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## Boekbespreking van: The Political Institution of Private Property

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This latter aspect also draws attention to the enormous influence Gabriel Almond, and, in particular, his ssRC Committee on Comparative Politics, has had on the European profession, as well as on the study of comparative politics more generally. It has always been easy to underestimate the impact of this Committee, and the contributions to this volume now reinforce that impression. What emerges very strikingly here, however, is how Almond and his colleagues not only played a crucial role in providing the intellectual terms of reference for much of the post-war development of comparative politics, but also how they worked so successfully to bring diverse national scholars together, and to promote cross-national collaboration. As has sometimes been pointed out in the past, and as is now substantiated here, it was often in the American environment that Europeans learned about one another, and in this important respect the story of the European profession is also an American story. Both Almond and Dahl are extensively cited in this volume, each being explicitly mentioned by twelve of the other autobiographers, and it is interesting to note that the absence of citations from either is generally a feature of those scholars who remained away from the United States. Among the more strictly European influences, Stein Rokkan clearly emerges, and quite rightly so, in a class of his own, and is cited as a source of influence and inspiration in some 20 of the autobiographical chapters. Karl Deutsch is also cited quite widely, as are Arend Lijphart and Hans Daalder himself. References to the classic influences of both Durkheim and Weber, on the other hand, are fewer than might have been anticipated, seeming to confirm the relatively late start made by comparative politics as a component within the social sciences more generally.

These are almost all major scholars, and they have been primarily concerned with major themes: regimes, democracy, order, stability, and legitimacy. As the founding fathers of a new profession, they more or less began with a *tabula rasa*, and they then went on to set the principal terms of reference from which later generations took their intellectual cues. Rarely were they obliged to look over their shoulders or to worry about whether their plans met with the approval of a previously incumbent generation of professors. As Blondel notes, they were amateurs who became professionals, and they took full advantage of the freedom and flexibility which that trajectory afforded. The profession has become more of a profession since then, but it has also become more specialized and less sparkling. To read this excellent volume is, therefore, to be reminded of the potential which might still be resuscitated, and the value which might still be recovered. Daalder has done us a great service in making this book a reality; it can be recommended most strongly.

Peter Mair

Itai Sened, *The Political Institution of Private Property*, Cambridge University Press, 1997, ISBN 0-521-44120-7, £ 35.00

This book addresses one of the central questions of political theory: how do institutions come into existence, and more specifically, how can we explain the emergence of property rights? To address this question, the author makes use of the familiar notion of a social contract. However, his approach differs in two fundamental respects from the more familiar contractarian approaches in political theory. First of all, the contractarian analysis is stripped of its usual normative character. The central aim is to provide a *positive* theory of the emergence of (property) rights. Second, rather than presupposing the existence of natural rights and then analysing the emergence of governments, Sened presupposes the existence of governments and then analyses the emergence of legal rights. The basic idea is that the allocation and protection of rights is the outcome of a strategic struggle in which the government is entwined with its citizens. The allocation and protection of rights involves costs for a government. Governments will, therefore, only institute rights if they receive something in return from the citizens, viz. political and economic support.

Sened distinguishes his approach from classic approaches in political theory and philosophy as well as from neo-classical approaches. With respect to some classical theories about the origin of rights – the theories of Locke, Hobbes, Hume, Rousseau and J.S. Mill, respectively – Sened repeats the familiar argument that the notion of ‘natural’ rights is meaningless, because there are no clear standards for deciding which rights are natural. Moreover, even if we presuppose the existence of natural rights, we should ask ourselves why governments – as Locke and Hobbes assumed – protect natural rights. According to Sened, we should not *assume* that the sovereign will protect rights, but should *explain* why (or why not) rights are protected. A major flaw of neo-classical theories is, according to Sened, the fact that they ignore the political aspects of market interactions. The analysis of the market in itself can not yield an explanation of the existence of rights, because the free exchange of property rights presupposes an enforcement mechanism that protects those rights. Therefore, the political structure that allows the market to function should be taken into account.

