

## Appendix C

# *The Constituent Assembly Voting Database*

### Constituent Assembly Issue Scales

The National Constituent Assembly (ANC) was inaugurated on February 1, 1987, with the intent of promulgating a new federal constitution no later than December of that year. In the early months of the ANC, legislators worked exclusively in thematic committees charged with drafting the various chapters of the future constitution. These chapters went to the powerful central drafting committee (Comissão de Sistematização, or CS), responsible for putting them together into the first draft. Then, according to the initial plan, the ANC would meet on the floor and vote each article one by one, presenting amendments as necessary, until the draft was hammered into an acceptable constitution.

The CS draft was made public in July 1987. It was popularly referred to as the *Projeto Cabral*, after Deputy Bernardo Cabral, the reporting officer of the ANC. The CS draft was rejected by large segments of the ANC's centrist and conservative forces, which viewed the draft as excessively left wing and statist. They also resented the concentration of power in the CS, which was dominated by the progressive wing of the PMDB. Upon the release of the CS draft in mid-1987, the Center and Right began to realize how difficult it would be to alter the proposed constitution. The ANC rules (*Regimento Interno*) stipulated that to amend or remove any item of the CS draft, it would be necessary to muster an absolute majority, or 280 votes. The PMDB's progressive wing thought these rules necessary to protect the CS draft's integrity.

In the second half of 1987, the forces opposed to the CS draft organized themselves as the so-called *Centrão*. The *Centrão*'s initial *raison d'être* was to alter the ANC rules to make it easier to modify the CS draft. On December 3, 1987, after a protracted struggle, the *Centrão* won the fight, altering the rules in a way that significantly reduced the power of the progressive minority. Instead of requiring 280 votes to remove an item from the draft, the *Centrão* instituted a rule by which 280 votes would be needed to maintain a given item in the draft. Thus, the burden of mustering votes was shifted to the partisans of the CS draft, who were clearly in the minority.

The modification of the rules paved the way for the *Centrão*'s most important victory, the approval of its own draft of the future constitution. Thus, the CS draft was supplanted by a more conservative version (published in its entirety in the *Estado de São Paulo*, January 12, 1988, 36–41). The new draft was known euphemistically as the substitute (*substitutivo*). I will refer to it here as the *Centrão* draft.

The main problem caused by the Centrão's victory was that the members of the ANC had already drafted thousands of amendments to the older CS draft. What would happen to these amendments? To avoid starting again at square one, the leadership patched together an agreement whereby amendments could be presented to either of the competing drafts of the constitution. This agreement was inventive, though dubiously grounded in parliamentary procedure. The victorious Centrão draft continued as the "texto-base," or the official draft-in-progress, but amendments could still be presented to the CS draft provided that they were appropriate and did not contradict other victorious amendments.

The amendments were considered in two rounds of roll-call voting. In each round (*turno*), each successive chapter and title of the draft was considered in order, starting with the preamble and ending with the Transitional Articles (*Ato das Disposições Constitucionais Transitórias*). Upon presentation on the floor, each amendment was read aloud by Ulysses Guimarães (president of the ANC), received a nonbinding opinion from Bernardo Cabral, and was then debated. Party leaders laid out the official party positions in debate. Then, finally, the 559 members voted the amendment. The first round of voting (732 votes) consumed five months, January 28–July 1, 1988. This round transformed Projeto A (the CS draft, modified entirely by the Centrão) into Projeto B.

The voting process was then repeated. After the July recess, Projeto B was subjected to a top-to-bottom review in the second round of voting. The second round (289 votes) extended from July 29 to September 2, 1988, and produced the final constitution. The 1,021 votes across both rounds of voting comprise the data file utilized here.

### *Congressional Power Scale*

Vote 0272: March 16, 1988. Establishes selection procedure for the members of the Tribunal de Contas da União (TCU), which verifies government accounts. The CS had two-thirds of TCU members elected by Congress and the remaining third nominated by the executive branch and subject to Senate approval. In this amendment, Deputy Adhemar de Barros Filho wanted the Congress to choose all of the TCU members, via secret vote. Yes is for Adhemar's strengthening of Congress. Yes 194, no 141, defeated.

