met verschillende wettelijke kaders en met diverse politieke gevolgen. Echter, Portugal, wiens constitutionele ervaring begint in 1820 met de liberale revolutie, had zijn eerste democratische referendum pas in 1998. Anderzijds is er geen significant onderzoek naar het referendum in Portugal, en zeker geen onderzoek vanaf de aanvang van het referendum. Het doel van deze studie is om het aanwezige gat te vullen en om de plek van het referendum in het Portugese politieke leven en debat te benoemen.

In de eerste plaats, zullen wij pogen het referendum conceptueel te karakteriseren, om de fundamentele typologieën jegens de meest relevante ervaringen in het veld en om de zaak te situeren tegen het referendum als een expressie van semi-directe democratie in het politieke en filosofische debat in verschillende historische momenten. In de volgende hoofdstukken, geheel toegewijd aan de Portugese situatie, zullen we de historisch evolutie van het nationaal en lokaal referendum in het constitutionele en politieke leven van Portugal sinds 1820 presenteren. Extra nadruk zal worden gelegd op de ervaring van het referendum in de Portugese democratie, geboren in 1874. Additionele aandacht wordt besteed aan het politieke debat over de formele introductie van het referendum in de constitutie van 1976 en de concrete ervaring van referendums die sindsdien zijn voorgesteld en gehouden. Tot slot, zullen we proberen te begrijpen wat de rol van het referendum als instrument van democratie en burgerschap in Portugal is, op verschillende niveaus van de mogelijk toepassing.

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