The lobby in the Brazilian constituent process of 1987-88

Author: Lucas N. F. Costa
PhD Student in Political Science
Federal University of São Carlos - Brazil

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Abstract

The aim of this paper is to discuss the role of pressure groups in the Brazilian constituent process of 1987-88. Given the case of the Inter-Parliamentary Advisory Department (Departamento Intersindical de Assessoria Parlamentar – DIAP) performance as a pressure group, which was able to unify the consensual demands of the working class, uniting in a single project for the Constituent Assembly the trade unions of that period, which were politically divided, we bring to light the importance of the lobby in the constituent process of 1987-88. DIAP changed the trade union agenda from that time, one of the reasons that explains the success of the labor lobby of the working class in the National Constituent Assembly (NCA). The paper is divided into two chapters. In the first chapter we analyzed the two phases of DIAP, before and during the Constituent Assembly. Previously, from 1983, in its creation period, we analyze the formation of a consensual project, which involved the elaboration of technical studies and negotiations with the union’s leaders. In the second phase, during the NCA period, we analyzed the influential DIAP lobby, pointing the political conflicts faced by the organization in each stage of this process. We understand that DIAP was a central actor for defending the interests of the workers, managing to convince the labor unions, leftist political parties and progressive constituents to act according to its conception - explained by the DIAP's institutional conception - which has adapted to the lack of organization and preparation of the unions about the importance of the constituent process. In the second chapter we analyzed the lobbying theory in Brazil, taking lobby as a political phenomenon that had an important influence over the constituent process.

Introduction

In this paper we discuss the importance of the pressure groups during the Brazilian constituent process of 1987-88. We consider the Inter-Parliamentary Advisory Department (Departamento Intersindical de Assessoria Parlamentar – DIAP) performance in the period as an efficient lobbying model, which works as a parameter of comparison to better understand other pressure groups’ performance in the National Constituent Assembly (NCA). DIAP is a pressure group that was able to unify the consensual demands of the working class, uniting in a single project for the NCA the unions of the period, which were politically divided. From this strategy, the organization changed the trade union agenda from that time, one of the main reasons that explains the success of the working class’ lobby in the NCA, changing the prevision of bigger victories by the entrepreneur’s interests.

The Brazilian NCA is known for its long duration (19 months) and the variety of topics covered in which discussions have been extended beyond the dependencies of the Congress relying on broad participation of civil society groups, including the pressure groups, the reason why the Constitution of 1988 is popular referred as the “Citizen Constitution”. Thus, the constituent process is an important period to analyze the lobbying phenomenon in Brazil. Our objective is to show that the Brazilian literature in Political Science which is focused on the study of the constituent process, although mentioning the performance of the pressure groups in the NCA, does not analyze them deeply. The understanding of the real role played by these political actors (pressure groups) adds
important data on the study of the constituent process, and may improve the existing interpretations about this subject. Our empirical research on the role of DIAP, for instance, revealed that the organization, acting as a pressure group, was (along important left parties, as the Workers’ Party – Partidos dos Trabalhadores, PT) one of the main defenders of the interests of the working class. There are evidences that the same occurred in other areas and this is what we discussed posteriorly in this paper.

The paper is divided into two chapters. In the first chapter we analyzed the two phases of DIAP, before and during the Constituent Assembly. Previously, from 1983, when it was created, we analyzed the consensual project’s formation, which involved the elaboration of technical studies and negotiations with union’s leaders. When focusing on the NCA, we analyzed the influential DIAP lobbying, pointing the political conflicts faced by the organization in each stage of this process. We understand that DIAP was a central actor in defending the interests of workers, managing to convince the unions of workers, leftist political parties and progressive constituents to act according to its conception - explained by the DIAP’s institutional conception - which has adapted to the lack of organization and preparation ahead the unions about the importance of the constituent process. For this purpose, we present the results of a documental and empirical research, including the analysis of the Constituent Assembly minutes, newspapers of that period, official documents produced by the organizations involved (labor unions, political parties, and the DIAP) and interviews with political actors (in particular interviews with parliamentary constituents and members of DIAP).

In the second chapter we analyzed the lobbying theory in Brazil, taking lobby as a political phenomenon that had an important influence over the constituent process.

1.1 Brazilian Democratization and the Constituent Assembly of 1987-88

Among the few manuscripts that analyze the NCA of 1987-88 (although there is an extensive literature related to the effects of the Constitution of 19881), there is a consensus that it represents a milestone in Brazil regarding the transition from military regime to democracy. We consider that the Constituent Assembly convocation is explained by the characteristics of the military regime alongside the need to overcome them: the negation of the military’s past and the establishment of a democracy could only be done from a new constitution since the bureaucratic-authoritarian regime of 1964 had institutionalized the undemocratic norms through the Institutional Acts (Atos

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1 It’s worth mentioning the important work by Couto (1997), in which he makes a very critical analysis of the Constitution. According to the author, besides the measures handled by a constitution, the Brazilian Constitution of 1988 has lots of devices which shouldn’t be classified as constitutional. Another important approach in the Constitution of 1988 strives to seek an explanation regarding the Constitution’s format rather than criticizes its overdetailed structure. Examples of this approach are the book by Melo (2002) in which the author interprets both the constituent assembly and the constitutional reform in the Brazilian political scenario and the paper by Noronha, Costa and Troiano (2013) in which is described and analysed the social and labor rights’ evolution since the Brazilian Constitution of 1934 until the Constitution of 1988. Other works regarding the changes caused by the Constitution of 1988: Koerner (1998); Souza (2001); Pessanha, (2002); Bercovici (2004); Couto e Arantes (2006) and Arantes and Couto (2008).
Institutionais, AIs) which were then constitutionalized\(^2\). Thus, it was necessary to perform a unconstitutionalization through a new constitution, which necessarily would require a constituent assembly. (Bonavides e Andrade, 2006 apud Noronha, 2010: 8-9).

The Brazilian democratization characteristics are bonded to the military regime’s specificities, being the main ones both the control of the transition by the militaries and the regime’s hybrid character, defined by Kinzo (2001) as a political arrangement that has the combined characteristics of an authoritarian military regime with others of a democratic regime\(^3\).

The Military Coup of 1964 that deposed the civilian president João Goulart interrupted a 18-year democracy in Brazil (1946-1964) in which there would be another democracy again only in 1988 with a new Constitution\(^4\). Some authors, such as O’Donnell (1990), analyzed the process of bureaucratic-authoritarian States’ formation as a consequence of an economic crisis. The modern capitalist State unable to contain the volatile situation loses its legitimacy with the society, from which arise other authoritarian alternatives. Thus, the authoritarian government takes on the function of resuming the situation of economic stability. In the Brazilian case, the military government’s legitimacy was possible due to moments of great economic growth, which was known as the “economic miracle” in the military regime’s golden years. However, from the mid 1970s Brazil faced a severe economic crisis resulting in lost of legitimacy by the militaries and the beginning of the transition process to democracy. Also, at least two political factors have contributed to the beginning of the transition process: 1) the military regime’s hybrid character (as mentioned above) caused the strengthening of the opposition party, the MDB\(^5\) (posteriorly PMDB), the main political actor of the transition; 2) internal conflicts between different currents in the military\(^6\).

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\(^2\) There had been a total of 17 Institutional Acts (AIs) during the military regime. The AIs were mechanisms to institutionalize the military regime making it legalized. The AI-5, enacted in December 1968, is considered the most important one, because it institutionalized the most repressive practices of the dictatorship. Besides the AIs, the Constitution of 1967, enacted under the military regime, also had an important role on the regime’s institutionalization.

