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orruption, Rule of Law, and Civil Society: Why Patronage Politics Is Good for Developing Markets and Democracies

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As developing nations around the world sink further into poverty and anarchy, the Western development community continues to point to the rule of law and civil society as the twin solutions toward democracy and market capitalism. This article argues that this formula of promoting rule of law and civil society at the cost of and toward the elimination of patron-client politics would be a grave mistake. It further argues that patronage politics encompasses a wide array of social, political, and economic forms of exchange, and that it is therefore necessary to distinguish between positive forms of cronyism (patron-clientelism) from its negative variations (corruption outright). Using the disparate case studies of South Korea, an apparent success story, and Kenya, an economic underachiever, the article documents the ways in which patron-clientelism serves as an effective short-term substitute to democracy proper and free market capitalism for developing countries situated in a second-best world.

Scholars and practitioners of development face a new era of profound uncertainty about the nature and implementation of development. The belief that the dual forces of liberal democracy and market capitalism are the singular path to success has been shaken by the success of the East Asian Tigers and the continued underdevelopment and persistent poverty of vast portions of Sub-Saharan Africa,

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South America, and South Asia.¹ As such, the Western development community has abandoned the gospel of structural adjustment and privatization policies based on the now-defunct belief that development could be achieved only through free-market capitalism.²

Since the demise of structural adjustment and privatization, a new set of buzzwords has taken their place, most prominent among them the notions of the rule of law and civil society.³ Corresponding to this rise has been a trend toward the demonization of corruption. For example, Ibrahim Shihata, former general counsel for the World Bank, has argued that corruption and patronage politics weaken public institutions, inhibit the development of new activities, and reduce economic growth.⁴

While the view that corruption and political patronage inhibit development—and that the rule of law and civil society promote development—has gained near-universal acceptance by scholars and practitioners alike, there has been little (if any) inquiry into the verity of that claim.⁵ Moreover, this broad condemnation of any form of political patronage is especially puzzling in light of the most recent empirical evidence concerning the experiences of the Newly Industrialized Countries of East and Southeast Asia. The economic successes of the East Asian Tigers were not a result of the rule of law or civil society. Rather, they were the result of a particular, positive form of cronyism—namely, patron-clientelism—which involved the mobilization of deeply rooted ethnic, regional, and familial networks and reciprocating systems of payoffs and political patronage. Thus, by criminalizing patronage politics wholesale, the international community may be frustrating efforts at development rather than promoting it.

This article will argue that certain forms of patronage politics can promote, rather than inhibit, economic and political development.⁶ The first part outlines the distinction between economically negative cronyism—i.e., corruption outright—and its economically and socially beneficial counterpart, patron-clientelism. Next, the developments of South Korea and Kenya are examined as case studies. Despite the apparent success of one and dismal failure of the other, in both cases, deeply entrenched patron-client relationships were mobilized to promote economic and political development. The final section evaluates the current development policy of promoting rule of law and civil society in light of these case studies.

Patron-Clientelism, Rule of Law, and Civil Society

The interrelationships between patron-clientelism, the rule of law, and civil society can best be introduced by first examining the major features of patron-clientelism.⁷ Broadly conceived, political clientelism is (1) based on an imbalance of power (2) existing in the context of personal, face-to-face relationships that (3) encompasses a wide range of political and economic forms of exchange, and (4) is distinguishable from politically and economically negative corruption or corruption outright.

Imbalance of Power and the Problem of Instability

Patron-clientelism presupposes an imbalance of power. This imbalance of power between the parties means that “a client ... is someone who has entered an unequal exchange relation in which he is unable to reciprocate fully.”⁸ Patron-clientelism cannot, however, consist of a master-slave relationship, as in antebellum America, where the slave has little or no bargaining power as against the master. Jonathan Fox, in his influential analysis of clientelism in Mexico, brackets the outer limits of clientelism with authoritarian clientelism on the one hand, and near-outright pluralistic enfranchisement on the other.⁹ He argues that the transition of the political subject from “client” to “citizen” is a shift from authoritarian-clientelism, through a period of semi-clientelism, to full-fledged pluralistic citizenship.¹⁰

Semiclientelism involves a level of trust on the part of the regime in power. Insofar as states hold elections by secret ballots, the clients are trusted to vote for the regime in power. Thus, “semiclientelist power relations induce compliance more by the threat of withdrawal of carrots than by the use of a stick.”¹¹ However, this still falls short of complete enfranchisement because the state “discourage[s] any questioning of the government’s broader socioeconomic policies and its controversial electoral practices.”¹² The clients may get to vote, but the policies on the agenda are determined nonetheless by the government. As the case studies will demonstrate, patron-clientelism in both Korea and Kenya functions mostly within this realm of semiclientelism where the government uses its resources to manipulate the citizenry.