Vote 0274: March 17, 1988. Amendment making Congress the only power able to authorize the purchase of rural real estate by foreign corporations. Yes gives this power exclusively to Congress. Yes 266, no 89, defeated.

Vote 0277: March 17, 1988. Transfers Senate oversight powers on foreign economic policy and foreign debt to the Congress as a whole. Yes is for giving these powers to the Congress, no is for keeping them in the domain of the Senate. Yes 138, no 312, defeated.

Vote 0279: March 17, 1988. The CS had provided that normal congressional decisions could be taken by a simple majority of the members present, as long as the simple majority was greater than or equal to one-fifth of the total membership. The Centrão changed this provision, requiring an absolute majority. This amendment sought a return to the CS language. Yes is for the CS scheme, no is for the Centrão scheme. Yes 197, no 238, defeated.

Vote 0290: March 18, 1988. Deputy Francisco Kuster wanted to move up the beginning of the legislative session from February 15 to February 1 and have the Congress meet during the second half of August. The congressional recess each year would therefore be reduced from three months to two months. Yes is for his idea. Yes 133, no 280, defeated.

Vote 0315: March 23, 1988. This amendment, known as the Humberto Lucena amendment, was very important. It removed the CS option for parliamentarism and introduced a presidentialist system of government into the text. This was the only time during the ANC that all 559 delegates voted. Yes is for presidentialism, no is for parliamentarism. Yes 344, no 212, approved.

Vote 0354: April 7, 1988. Nelson Jobim sought to institute new rules for the selection of the highest appeals court. Four would be nominated by the president, four by the *Camara*, and three by the supreme court itself. The nominees would face public confirmation hearings (like the U.S. Senate) and would need to win two-thirds approval from the senators. Yes is for Jobim's suggested procedure. Yes 196, no 232, defeated.

Vote 0471: April 21, 1988. Changes language concerning the budget authorization law, adding two elements: Congress would require details on outlays of capital, and the executive would be required to submit bimonthly reports on the implementation of the budget. Yes is for increased congressional oversight of the federal budget. Yes 312, no 83, approved.

Vote 0477: April 22, 1988. Would require the Congress to approve the federal budget. If the budget were not approved by the end of the legislative session, the president would be able to implement it by decree. Provides that the legislative session will not end until the budget is approved. Yes is for increased efficiency in producing and implementing the budget. Yes 275, no 96, defeated.

### *Support for Executive*

Vote 0005: January 28, 1988. Rewords the preamble. *Centrão's* new version removes CS allusions to direct democracy. Yes means adopt the new preamble, no means maintain CS. Yes 248, no 227, defeated.

Vote 0624: June 3, 1988. Provides a five-year term for the incumbent president, José Sarney. Yes 328, no 222, approved.

Vote 0320: March 23, 1988. This amendment gives a five-year mandate to future presidents. While not formally affecting Sarney himself, it was an important victory for his strategy of winning a five-year term for himself. Yes is for five years, no is for four years. Yes 304, no 223, approved.

Vote 0965: August 31, 1988. Addresses the question of whether runoff elections for mayor would take effect for the first time in 1988. Yes means suspend runoffs this year, no means maintain them. Yes 293, no 221, approved.

Vote 0633: June 15, 1988. Deputy Rosa Prata moves to postpone the municipal elections scheduled for 1988. Yes 111, no 347, defeated.

### *Economic Conservatism*

Vote 0048: February 10, 1988. Centrão amendment on the right to property removes language whereby the right to private property is subject to owner's observance of its "social function." Yes supports Centrão's trying to kill this language. Yes 236, no 248, defeated.