\(^3\) “(...) the Congress and the Judiciary continued in work, although their power were drastically reduced and many of its members were expunged; the changes on the president of the republic continued; remained the periodic elections, though they were under control of many natures; and the political parties continued working, though the partisan activities were drastically limited.” (Kinzo, 2001:4). Translated by me from the original in Portuguese.

\(^4\) Tancredo Neves’ election (he was elected in 1985, but he died before taking stand, then his deputy assumed the presidency) is often considered the final milestone of the military dictatorship in Brazil. However, we understand that only with the Constitution of 1988 it is possible to assume the back of the democracy in Brazil. Before that, although the country was ruled by a civilian president, he was chosen by indirect election in the electoral college (which was strongly influenced by the military) and the country still was under the rule of a constitution created during the dictatorship.

\(^5\) The military regime has adopted a bipartisan political system which lasted until 1979, when the multiparty system was approved through the Federal Law n° 6.767, of December 1979. In the bipartisan system the ARENA (Aliança Renovadora Nacional - National Renewal Alliance) was the party of government support and the MDB (Movimento Democrático Brasileiro - Brazilian Democratic Movement) which was the opposition party. With the multiparty system back, in 1979, MDB became the PMDB (Partido do Movimento Democrático Brasileiro - Brazilian Democratic Movement Party) and ARENA became the PDS (Partido Democrático Social - Social Democratic Party). It is noteworthy, though, that the opposition party, MDB, was controlled by the government and forced to act fairly moderate.

\(^6\) For more information about the Brazilian military regime of 1964 and the political and economical factors which influenced its crisis, read, for example, O’Donnell (1990), Lamounier (1998) and Kinzo (1988, 2001, 2010).
We divided the Brazilian transition to democracy in two moments:

- 1974-1985: the democratization process has begun in 1974 when the then-President of the Republic, General Geisel, announced a “gradual and safe distension plan” (plano de distensão gradual e segura). This first moment lasted until 1985 when occurred the election of the first civilian president since the military coup in 1964;

- 1985-1988: This period was characterized by the process of democracy institutionalization from a new constitution.

When mentioning “Brazilian constituent process” we’re talking about a period which is not rigorously defined; it varies according to the focus of analysis. In this paper, the constituent process is defined as the whole NCA period (1987-88) and the previous period when the organizations – including the pressure groups and the political parties – got prepared for it. The starting year of the analysis may vary according to the examined organization. For instance, DIAP was formed in 1983, while the Worker’s Party (Partidos dos Trabalhadores, PT) in 1980. Other organizations have been formed many previous decades, for example the FIESP7 which was created in 1931, but only in the 1980s has acted aiming the NCA. Therefore, it’s reasonable to establish that the constituent process has started around 1980, when the democratization has reached an advanced stage with a strong expectation that a NCA would be convened soon.8

We consider that there are three different approaches concerning the Brazilian NCA: exogenous, endogenous and a combination of both. The first one analyzes events outside the NCA, for instance the study of the effective participation of the civil society through the “popular amendments” (emendas populares) (Michiles et al, 1989). The second approach has been emphasized by the literature. It takes into account the events occurred inside the NCA and its internal actors (political parties and constituents) without assigning much attention to the external pressure and the role of the civil entities that represented the interests of groups in conflict.

We adopted the third approach in this paper, which aims to combine the endogenous analysis of the process with the NCA’s external events, assuming that its external actors such as unions, entrepreneurs organizations and other pressure groups, had a great influence on the NCAs preferences’ formation.

It is noteworthy that besides the transition from a dictatorship to a democracy the new constitution was based on an overcoming social inequality9, regard as a military

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7 FIESP is the Federation of Industries of the State of São Paulo (Federação das Indústrias do Estado de São Paulo) and was in the 1980s the most important organization in defense of the entrepreneurs’ interests. More informations regarding FIESP’s performance can be found in Troiano (2012).

8 This doesn’t imply, however, that to better understand the performance of a given organization during the constituent process is enough taking into account just when it began to prepare itself for the NCA. The process of institutionalization of this organization starting from its creation (which could have been years or even decades before the constituent process) until the moment of the analysis is relevant and should be considered.

9 This excerpt (which is translated by me from the original in Portuguese) by Noronha (2010: 9-10) summarizes the importance of the social inequality’s issue in the Brazilian social agenda’s transition: “The social inequality issue, in a different way, also confuses the political regimes and State’s dimension. The social inequality in Brazil always prevented the democratization – mostly due to the debate (today obsolete and, naturally, forgotten) in the populist democracy. But, in the 1970s and 1980s the poverty issue and, mostly, the inequality issue observed with the democratization issue as the main popular demands. In fact, between the late 1970s and early 1990 the country has the highest percentage of the population classified as indigent: approximately 20% between 1978 and 1993, being the peak-years 1983 (20,5%), 1984 (23,6) and the years after the constituent process, 1988 (22,1), 1989 (20,7), 1990 (21,3). The year of
regime’s legacy. Thus, extending the social rights was an important issue on NCA’s agenda. The Brazilian transition, characterized by the social agenda, enabled external organizations to have a relevant role in defending the interests represented by them. Mainly, the NCA’s convening in 1985 meant the possibility of pressure groups to organize themselves aiming approvals in the emerging legislative process. (Aragão, 1992 and 1994; Oliveira, 2004; Mancuso 2004 and 2007; Noronha, 2010).

The National Constituent Assembly (NCA) was convened in June 1985 from the constitutional amendment n°26, on November 27th, 1985 (EC-26/85), which postponed the beginning of the NCA for February 1987. In July 1985 was instituted the Provisional Commission of Constitutional Studies (Comissão Provisória de Estudos Constitucionais) which was chaired by the jurist Afonso Arinos de Melo Franco and therefore was known as “Afonso Arinos Commission” or simply “Arinos Commission”. This commission created a constitutional preliminary project that was delivered to the President Sarney. However, this preliminary project wasn’t officially used as the basis of the constitutional works. According to Pilatti (2008), the Arinos Commission was criticized by the leftist as well as by both civilian and religious entities which played an important role in the resistance of the military regime from the 1970s.

The NCA was formed in a unicameral structure, this is, the Chamber of Deputies and the Federal Senate equalized in a single assembly and exercising its extraordinary powers under the “onerepresentative, onevote” rule. The NCA was composed by 559 members, 487 of whom were deputies and 72 senators. All the deputies and 49 of these 72 senators were elected in the November 1986 election, this is, after the NCA’s convocation in 1985. The other 23 senators were elected before, in 1982.

It was established that the NCA would be divided into commissions and subcommissions. Eight thematic commissions have been created and each one was divided in three subcommissions in a total of 24. Besides the eight commissions, there was another one, the biggest and most important one: the Systematization Commission. Thus, it would behoove to each subcommission to create a preliminary project that would later be assessed by its respective and then transformed into a single preliminary project. In other words, from the 24 preliminary projects created by the subcommissions, eight ones were organized by the commissions and would be then presented to the Systematization Commission that would be responsible for creating the final preliminary project which would be, firstly, voted in the Plenary in two shifts.