In short, a trade-off exists between stability and political pluralism.¹³ A full-fledged liberal democracy does not arise overnight, and developmental states must find viable short-term alternatives to build institutions, enfranchise the various segments of its citizenry, and (perhaps most important of all) accumulate capital. As such, authoritarian- and semi-clientelism are short-term alternatives to pluralism, necessitated by strenuous circumstances.

Personal Rule and the Rule of Law

James Scott’s definition refers to the “face to face, personal quality” of patron-clientelism.¹⁴ Patron-client relationships are based on personal, social contacts that involve a sense of loyalty and even of affection. While clientelistic relationships undoubtedly involve calculated political and business decisions, it is important to emphasize that both the great strength and inevitable weakness of clientelism lies in its personal, particularistic nature.

The classic judicial response to this problem of checks and balances has been the notion of the rule of law over individuals. The rule of law can be said to enumerate the following principles. First, laws must be universal, regulating all peoples equally. Second, laws must not be arbitrary and must bear some relation between the stated rule and the official ends sought. Laws must also be predictable and autonomous, and finally, must be possible to obey.¹⁵ By comparison, the personal and particularistic rule

of patrons over clients appears to be non-universal, arbitrary, non-predictable, and perhaps impossible to obey. Along this line of reasoning, the Western development community's prescription of the rule of law for all developing nations appears to be perfectly sensible—and predictable—advice. However, adherence to the rule of law comes at the price of flexibility, and for underdeveloped nations, this may mean sacrificing desperately needed economic development.

The central problem with the rule of law in governing economic development is that it is too inflexible for the needs of complex, developmental economies. Cass Sunstein draws the useful distinction between “rules,” which have clearly specified entitlements and outcomes, and “standards” which involve “law-making at the point of application.”¹⁶ The crucial benefit of standards is that they allow the actor closest to the point of application to determine the best interpretation or operationalization of a particular, broad edict. Unpredictable standards of this sort are well suited to the governance of economic development, because in the vast majority of cases it is impossible to know what the precise manifestation of a particular project will be.¹⁷

The reality of the modern administrative state places in doubt the notion that even developed states truly function under principles of blind, impartial rule of law.¹⁸ Indeed, the main flaw of the Western development community's current effort lies in the assumption that the rule of law is a prerequisite to development. If the East Asian experience is any indicator, the rule of law is a concept which takes root only after a certain level of economic development has been reached. Most, if not all, of the nations of that region have undergone coup d'états, which centralized political power in the hands of a few or a single dictator. Unprecedented levels of economic growth took place under distinctly anti-rule of law regimes.¹⁹ With the possible exceptions of Singapore and Hong Kong, it would be difficult to argue that the rule of law was a prerequisite to the economic growth of East and Southeast Asia.

This is not to suggest that the rule of law is an unimportant part of on-going economic and political development, as some hardline proponents of neo-Confucianism have argued.²⁰ Rather, the rule of law is not as instrumental to development as the World Bank would have us believe. Development occurs in a second-best world—a world lacking the very institutions and resources which development promises. It is impossible to have everything at once, and development, economic or political, takes place in a sequential manner and is often fraught with tensions and complexities. The sad realities of the rule of law initiatives support this claim—enormous amounts of aid have been spent on rule of law projects by American agencies with precious little to show for it.²¹

Patron-Client Linkages and the Problem of Civil Society

It has traditionally been argued that a homogenous civil society is necessary to stand in contradistinction to the state as a means for the governed to place checks on the unbridled power of the state.²² Civil society is an entity existing independently

of the state, “a self-regulating realm, the ultimate repository of individual rights and liberties, a body that must be protected against incursion of the state.”²³ If the rule of law is the institutional system of checks and balances, civil society can be understood as its human, social counterpart for exercising checks on the state.