Vote 0090: February 24, 1988. Two dozen amendments to the Centrão version of the chapter on social rights. The chapter would now protect workers against arbitrary dismissal by their employers but leaves the details up to further legislation. Yes is for Centrão's compromise accord on the chapter, no is to vote with the leftist parties not in the accord. Yes 373, no 151, approved.

Vote 0785: August 17, 1988. On the right to strike. Suppresses language giving workers competence to decide when they should strike. Yes removes the language, no maintains it. Yes 112, no 287, defeated.

Vote 0485: April 27, 1988. An attempt to approve the Centrão's version of Title VIII, Chap. I, the Economic and Social Order, so that the ANC could move on. An interparty accord to approve the Centrão's draft (chapter by chapter) temporarily failed at this point because of controversy over the definition of *national firm*. Yes is for the Centrão's version, no supports the CS version, which had been criticized as nationalist and xenophobic. Yes 210, no 279: The amendment was neither approved nor rejected. The next day, after a new accord, it was approved.

Vote 0131: March 1, 1988. According to this amendment by Deputy Cid Saboia, if someone fires an employee unjustly and for any reason that employee cannot return to work immediately, then the worker will receive an indemnity from the unfair employer, as provided for by further legislation. Yes is for the indemnity. Yes 147, no 213, defeated.

Vote 0102: February 25, 1988. Amendment by Deputy Antonio Perosa that adapts CS text, retaining a six-hour day for workers in continuous duties but adding the phrase "except as provided for by collective bargaining." Yes is for the amendment, which was supported by the Left. Yes 324, no 125, approved.

Vote 0136: March 2, 1988. Confirms that only one union should represent each sector of workers. Yes is for union monopoly, no is for plurality. Yes 340, no 103, approved.

Vote 0943: August 30, 1988. An amendment by Deputy Nelson Jobim on the legality of expropriating productive land for agrarian reform. Yes says it is possible to expropriate productive land. Yes 186, no 233, defeated.

### *Democratic Values*

Vote 0061: February 11, 1988. Institutes collective writ of mandamus (permits class-action suits). Yes is for writ of mandamus. Yes 326, no 103, approved.

Vote 0149: March 3, 1988. Direct democracy, or “popular sovereignty.” Provides for referenda, plebiscites, peoples’ initiatives, and peoples’ veto. Yes is for these measures of direct democracy. Yes 360, no 89, approved. (The people’s veto was later struck down in the second round of voting.)

Vote 0291: March 18, 1988. This amendment tries to put certain elements of the *Regimento Interno* into the constitutional text, including proportionality of party representation on the leadership (known as the *mesa*) and in committees, and the responsibilities of committees. Yes puts these provisions into the text. Yes 334, no 67, approved.

Vote 0402: April 13, 1988. This amendment would prohibit the military from intervening to maintain internal order. Yes is for such a prohibition. Yes 102, no 326, defeated.

Vote 0756: August 10, 1988. Allows death penalty. Yes 93, no 289, defeated.

Vote 0959: August 31, 1988. Whether censorship is disallowed for artistic as well as political and ideological reasons. Amendment made by a deputy who was also an evangelical minister. Yes says censorship is only outlawed for political reasons, no says it is also prohibited on artistic grounds. Yes 98, no 325, defeated.

#### Collor’s Emergency Decrees

150: Reorganizes executive branch of government. Eliminates ministries of science and technology, development, industry and commerce, transportation, mines, and energy. Creates a new superministry of the economy. Moves other programs to new ministries.

151: Reorganizes executive branch. Eliminates a series of autarchic entities.

154: Establishes a new system of adjustments for prices and salaries. Creates three re-adjustment groups: 1–3 minimum salaries, 3–20 minimum salaries, 20+ minimum salaries. Salaries of 20+ group are subject to free negotiation.

155: Creates the National Privatization Program.

159: Creates a disciplinary code for civil servants.

161: Modifies income tax, eliminates certain regional subsidies and incentives.

168: Confiscates a substantial part of private savings for eighteen months.

185: Regulates the right to strike and government intervention in strike activity.