The NCA was composed mostly by the elected ones in the 1986 election, which was marked by a huge victory of the PMDB party. The chart below (Chart 1) shows the distribution of seats according to the number of deputies and senators of each party:

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The Plano Cruzado (which was a monetary plan in Brazil between 1986 and 1989), in 1986, was the only year of alleviation, with a much lower index: 9.8%. Similarly, and this time with more consistency, after the Plano Real [Plan Real, in English] the index starts to decrease down to 13.9% in 1998, the last year recorded in the author’s study – see (Barros, Henriques et al., 2000) page 125. The Brazilian literature on Social Sciences during 1970-80, the media (more important to the popular perception’s formation) and the international statistical agencies pointed the extreme social inequality in Brazil. It was just after the long industrialization process, urbanization, and the expansion of the “regulated citizenship” (“cidadania regulada”) that the industrial workers have acquired the citizen status. Only recently we can talk about ‘the rural workers’ integration. Finally, and only recently, during the President Lula’s mandates, is noted a project to break the regulated citizen’s pattern – I’m referring to a more systematic fight against the informality, although still incipient.

10 According to Pilatti (2008), Afonso Arinos, consecrated jusist, participated in the conspiracies that led to the suicide of President Getúlio Vargas in 1954 and the Coup of 1964.
Chart 1 – Number of Deputies and Senators per parties in Constituent Assembly

<table>
<thead>
<tr>
<th>Parties</th>
<th>Total</th>
<th>Deputies</th>
<th>Senators/86</th>
<th>Senators/82</th>
</tr>
</thead>
<tbody>
<tr>
<td>PMDB</td>
<td>306</td>
<td>260</td>
<td>38</td>
<td>8</td>
</tr>
<tr>
<td>PFL</td>
<td>132</td>
<td>118</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>PDS</td>
<td>38</td>
<td>33</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>PDT</td>
<td>26</td>
<td>24</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>PTB</td>
<td>18</td>
<td>17</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>PT</td>
<td>16</td>
<td>16</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>PL</td>
<td>7</td>
<td>6</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>PDC</td>
<td>6</td>
<td>5</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>PCB</td>
<td>3</td>
<td>3</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>PC do B</td>
<td>3</td>
<td>3</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>PSB</td>
<td>2</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>PSC</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>PMB</td>
<td>1</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Members</td>
<td>559</td>
<td>487</td>
<td>49</td>
<td>23</td>
</tr>
</tbody>
</table>

Source: Pilatti, 2008: 42

As 280 votes were necessary to achieve the majority, the 306 PMDB’s members would be enough to approve or disapprove any decision. However, the party wasn’t completely cohesive, once there was divergences among its members in several subjects\(^{11}\). Pilatti (2008) describes the main political parties’ distribution according to its ideological position: the PMDB, the biggest party in the Constituent Assembly was composed by three main blocks: a conservative fraction which had PDS’s dissidents, that was originated from ARENA, the military regime’s party; a moderate fraction pro-democratic; and a minoritary left faction. The PMDB suffered, therefore, an internal crisis (which resulted in the Brazilian Social Democracy Party creation in June 1988) that besides of its “mismatch with the programmatic-electoral commitments” (Pilatti, 2008: 20)\(^{12}\), had a controversy concerning the José Sarney’s presidential mandate – 4 or 5 years (Pilatti, 2008 and Coelho, 1999).

The Liberal Front Party (Partido da Frente Liberal, PFL), that was part of the ruling coalition with the PMDB, had most of the PDS’ dissidents and, therefore, was the most conservative block of the coalition. In the opposition, more to the right there was the PDS and eventually the Christian Democrat Party (Partido Democrata Cristão, PDC) and the Liberal Party (Partido Liberal, PL). To the left, there was the Democratic Labor Party (Partido Democrático Brasileiro, PDT), the PT and the Brazilian Socialist Party (Partido Socialista Brasileiro, PSB). The communist parties – Brazilian Communist Party (Partido Comunista Brasileiro, PCB) and the Communist Party of Brazil (Partido Comunista do

\(^{11}\) Pilatti (2008) understands this division within PMDB as the result of the fact that it was, in the transition, the big party of the coalition formed with Sarney, PFL and the military's influence, being composed, thus, by members with different interests and, so, divided both internally and externally.

\(^{12}\) Translated by me from the original stretch: “descompasso com os compromissos programático-eleitorais”.
Brasil, PC do B) – supported the governing coalition. Thus, the left parties were divided between the opposition and the government’s supporters.

1.2 DIAP in the Constituent Assembly – origins

We take the DIAP’s performance during the constituent process as a case study that exemplifies the importance of the pressure groups’ role in the Constituent Assembly of 1987-88. Concerning the actors involved in the workers’ interests in the Constituent Assembly the literature emphasizes the left political parties – the PCB, PC do B, PT and the progressive fraction of the PMDB. Besides the parties other organizations had an important role: some unions, including the two biggest ones, CUT (Central Única dos Trabalhadores. (in English: Unified Workers’ Central) and CGT (Central Geral dos Trabalhadores. (in English: General Workers’ Central))13; and DIAP. The studies about social and workers’ rights focus on the importance of the parties and the unions, being the DIAP’s role in the process little explored, although it’s a consensus its relevance14.

The indications that DIAP had an important role in the National Constituent Assembly (NCA) instigated us to research its performance15. The research started from our hypothesis that DIAP was able to build a block in defense of the workers’ consensual interests in the NCA that produced a project with such a political strength that was able to ensure important rights to the workers, overcoming an adverse scenario. There were indications of entrepreneurs victories: 1-) the entrepreneurs’ economical power and the class organization were bigger compared with the workers in the early 1980’s16; 2-) the NCA was formed mostly by parties and parliamentarians classified as conservatives17.

These two factors suggested a conservative Constitution; the final outcome, however, meant worker class’ gains that were unexpected at the time. The Subcommission on Right of Workers and Public Servants’ preliminary drafts18, as well as the Commission on Social Rights have approved nearly all the DIAP’s projects proposals for the NCA. We consider, thereby, the DIAP’s performance determinant to understand this unexpected result.

In order to understand the DIAP’s role in the NCA we created an analysis model19 of the organization’s performance that interprets its structure through two organizational dynamics: aggregator capacity and lobbyist performance. The aggregator capacity, which started before the NCA, aimed to create a workers’ unified project before a scenario in

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13 CUT was created in August 28, 1983 and CGT in 1986, when was being held the 2nd National Congress of CUT.
15 My Bachelor’s thesis (Costa, 2011), and my Master’s thesis (Costa, 2013) are about DIAP’s performance in the constituent process.
16 Troiano (2012) takes stock of the entrepreneurs’ organizations’ performance in the democratization period. Costa and Troiano (2011) show that, despite the entrepreneurs’ organizations count on much more financial resources than the workers, they haven’t created an organization able to unify the consensual interests of the class, which caused a proliferation of business organizations in the period.
17 We take as reference two authors: Pilatti (2008), who made an analysis of the Constituent Assembly of 1987-88, on the basis of an ideological division between conservatoves and progressives’ constituent parliamentarians; and Coelho (1999), who analysed the Constituent Assembly emphasizing the political parties’ role.
18 In the original Portuguese: Subcomissão dos Direitos dos Trabalhadores e Servidores Públicos.
19 This model is described in detail in Costa (2011).
which the union entities were politically divided\textsuperscript{20}. The lobbyist performance occurred through three main strategies: preparation of studies and bills; projects and studies monitoring; submission of opinions about projects and studies. Among the opinions was included the strategy of assigning grades to the parliamentarians according to their performances mainly related to the workers’ interests.

Following this model we elaborated two hypotheses about the DIAP’s role that differ mainly in the intensity attributed to its ability to create consensus – the aggregator capacity. In the first hypothesis, we stated that DIAP coordinated this project, which influenced the building of consensus, demonstrated a strong ability to aggregate the interests of workers, and had an efficient lobby in the Constituent Assembly. According to this hypothesis the DIAP was the actor responsible for building the consensus through its negotiation capacity and the legitimization mechanisms with the unions’ leaders.