To analyse the emergence of institutions, Sened adopts a game-theoretic framework. A game – i.e. a specification of a group of players, a set of strategies for each player and a function assigning a payoff to each individual for every configuration of individual strategies – is seen by Sened as an abstract description of a social event. Social events can, however, be changed by man-made rules. These rules may affect the set of players, their strategies or their payoffs and can thus transform the structure of a game. To illustrate, consider legal institutions. Essentially, a legal institution is a set of rules that changes a social event by giving individuals extra strategies (in the form of rights) and by changing the pay-off functions (in the form of sanctions imposed on certain behaviour). Describing the original social event in which rights did not exist by a

game  $\Gamma$ , the institution formed by a set of man-made legal rules  $L$  thus yields a new game denoted  $(\Gamma|L)$ . Obviously, there are many different ways of allocating individual rights and of imposing sanctions, and there are thus many different ways of transforming the game  $\Gamma$ . In order to explain the emergence of institutions, it is necessary to clarify how those man-made rules are chosen. Consistent with the reductionist approach of game-theory, Sened assumes that the choice of institutions can itself also be described as a decision by rational agents: some of the players are "decisive", which means that they have the power to impose one of the sets of rules  $\{L_1, \dots, L_k\}$ . Since these rules are applied in the context of some game  $\Gamma$ , the decision process actually amounts to choosing one of the games  $(\Gamma|L_1), \dots, (\Gamma|L_k)$  that result from applying the various rules. The assumption thereby is that the decisive players will choose the game  $(\Gamma|L_1)$  if they prefer this game to all other possible transformations of  $\Gamma$ .

This general approach to the explanation of institutions, is applied to a detailed analysis of the emergence of property rights in the core chapters of the book. First, the emergence of property rights is explained under the assumption that all players have complete information. The basic idea is as follows. An exogenously given government first decides whether it will grant property rights or not. After it has made its decision, each citizen chooses independently from the others the probability with which he or she will respect the rights of all others. Although the enforcement of rights incurs costs for the government, there are also benefits since the government levies a share (in the form of political or economic support) on the benefits each agent derives from the grant of a new right. Sened then shows that – not very surprisingly – governments will grant property rights whenever the costs of enforcement are lower than the benefits they reap from it.

The next step is to examine the consequences of relaxing the assumption of complete information. Suppose the government does not know how many individuals will benefit from the institution of rights. Since the government's own payoff depends on these individual benefits, the government does not know how much it would profit from the allocation of rights. Therefore, individuals who benefit from the institution of rights have an incentive to petition the government to grant rights. If enough petitions are issued, the government will expect that enough agents will profit from the granting of rights, and that the benefit of enforcing rights does exceed the costs of it. However, rights are public goods and petitioning therefore forms a collective action problem. Once the rights are granted, each potential beneficiary, whether petitioner or not, benefits from it. As is usually the case when the assumption of complete information is relaxed, the results become less straightforward. For instance, multiple equilibria exist, and some of the equilibria may lead to inefficiencies. Sometimes the government will enforce rights although the marginal benefits of the enforcement exceed the costs, whereas some rights may not be enforced even though the government would benefit from it. Yet, despite these possible inefficiencies the basic message remains the same – property rights emerge in a bargaining process between governments and citizens.

Finally, the model is extended further through the introduction of additional players. Thus far it was assumed that the government bargains directly with its citizens. However, the bargaining process usually takes place through mediators such as political activists, interest groups or other lobbyists. Sened shows that these mediators – political entrepreneurs as he calls them – perform several useful functions. Most importantly, they reduce the complexity of the decision process by reducing the uncertainty facing the government and its citizens. They provide information about the number of potential beneficiaries of a right, and thus enable the government to make a better calculation of the benefits it derives from granting and enforcing a right. They also provide the citizens useful information about the possibility that a right will be granted or not, thereby reducing the collective action problem with which they are faced. This reduction in complexity in turn reduces the probability that the above inefficiencies will arise.

In the final chapter of the book, Sened presents a case study of the allocation to individual carriers of property rights for air slots at four airports in the USA. The four airports are high-density airports and to avoid gridlock some sort of regulation was necessary. I will not try to summarize Sened's detailed description of the process that led to the assignment of landing and departure rights, but merely note that the case study underscores Sened's main point that rights do not come into existence because they have some nice properties such as promoting efficiency, but rather that they are a consequence of the fact that the relevant players (air carriers as well as the government) try to maximize their utility.