The second hypothesis identifies DIAP acting mostly as a disseminator of workers’ interests to the public opinion, in other words, it is a tool in service of the left parties and the unions, which publicized, especially through an efficient use of its press media, the consensual interests of the class. According to this hypothesis the DIAP didn’t had coordinated but had been coordinated by the parties and the unions.

None of the hypothesis questions the DIAP’s capacity in building consensuses, but they have different interpretations concerning the way the consensus was built. DIAP achieved a very positive dissemination of the workers’ interests in the period by the prestige and influence that the Techinal Director, idealizator and founder of the organization, Ulisses Riedel de Resende, had with the main union organizations in that period. Furthermore, we highlighted the DIAP’s technical capacity and its preparation to deal with legislative issues in the work field, including the pressure made through the wide disclosure in the press of its works, which is the main feature that differentiates DIAP of DIEESE\textsuperscript{21} and makes DIAP a unique organization in that period.

To test the hypoteses concerning the DIAP’s role in the constituent process we made a historical survey of the organization and an analysis of its performance’s mechanisms including the negotiations with the unions’ organizations and the political parties. We divided the DIAP’s history and its strategies into two moments of the Brazilian transition towards democracy. The first one is before the NCA, from the end of 1983, when DIAP was founded, until the early 1987, when the NCA’s works have started. In this first moment the analysis focuses on the organization’s aggregator capacity and on the construction of a project aiming the NCA. This project was possible through negotiations with the main unions of that time which ended up signing it. The second moment is the analysis of DIAP’s performance in the NCA.

To analyse DIAP’s performance before the Constituent Assembly our sources are the incipient bibliography on the subject and primary sources: documents produced by DIAP (for example, its action projects), minutes of meetings organized by DIAP in which


\textsuperscript{21} DIEESE’s (Departamento Intersindical de Estatisticas e Estudos Socioeconômicos - Inter-Union Department of Statistics and Socioeconomic Studies) function was, predominantly, to develop technical studies which even if we assume that they could work as a tool of political pressure, we observe that DIEESE, unlike DIAP, hadn’t concern in use these studies as a mechanism to build an effective project to approve matters in the legislative process. This is, DIEESE don’t act as a pressure group because there is no direct link between the entity and the parliamentarians in the National Congress.
unions and confederations of workers took part, interviews and press material. From these sources it was possible to outline the entity’s history, which had revealed its importance and role in that period.

For the analysis of DIAP’s performance in the NCA the methodological strategy was examining the NCA’s minutes and diaries focusing on the Subcommissions and Commissions in which the organization has concentrated its performance (which were the Subcommission on Right of Workers and Public Servants, the Commission on Social Order and, even with a lower relevance, the Systematization Commission). Besides the minutes, we took into consideration the news and articles from newspapers and periodicals of the period, making it possible to reconstruct DIAP’s trajectory and a better understanding of its repercussion in the media\textsuperscript{22}.

The DIAP is an organization founded on December 19\textsuperscript{th}, 1983, whose initial function, according to its own members and the literature related to the subject, was to organize the workers’ consensual claims, transforming them into legal norms through the lobbyist performance in the NCA, in other words, pressing and persuading through different mechanisms the approval of laws of interest to the workers.

The organization was idealized by the labor law attorney Ulisses Riedel de Resende, the current Technical Director of the entity. The idea on creating the DIAP sprang in 1968, when Riedel and five other Brazilian lawyers were invited by the North American government to meet the union organization in the Unites States. In Washington DC, they visited the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO\textsuperscript{23}) where two departments seized Riedel’s attention: the one in charge of obtaining the resources for financiating the campaigns, called “coup” and the Legislative Department, whose function was to elaborate bills, sending them to the Congress and follow, as lobbyists, those bills’ progress.

In an interview with Riedel (Resende, 2011), h\’e’ve revealed that besides the drafting bills and their monitoring on Congress, he was impressed by the AFL-CIO Legislative Department’s strategy in giving grades at the end of each year to the parliamentarians according to their performance in favor (or not) of the workers. As himself have revealed “this is a genius idea!”. It was put into practice by DIAP when became one of the most famous action mechanisms of the organization, as is illustrated by the publication of Quem foi Quem na Constituinte (Who was who in the Constituent).

Although Riedel had the idea of creating a Department for taking care of the unions’ parliamentary interests in Brazil, the DIAP’s foundation was forced to wait during 20 years to be put into practice. In 1968 Brazil was under the military regime, whose dictatorial characteristics virtually removed from the Congress any legislative capacity. Thus, the creation of an organization like AFL-CIO performing in the Congress would be, either impossible, or ineffective. Only after the beginning of the democratic transition in 1974 and the cycle of strikes\textsuperscript{24} in 1978 that the idea, matured over all these years, could be articulated.

When the democratic opening process started Riedel was under a prominent position in the union scenario being the lawyer of many unions’ entities and taking a very

\textsuperscript{22} All empirical research lies in detail in my Master's Thesis (Costa, 2013).
\textsuperscript{23} The AFL-CIO is the American Federation of Labor and Congress of Industrial Organizations, which represents over 13 million workers. It’s the largest U.S. labor federation. Information obtained by the official website of the entity: www.aflcio.org.
\textsuperscript{24} More about the cycle of strikes can be found in: Noronha, 1992, 1994 e 2009.
close relationship with the main union leaders at that period. Riedel then has started to disseminate his idea of creating DIAP. The first union leader who got interested and supported the creation of DIAP was the Commander Aloísio Ribeiro\textsuperscript{25}, one of the CONTTMAF\textsuperscript{26}’s directors.

In August 1981 at the I National Congress of Stevedores, Port Workers, Seafarers, Fluviariums, Airline Workers, Aeronauts and Fishermen\textsuperscript{27} the idea of creating DIAP, which had already been sketched by Riedel, was voted and approved. With the support of this Congress, Riedel sought the press approval, pointing Armando Rollemberg’s\textsuperscript{28} name, who at the time was president of the National Confederation of Journalists, as an important character. Because of Rollemberg’s great influence amid the media, his support for the approval in the category was very important. After this Riedel had the approval of the Radiobroadcasters (Radialistas) and the Railwaymen (Ferroviários).

In 1983 in a meeting convoked by the CONTTMAF with 17 entities present in the CONTAG\textsuperscript{29} auditorium, the intention of creating the DIAP was articulated. At this meeting Rollemberg proposed that the organizing committee would be formed by the present unions and that would be called a new convocation to get the participation of more entities. The proposal was accepted and a new meeting was scheduled. DIAP was founded on December 19\textsuperscript{30} 1983 at the CONTAG headquarters in Brasília in a meeting with 51 entities. The Department’s Organizing Committee was formed by Ulisses Riedel and five entities\textsuperscript{30}. In this first DIAP’s Assembly the present entities approved the

\textsuperscript{25} The Commander of civil aviation, Aloísio Ribeiro, was elected president of CONTTMAF in 1986.

\textsuperscript{26} National Confederation of Workers in Maritime Transport, Air and Fluviial. In the original Portuguese: Confederação Nacional dos Trabalhadores em transportes Marítimos, Aéreos e Fluviiais

\textsuperscript{27} In the original Portuguese: I Congresso Nacional de Estivadores, Portuários, Marítimos, Fluviários, Aeroviários, Aeronautas e Pescadores.