Sened's study forms an interesting addition to the new institutional literature in which the emergence of institutions is explained. The idea that governments enforce rights because it is in their interest to do so is, though not new, refreshingly simple and down-to-earth. The same holds for the analysis of the role political entrepreneurs play. Rather than analysing their interactions with either the polity or the individuals whose interests they represent (or may represent), Sened argues – and forcefully illustrates – that the two types of interactions cannot be analysed separately. The way entrepreneurs affect political decisions depends on their interactions with the individuals whose interests they serve (or may serve), just as well as their interactions with the individuals whose interests are at stake are determined by the way they interact with the polity. Another important feature of Sened's study is the many empirical illustrations of the analysis. All too often in the formal literature, analytical rigour is achieved at the expense of a neglect of the empirical relevancy. Sened uses a wide variety of historic examples to illustrate his message: not only the above mentioned allocation of time-slots at u.s. airports, but also the negotiating process that led to the signing of the Magna Carta (in Chapter 3) and Boris Yeltsin's politics of privatization (in Chapter 6).

However, this is not to say that the study does not have its shortcomings. First of all, although Sened repeatedly argues that his positive approach is to be preferred to the normative approaches which are based on dubious ontological assumptions

about rights, he fails to justify this preference. Normative approaches, by definition, focus on a different question: the question of *justifying* rather than *explaining* institutions. The rights individuals enjoy in a state of nature situation can therefore not be put on a par with legal rights. To use Sened's terminology, the ontological status of legal and natural rights differs fundamentally. Even if we would take side with Sened in interpreting, for instance, the Hobbesian social contract theory positively, it cannot be said that Sened's model has more explanatory power. In a positive interpretation, the Hobbesian model could be seen as offering an explanation of the emergence of governments albeit on the assumption that individual rights exist. Sened does not presuppose but explains the existence of rights, but for this purpose he presupposes the existence of a government. In other words, Sened's analysis also rests on the assumption of the existence of exogenously given institutions. A similar discrepancy between claims made by Sened and his actual analysis exists with respect to the analysis of political entrepreneurs. In this case, he in fact commits a sin which he – rightly – attributes to many property rights theorists, namely to explain the existence of an institution in terms of its beneficial effects. Showing that entrepreneurs perform many useful functions does not yet provide an explanation for the existence of these entrepreneurs.

Second, the formal model itself has important shortcomings. It is based on many ad hoc assumptions which are often not justified, some of the definitions do not make much sense and other definitions are simply contradictory. To give an example of one of those ad hoc assumptions, consider the assumption that an agent either respects the rights of all players or that it respects the rights of no one. Obviously, although it makes the mathematics more tractable, the assumption is very unrealistic – it implies that a burglar always breaks into all of the houses, that a murderer always kills all other persons in society, etc. It could be countered that assumptions need not be realistic and that only the predictive power of the model as a whole counts. Such a recourse would, however, not be possible with respect to the inconsistencies in the definitions of the utility functions of the government and the citizens as given in the complete information model of Chapter 4. The utility of the government and the citizens both depend on the tax paid by the citizens. Surprisingly enough (see definitions 4.2 and 4.3 on p. 84), the tax received by the government is a percentage of the net benefits accruing to the citizens (i.e. the individual benefits after the costs of respecting the rights of others are subtracted), whereas the citizens pay a percentage of the gross benefits (the benefits *before* subtracting the costs of respecting rights). In other words, the government receives less than it receives! These ambiguities have their consequences for the formal results. As far as I could check, the central formal result of Chapter 4 – Theorem 4.1 – which describes the various equilibrium conditions in the case of complete information is false (the theorem should not be in terms of the value of  $t \cdot n^2$  but in terms of the value of  $t[n^2 - 2n]$ ). However, since Sened does not really offer an actual proof but only a very short and loose description of how to set one up, it is difficult to see exactly what goes wrong.

Summarizing, Sened's work forms an interesting contribution to the literature, especially because of the down-to-earth approach in which the emergence of rights is explained. The book, however, is also a disappointment. The claim that the analysis forms a genuine step forward in comparison to normative theories cannot be justified. Furthermore, the formal analysis raises questions. It is partly based on dubious and unjustified assumptions and contains too many ambiguities to be really convincing.

Martin van Hees