\textsuperscript{28} Armando Rollemberg, graduated in journalism at UnB, was a political reporter of Veja and Isto É magazines, as well as Jornal do Brasil, Jornal de Brasília, Jornal da República and Correio Braziliense newspapers. He was diretor of Journalism in the TV Brasília and Media Adviser and Head of the Parliamentary Advisory Superior Court. He actively participated in the union movement of journalists, helping to articulate the group that led the political columnist Carlos Castello Branco to the presidency of the Trade Union of Journalists of the Federal District (Sindicatos dos Jornalistas do Distrito Federal), in 1979. Rollemberg was treasurer, general secretary and two times (1986 and 1992) president of the National Federation of Journalists (Federação Nacional dos Jornalistas), being elected in the first direct election (one journalist, one vote) realized in the Brazilian unionism history. He was, also, president of FELAP - Federação Latinoamericana de Periodistas (Latin American Federation of Journalists) during 87-88 and president of OIJ - Organização Internacional dos Jornalistas (International Organization of Journalists) from 91 to 93. During the Constituent Assembly, Rollemberg was the president of FENAJ, having participated actively in the fight for the definition of democratic policies on communication, this was the reason why it was created the National Council of Communication (Conselho Nacional de Comunicação) – idea that originated the current Social Communication Council (Conselho de Comunicação Social). At that time he also struggled for the approval of constitutional principles that determine the radio and TV to promote the "regionalization of cultural, artistic and journalistic production" and encourage the "independent production" (art 221, items II and III, of Constitution).

\textsuperscript{29} CONTAG is the Confederação Nacional dos Trabalhadores na Agricultura (National Confederation of Agricultural Workers). According to Riedel, initially he asked for the CNTEC (Confederação Nacional dos Trabalhadores em Educação e Cultura - National Confederation of Workers in Education and Culture) and the CNTC’s (Confederação Nacional dos Trabalhadores no Comércio - National Confederation of Workers in Education and Culture) auditoriums, whose confederations he was the lawyer, but they denied both to give in the auditoriums and to be part of the organization that would be created. Soon thereafter Riedel was fired from the CNTEC.

\textsuperscript{30} These entities were the National Confederation of Workers in Maritime, River and Air Transport (Confederação Nacional dos Trabalhadores em Transportes Marítimos, Fluviiais e Aéreos (CONTTMAF));
Statutes, elected and installed the first directorship and defined the associates’ contributions. The presidency was assumed by Maurício Ellena Rangel, who was president of the Urbanitários Federation, and Antônio Rogério Magri who was president of the Electricity Workers’ Union of São Paulo (Stieesp - Sindicato dos Eletricitários de São Paulo), assumed the vice-presidency.

The main DIAP’s objectives between 1983 and 1987 were to organize and to plan its preparation to the NCA. Concerning this preparation the three most important actions of the organization were: The creation of the Jornal do DIAP (DIAP’s Journal) in 1985, the publication of the book Quem é Quem (Who is Who) in 1986 and, mainly, the creation of action projects that were divided in a total of eight, but not all of them were elaborated before the NCA.

The Jornal do DIAP’s launch in 1985 was important once it established the first communication channel between the organization and the unions. In 1986 the book Quem é Quem came out - the first DIAP’s publication - which, like the example of the Legislative Department of the north american AFL-CIO, gave grades to the parliamentarians according to its performance concerning, mainly, the workers interests’ defense.

But, it was in the Action Projects’ elaboration, in other words, in its propositive action that DIAP exercised its most important role at the period before the Constituent Assembly. The organization elaborated eight Projects, being five of them before the Constituent and would be defended by DIAP during NCA’s works.

- Project One was about unjustified dismissal and started before the Constituent Assembly through a bill and was resumed in the NCA via a popular amendment. It was not approved.

- Project Two was about the normative power of the Labour Court and the proposal was achieved in the Constituent Assembly via §2º, Art. 115 of the Federal Constitution/1988.

- Project Three was about the union organization and did not succeed due to the divergences among the many unions’ currents.

National Confederation of Liberal Professions (Confederação Nacional das Profissões Liberais (CNPL)); National Federation of Workers in Urban Industries (Federação Nacional dos Trabalhadores nas Indústrias Urbanas); National Federation of Stevedores (Federação Nacional dos Estivadores); National Federation of Workers on Telecommunications and Telephone Table Operators (Federação Nacional dos Trabalhadores em Empresas de Telecomunicações e Operadores de Mesa Telefônica).

Antônio Rogério Magri, union leadership, was, from 1978 to 1990, president of the Electricity Workers’ Union of São Paulo (Sindicato dos Eletricitários de São Paulo (Stieesp)) and in 1989 he was elected CGT’s president. Because Magri had assumed the position in Stieesp exactly when the ABC’s strikes broke out, he became an important actor in Brazilian Union’s politics. In the government of President Fernando Collor, in 1990, he was Minister of Labour and Social Security, when he was accused of having involvement in some corruption cases, which ended his political and union leader career.

This DIAP’s publication assessed the performance of the deputies in the 1983-1987’s Legislature. It was considered the Member’s performance on voting the Decree-Laws on wage squeeze (2024, 2025, 2065, 2100), employment stability (which was the DIAP’s Project One, as will be shown below), “Diretas-Já” for President (Dante de Oliveira’s Amendment), the Electoral College (Maluf versus Tancredo Neves), and declarations by the parlamentarians concerning other issues.

Among these projects, the first six ones are described in the book Quem foi Quem na Constituinte (1988). Other sources to make this short description of each project may be found in Aragão (1994), in the interview with Ulisses Riedel (Resende, 2011) and journal articles.
- **Project Four** was about the expansion of the guarantee of the right to strike and was achieved in the NCA with a separate law (Art. 9 of the Federal Constitution/1988).

- **Project Five** was about all the other DIAP’s issues of interest for the NCA, for example: the participation of employees in profits, the co-management and the agrarian reform. They were partially achieved in Constitution of 1988.

- **Project Six** was about the minimum wage and it was partially achieved during the Constitution.³⁴

- Both **Project Seven** and **Project Eight** were proposals elaborated after the Constitution of 1988 and they were related, respectively, to the regulation of constitutional items (like the prohibition of unjustified dismissal, the participation of employees in profits, the co-management, *inter alia*) and the 1993 constitutional revision.

The Project Eight had three stages: research with the opinion formers; research with parliamentarians; and publication of the book *A Cabeça do Congresso Nacional – Quem é quem na Revisão Constitucional* (The Head of the National Congress Who is Who in the Constitutional Revision).

The Project One deserves attention. It was materialized through a draft bill elaborated by DIAP in June 1984, which prohibited unjustified dismissal. It was followed by a national advertising campaign organized by DIAP that counted on posters, outdoors, newsletters and other means of dissemination. The Project One was placed on the National Congress’ agenda. For achieving it DIAP needed the parties and Pimenta da Veiga’s signatures, because he was leader of Figueiredo’s (the president in 1984) government. Whereas all the parties had signed, according to Riedel, it was necessary a work behind the scenes to get Pimenta da Veiga’s signature. This was one of the first DIAP’s lobbyist performances and counted on the media mobilization and pressure behind the scenes, as Riedel revealed (Resende, 2011). The Project One’s proposal was approved in the House of Representatives as an ordinary law, but with the begining of the NCA it was never considered by the Senate, and consequently it wasn’t approved as a law. Thus, the subject was resumed during the NCA as we’ll show.

DIAP had meetings with a legal core formed by lawyers of all unions affiliated to discuss the proposals which would be sent to the NCA. With the approval of the legal core, DIAP organized congresses in its headquarters so the union leaders would ratify the made decisions, according to Riedel, without any resistance.

Five national congresses were made in DIAP and they had an ample adhesion of the union movement, which was symbolized by a document signed by ten union confederations, three central unions and one association, in which they committed themselves to support DIAP’s work in defense of the workers’ consensual interests in the NCA. This document formalized the project elaborated by DIAP meaning the organization’s victory regarding the consolidation of a unified block of workers’ interests.

Two factors are fundamental to understand why DIAP was accepted by the unions’ entities to assume this role: 1) its organizational characteristics marked by a high

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³⁴ Regarding the minimum wage, it was approved the extinction of the Government’s power on fixing through decree the minimum wage rates and the itens related to it were expanded. In practice, there was no gain in purchasing power with the new rules, however the workers’ leadership consider that the legal basis for a fair minimum wage, as approved in the Constitution, could be useful when the economic conditions improved.
level of professionalism, which was defined by a high technical capacity and its strategy of acting exclusively in defense of matters that were consensual in the union’s milieu. Thus, the organization didn’t deal with subjects that weren’t consensual, as the union organization for example; 2) the influence of Ulisses Riedel de Resende, creator and Technical Director of the organization, who was lawyer of hundreds of unions having a good relationship with large part of the union leaders of that time. We emphasize that the success of DIAP in building a worker class’ consensual project is the result of a political period with very particular characteristics. This consensus of unions could only be made the way it was because of the National Constituent Assembly of 1987-88, since it changed the rules of the political game. It was a consensus among the union milieu the necessity to get prepared for the NCA. DIAP showed itself as an actor able to organize what was consensual in the worker class, creating a project with other union organizations that allowed the worker leaders to get prepared in order to defend their interests in the NCA.

1.3 The DIAP’s lobby in the Constituent Assembly of 1987-88

A wide empirical research that took into account, mainly, the analysis of the Constituent Assembly’s minutes and newspaper reports of the time, led us to conclude that the Department of Inter Parliamentary Advisory (DIAP) had a central role in the defense of the workers’ rights during the constituent process. Although in some moments the union entities' consensus had suffered resistance, it remained solid nearly during the whole National Constituent Assembly NCA. The moment when the consensus suffered more pressure, mainly as a reflection of the rivalry between the Unified Workers’ Central (CUT) and the General Workers’ Central (CGT), the constituent process was reaching the end. DIAP’s performance faced more resistance when a higher number of constituents was necessary to approve its proposals.

We observed that in a first moment, mostly in the Subcommission on Right of Workers and Public Servants, but also in the Commission on Social Right, when the block articulated by DIAP acted in a more restricted arena with a majority of progressive constituents (therefore more supportive of its project), it was relatively simple to approve all their proposals. In fact, the Subcommission’s text is virtually the same as the DIAP’s Project One. In the Commission on Social Right, with some minor changes, the organization’s proposals remained fully alive. However, from the Sistematization Commission and, mainly, in the voting phase on the Plenary, scenario in which there was a conservative majority strengthened by the Centrão’s formation, it was nearly impossible to have absolute achievements in too polarized issues.

35 To Queiroz (1997) the organization’s legitimacy gain with the union milieu can be explained by two facts: the DIAP’s Project One’s success, which was about unjustified dismissal; and the fact that the organization just acted in consensual issues for the workers class.
36 Centrão was a non-partisan block formed during the National Constituent Assembly of 1987-88 by conservative constituents to alter the Internal Rules of the Constituent and, by this, to facilitate the change of the draft made by the Sistematization Commission, which would be voted in Plenary. From the point of view of the social rights and, more specifically, the workers’ right, the Centrão performance was a big obstacle to put in the Constitution’s text the matters that had been approved until the Sistematization Commission. Centrão - in English “Big Center” - expresses the idea of a big group formed by constituents neither from the right parties nor from the left, but from the center ones.
DIAP had an important performance since the beginning of the NCA, when it struggled for the non-elaboration of an initial draft by the Systematization Commision before the beginning of the Thematic Commissions’ works. With that, the subcommissions and comissions increased in importance, whose constituents could be – and were – more favorable to DIAP’s project. All the organization’s performance during these two first phases, after proposed, guided and pressed, by achieving the approval of its projects, were fundamental, once there was not a total defeat in the final phases of the NCA, when the majority has become conservative and, therefore, in overall, resistant to the proposals of this block articulated by DIAP.

The progressive block articulated by DIAP didn’t approve all the proposals, but made important achievements. According to Barelli (1989), some labor rights defended by the organization have appeared for the first time in a Brazilian Constitution, although some of them already existed in the legislation of that period or in labor negotiations. The author lists the following rights as the most important ones:

1) guarantee against unjustified dismissal (the Constitution in force states that as “stability” or “guarantee fund”); 2) minimum wage and irreducibility of salary; 3) salary guarantee for workers who receive variable remuneration; 4) 13th salary; 5) workday of six hours for uninterrupted shifts; 6) remuneration for overtime; 7) proportional previous notice (minimum of 30 days); 8) health hazard premium: 9) free assistance for workers’ children, until the age of six, in nurseries and preschools; 10) protection against automation; 11) right to take a legal action in a period of 5 years regarding the credits arising from labor relations; 12) equality between the independent worker and the worker with the employment bond.

According to Barelli, among these rights, the following ones were completely new: 1, 5, 7, 9, 10 and 11. The others weren’t new, but they were extended, as, for example, the concepts of unemployment insurance and insurance against accidents at work. Moreover, the 44-hours working week was set (it was 48 hours in the previous legislation), came into existence the holiday bonus, and the maternity leave was extended, including the addition of paternity leave.

The progressive block failed to pass the 40-hours working week proposal and the employment stability, which were two of the main proposals of DIAP’s project. Thus, the organization considered these issues as the two greatest shortcomings of the union movement. At least, regarding the stability, in which the employment guarantee against dismissal without cause was remitted to the ordinary law, “it opens the possibility of restricting the arbitrariness in the termination of labor contracts.” (Barelli, 1989: 323). It means that the advances and retreats in the case of the employment guarantee will be determined by the Congress’ composition.

Here is Riedel’s evaluation (quoting Geraldo Campos) about the participation of the progressive block articulated by DIAP in the NCA:

Geraldo Campos said thus: “We left with a truckload of pumpkins and we’ve lost some pumpkins in the way. But the pumpkins that have reached to the end were all ours.” Because what is written in the

37 Translated by me from the original in Portuguese: “abre-se a possibilidade de restringir a arbitrariedade nas rescisões de contratos de trabalho”.

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Constitution I recognize, it’s my calligraphy: this word here, this comma. (Resende, 2011)\textsuperscript{38}.

2 – The lobby phenomenon in the Brazilian constituent process of 1987-88

Although the literature exhaustively points to the importance of the pressure groups in the Brazilian legislative process (whether in Congress or in the National Constituent Assembly of 1987-88), only a few studies have sought to understand the lobby phenomenon in Brazil. It is notorious the tendency to avoid the use of the lobby’s concept in studies that mention the pressure groups’ performance. We believe that it occurs because the concept is ill-defined. The difficulty to talk about lobby lies in the specific characteristics of the practice in Brazil. In this chapter we treat about the specificities of the Brazilian lobby, highlighting the importance in understanding its functioning in the National Constituent Assembly of 1987-88.

The literature\textsuperscript{39} uses to define lobby as an activity, a process by which the representatives of interest groups, acting as intermediaries, take their groups’ desires to the legislators or decision-makers. Thus, to Pasquino (1998), lobbying is, mostly, a message transmission from the pressure group\textsuperscript{40} to the decision-makers through specialized representatives. This message is transmitted through different strategies which compose the lobbyist performance. According to Oliveira (2004: 13), the lobbying includes “the gathering information, political proposals, appropriate strategies to support such demands, research making and the search for allies (...) the pressure is its last stage”\textsuperscript{41}. Mancuso (2004) in his study about the lobby of the Brazilian industry in the National Congress also stresses the multifaceted feature of the lobbyist activity. However, the author shows that the lobby strategies varies according to the rules of the game. For example, in the industries’ lobby case, in the period studied by Mancuso (between 1995 and 2005), the strategies have varied according to the rules of the internal regulation of each institution in which the pressure group would act. In the House of Representatives or in the Senate, for example, the pressure is focused on the phase of the commissions (and, especially on a specific actor: the reporter), once a significant part of the legislative work occurs in this phase.

This lobby strategy diversification according to the rules of the game is verified on the performance of the pressure groups in the National Constituent Assembly of 1987-88 (NCA). They took advantage on the fact that NCA opened a wide space for public

\textsuperscript{38} Translated by me from the original in Portuguese: “Geraldo Campos dizia assim: “Nós saímos com um caminhão de abóbora e perdemos algumas abóbora no meio do caminho. Mas as abóboras que chegaram no fim eram todas nossas”. Porque o que está escrito na Constituição eu reconheço, é a minha caligrafia: essa palavra aqui, essa vírgula”.

\textsuperscript{39} For example, Pasquino (1998), Oliveira (2004), Mancuso (2004), Mancuso and Gozetto (2011) and Marinello (2010).

\textsuperscript{40} We understand pressure groups as interest groups that make pressure (Oliveira, 2004). Thus, we consider pressure groups these interest groups that has a lobby performance. We characterize this performance in this chapter.

\textsuperscript{41} Translated by me from the original in Portuguese: “a coleta de informações, propostas políticas estratégias apropriadas para dar suporte a tais demandas, confecção de pesquisas e a procura por aliados (...) seu último estágio é a pressão”.
manifestation to legitimize their proposals through, for example, the popular amendments, the extensive press coverage of the constituents work and by participating in the public hearings.

According to Aragão (1992) and Oliveira (2004) “what singularizes the lobbying giving to it immense complexity is its fluidity”\(^{42}\) (Oliveira, 2004: 16). These authors turn the attention to the often transitory nature of the defended interests. An initial analysis of the pressure groups’ performance in the NCA reinforces the authors’ arguments. The NCA was a stage for the activities of many pressure groups created ad hoc, intensifying the lobbying fluidity. This phenomenon (pressure groups created specifically for the NCA) distinguishes the lobby activities in the NCA from the lobby activities in the ordinary legislation. We believe that not only the fluidity intensity is bigger in the NCA case, but also the own nature of the lobbying performance is singular. Once the actors adapt their strategies according to the rules of the game, it’s possible to state that the same occurs with the pressure groups which in the NCA performed a particular kind of lobby, since it’s a legislative space with very singular characteristics.

There are few works about lobby in Brazil and the majority is from the Law, Administration, Journalism and Public Relations (Oliveira, 2004)\(^{43}\). In the Social Sciences there are even less studies. The works of Aragão (1992, 1994 and 2000), Oliveira (2004) and Mancuso (2004) (some of them mentioned above) deal with important issues regarding the lobby in Brazil and will be discussed further in this paper. There are few other works on the same theme in Social Sciences to be mentioned: Bezerra (1999), who shows a strong link between lobby and corruption in its analysis regarding the Union budget’s negotiation process; Vianna (1995) who uses the lobby concept to explain the processes that he names as “the (perverse) americanization of the Brazilian social security system”, which would be, according to the author, one of the factors that blocks the materialization of a universalist model for the social security system in Brazil, as it’s provided in for the 1988 Federal Constitution.

Among the works mentioned, Mancuso (2004) must be highlighted because of his high influence on the lobby studies in Brazil. In this research the author creates a method to evaluate the success of the lobby of Brazilian industry, this is, the degree to which the legislative outcome turned to the entrepreneurs interests corresponded (the analysis take into account the space of time 1995-2005). However (and the author himself makes this reservation (Mancuso, 2004: 522-523)), the adopted method doesn’t determines the industry’s lobby influence capacity, it just shows the correlation between the legislative decisions and the industry’s lobby’s interests. Thus, even though important, the author’s study distances itself from a research agenda oriented towards qualitative analysis which interprets the pressure groups’ performance, seeking to understand its influence in the legislative process.

In addition to the fluidity issue we’ve pointed out, the authors are unanimous when stating that one of the main reasons that explains why there are few works on lobby in Brazil is its informal character. The lobbying in Brazil is “wrapped in a strong stigma of marginality, because for decades it have been confused with corruption and influence

\(^{42}\) Translated by me from the original in Portuguese: “o que singulariza o lobbying e lhe confere imensa complexidade é a sua fluidez”.

\(^{43}\) Oliveira points the most influential works on lobby in these areas: Lodi, 1982 and 1986; Figueira, 1987; Lemos, 1988; Borin, 1988; Werneck Vianna, 1994; Rodrigues, 1996 and Bezerra, 1999.
peddling’s pratice.”(Oliveira, 2004: 18). Because of that, the authors concerned in studying lobby in Brazil make an effort in distinguishing lobby from corruption. Oliveira (2004) used the ideas of Graziano’s study (Graziano, 1996), which discusses the relation between lobby and the public interest, to show that the characteristics of the licit lobby in Brazil rather than promote corruption, stimulates the democracy. Mancuso and Gozetto (2011), distinguished two categories of lobby – the lawful and the illicit. The lawful lobby “can be a democratic instrument of interest representation bringing positive contributions to both decision-makers, public opinion, interests represented and the political system as a whole.”(Mancuso and Gozetto, 2011: 122).

This misunderstanding between lobby and corruption could be also observed in the NCA. For example, the media coverage on the topic often analysed the lobby in NCA with a tendency to criticism. Moreover, the press seemed not to clearly understand the phenomenon. There were lots of analyses in newspaper’s editorials and reports regarding the lobby in the NCA. In Costa (2013) this repercussion is showed, characterized by a mixture of compliments on the lobbyist entities’ high organization and capacity of influence and criticism to an alleged threat under which they were during the constituent process. Many journalists considered that the lobby affected the constituen’s work and that in the end the lobbyists were the real decision-makers rather than the parliamentarians. For example, Sergio Chacon, editor on politics in the Correio Braziliense newspaper, understood the lobby activity as inevitable, an intrinsic charateristic to the democratic political process:

All the living sectors in the society find out that it’s not enough have a Member of Congress elected, fill the Congress’ gallery with protesters or march in front of the Palácio do Planalto [Brazilian Presidential Palace] to have ensured their interests. Everyone makes lobby. The ones who don’t make it are whoever doesn’t have nothing to conquer or defend. Just don’t make lobby whoever is already dead and still doesn’t know it.(Correio Braziliense. Só não o faz quem já morreu [Only the ones who are already dead don’t do it]. By Sergio Chacon. 01.03.1987)

We consider the lobby’s informal character in Brazil as the main factor that explains the difficulty in properly conceptualizing it. Although many authors (for example, Mancuso (2004: 519), Werneck Vianna (1994, 1998) and Diniz and Boschi (1999)) have indicated that the activity pattern of the Brazilian industry’s pressure groups approaches increasingly to the north american lobby, still there is a big distance between the two models. According to Aragão (2000) and Oliveira (2004), lobbying is a phenomenon typical from the north-american democracy.

44 Translated by me from the original in Portuguese: “envolto em um forte estigma de marginalidade, pois durante décadas foi confundido com a prática de corrupção e tráfico de influência”.
45 Translated by me from the original in Portuguese: “pode constituir-se em instrumento democrático de representação de interesses, ao trazer contribuições positivas para os tomadores de decisão, a opinião pública, os interesses representados e o sistema político como um todo”.
46 Translated by me from the original in Portuguese: “Todos os setores vivos das sociedades descobrem que não basta ter eleito um deputado, encher a galeria do Congresso de manifestantes ou fazer uma passeata em frente ao Palácio do Planalto para assegurar seus interesses. Todo mundo faz lobby. Só não faz quem nada tem a conquistar ou defender. Só não faz quem já morreu e ainda não sabe”.

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In fact, the United States has the greatest production of studies on the subject and also is where the lobby term was used for the first time. The appearance of the lobby concept has different versions. According to Karl Schriftgiesser (Schriftgiesser, 1951 apud Aragão, 1994) the term "lobby agent" appeared for the first time in 1829 “and, when reduced to just ‘lobby’ in 1830, it become widely used on newspaper’s stories and cartoons.” (Aragão, 1994: 17). Other version points the concept’s appearance in 1819. The term “lobby” refers to, as said by Marco Maciel in a pronuncement in the Brazilian Senate, to the hotels’ access areas, the hotel’s lobby, where groups and companies use to set up meetings with politicians:

The pressure groups performance with the Executive, Legislative, Judiciary and with the Political Parties is known from the English expression “lobby”, meaning the antechamber or anteroom of the offices or buildings orginally used by the representatives of these organizations as places where they developed their works. From the word lobby derives lobbyists, which designates the people who do this activity, and lobbying, which expresses this activity’s procedure. (Maciel, 1984 apud Aragão, 1994: 18).

In Brazil, the lobby organizations act in the Brazilian Legislative since the 19th century, as evidenced in Santos’ study (1991) about Commercial Association of Bahia. These organizations had an important role in the Legislatve until the 1964 coup, when, once that the Legislative itself lost its importance to the authoritarian power of the Executive (which was controled by the militaries), the lobby organizations had lost its main performance’s arena – the Congress. Only with the democratization process and the gradual reconquering of importance by the Congress these lobby organizations had back some relevance in the national scenario. But it was, mostly, with the NCA that the lobby phenomenon strongly re-sprang up in Brazil.

With the constituent process many organizations prepared themselves to articulate the lobby of the groups that they represented. Some of these organizations have been created to perform in the NCA. The DIAP is one of them, it organized the workers’ lobby since its creation, regarding the future NCA. The constituent process was a singular moment to the lobby activity in Brazil, being a political phenomenon of major relevance.

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47 Regarding the north-american bibliographical production, Bentley’s work (1908) is considered a pioneer study on pressure groups and lobbying in Political Science. Other important works on lobbying in USA are: Herring (1967) (1st edition in 1929); Crawford (1939); Key (1964) (1st edition in 1942); Truman (1964); Schriftgiesser (1951); Berry (1977); McFarland (1984); Lindblom (1981), Moe (1980), Wright (1996), Ryden (1996). Though there are more works in USA, in other countries in Europe we also found important works. For example, in England: Beer (1957); Stewart (1958); Wooton (1972); Roberts (1970); Finer (1981); Baggot (1995). In France: Reynaud (1963); Meynaud (1966).

48 Translated by me from the original in Portuguese “e, reduzido para lobbyist em 1830, passou a ser amplamente empregado em matérias e charges jornalísticas”.


50 Translated by me from the original in Portuguese “A atuação dos grupos de pressão junto aos poderes Executivo, Legislativo, Judiciário e aos Partidos Políticos é conhecida, como se sabe, segundo a expressão inglesa lobby, significando as antecâmaras ou ante-salas das repartições ou edifícios utilizados originalmente pelos representantes de tais organizações como locais onde desenvolviam, preferencialmente, o exercício de seus trabalhos. Do vocábulo derivam lobbyists, que designa as pessoas que se dedicam àquela atividade, e lobbying, que exprime o procedimento dessa atividade”. 
The National Constituent Assembly of 1987-88 not only stimulated the creation of lobbies, but also gave to them a performance arena with very particular characteristics (as we show above concerning the NCA’s rules).

The DIAP’s case exemplifies one of the most relevant lobbyist performance in the NCA. In addition to the workers’ lobby, we mentioned in this paper the unsuccessful entrepreneurs’ lobby. However, we note that the lobby activity was extended to the most varied areas of interest. The presence of pressure groups was widely disclosed by the press. Just to mention some examples, the Health and Education involved an intense performance of pressure groups in the NCA, which were divided into two strands, one identified with the civil service (which advocated for the strengthening of the public health system) and, in opposition, groups which aimed more supportive laws for the private initiative (private educational establishments in the Education’s case and private health insurance companies in the Health’s case). We can point as a strong lobby in the Health the so-called sanitarians.\footnote{The study of pressure groups’ performance on the Health and Education areas is the main objective of my PhD thesis, in development. The sanitarians’ performance is highlighted by Marques and Mendes (2005), Gerschman and Santos (2006) and Pires and Demo (2006), which works focus in analyzing the Brazilian’s Health System (SUS – Sistema Único de Saúde) and by doing it they point the high influence of the sanitarians movement’s lobby in the Constituent Assembly, without going deep on the analysis, though. Gonçalves (2005), analysis the popula movements in the Constituent Assembly and also reference the lobby made by the sanitarian’s movement.}

Although the evidences about the importance of external organizations and their lobbies in the NCA, none of the works mentioned this far about the Brazilian lobbying has focused on the pressure groups’ performance in the Constituent Assembly of 1987-88. Thus, the literature on the subject still remain very scarce. We can point some works, though. On the Public Policy field the Gonçalves’ (2005) work investigates the participation of the popular movements in the NCA and the Federal Constitution of 1988 implications regarding the definition of the social policies’ field. Santos’ (2004) thesis analyzes the women’s role in the NCA, creating a sociopolitical profile of the female parliamentarians. In addition, the author analyzes the performance of the organizations that have defended issues related to women’s rights and guarantees. The Pinheiro’s (1991) thesis, in a sociological approach, analyzes the conflict involving associations and movements bonded to both public and private’s educational system. The author defines the conflict as a dispute between two segments for a predominant space on the educational field regarding the execution and the control of the policy in this area.

We concluded by highlighting the importance on extending the research agenda on the study of lobby in Brazil, searching, in first place, for a better comprehension of the phenomenon and its specificities in the Brazilian case. Once we have a better definition regarding the lobby operation in Brazil, it’s necessary to test its occurrence in the Constituent Assembly of 1987-88, taking into account the particular characteristics of a constituent legislative process. The application of the concept reveals a new interpretative possibility for the Brazilian constituent process, since it brings new political players to the game whose performance is still slightly understood by the literature. DIAP has changed the game of the workers’ area in the NCA, and there is an immense ground to be explored regarding the performance of pressure groups on the process, which indicates that the DIAP’s lobby was only the tip of the iceberg.
References


COSTA, L.N.F. Um Modelo de Análise para o DIAP. Monografia (Curso de Ciências Sociais – UFSCar): 2011.


GRAZIANO, Luigi. Lobbying and the Public Interest, outline of a talk to be given. 20th Annual Conference of Anpocs, Caxambu, Brasil, Outubro, 22-26, 1996.


RESENDE, Ulisses Riedel de. DIAP e o “Quem foi Quem na Constituinte”. Brasília, União Planetária, 08 abr. 2011.


WRIGHT, John R. Interests Groups and Congress. Boston, Allyn and Bacon, 1996.