The Western development community’s adoption of civil society as a means of checking state power is based upon two flawed assumptions. First, the development community has ignored the fact that the vast majority of developing nations are deeply fragmented along ethnic or regional lines, making the promotion of uniform, homogeneous civil society impractical, if not impossible. Amy Chua points out that “entrenched ethnic divisions permeate most developing countries, and these divisions bear a distinctive and potentially subversive relationship to the project of marketization and democratization.”²⁴ Ethnic conflict is perhaps the single dominant issue that most directly determines and shapes policy and governance in developing nations.²⁵ Consequently, the promotion of civil society is a precarious, slowly evolving process achieved most effectively through pyramiding or coalition building by the state.

Second, the development community erroneously views patron-clientelism as the cause of the problems of state and societal “weakness.” The ethnic and regional fragmentation of the underdeveloped nations leads both to weak societies and weak states.²⁶ Some scholars on Africa have even argued that sub-Saharan states are sovereign in name only, propped up by the United Nations and the African Union.²⁷ They point out that many sub-Saharan states lack the capacity to provide even the most basic services required of a state, such as the monopolization of force by arms and the provision of basic infrastructure and laws. However, these observers have drawn the mistaken conclusion that the pervasiveness of patron-clientelism is primarily the *cause* of—rather than a *response* to—state and civilian weakness.

What critics have failed to recognize is that the problems of ethnic fragmentation and state weakness are precisely the reasons why much of the developing world is governed by systems of informal patron-client networks rather than by procedural, liberal democracy. Patron-client forms of governance should not be seen merely as primitive and destructive, but rather as a form of governance uniquely suited to regions suffering from fragmented societies and weak states. Clientelism can forge links both horizontally across ethnic and regional or “categorical” lines, and vertically between the Center (state) and the Periphery (the margins of society).

First, clientelism can forge links vertically—links that turn out to be crucial to the massive mobilization of resources necessary for economic development. In sharp contrast to the Western Weberian notion of a modern bureaucracy, patron-client relationships are inherently multiplex, with many layers of association between the patron and his clients. Second, clientelism is equally adept at forging links horizontally. The notions of “paternalism,” “modern amoral familism,” and “guanxi” all illuminate the deeply entrenched horizontal ties present in East Asia—and in most of the underdeveloped world where familial ties remain strong.²⁸

The relationship between horizontal familism and vertical clientelism can be seen most clearly in the distinction between categorical ties (horizontal) and patron-clientelism (both vertical and horizontal). Categorical ties are relationships centering around a shared characteristic or interest. Traditional categorical ties include ethnicity, religion, or caste, while modern ties include occupation and socioeconomic class.²⁹ However, patron-client ties are “based on individual ties among followers,” and a group centered around a common characteristic does not, strictly speaking, constitute patron-clientelism.³⁰

Even more important, “patron-client pyramids join people of different status rankings while categorical groups may or may not be homogenous in status.”³¹ Indeed, one of the remarkable structural strengths of patron-clientelism is its capacity to co-opt, integrate, and form alliances. A single patron-client cluster can in turn bring itself under the patronage of a more powerful patron, thereby forming patron-client pyramids.

Patron-clientelism is, by definition, exclusive and competitive, as patrons compete against one another for clients and resources, but its pyramiding nature allows it to cut across both traditional and modern categorical ties. Thus, patron-clientelism can promote the expansion of civil society through alliances and pyramiding.

Patron-Clientelism versus Corruption

The differences between clientelism and corruption should now be clear. Clientelism functions within a context of long-standing, face-to-face relationships. A bribe (or “corruption outright”), on the other hand, requires no prior relationship or categorical ties. As long as one can offer a bribe large enough and find an official willing to take it, the transaction is complete. A rent-seeking official has no obligation to act in the best interest of the party offering the bribe, over and beyond the transaction. Therefore, clientelism may very well involve corruption, but corruption does not possess any of the positive characteristics of clientelism; corruption may involve an imbalance of power but is neither personal nor flexible.

At a more fundamental level, however, corruption outright and positive clientelism need to be understood as the two extremes in the arc of a pendulum. Joel Barkan³² and Francois Bayart³³ distinguish between positive patron-clientelism and its degenerate counterpart—what Bayart calls “politics of the belly.” The distinction is made on an assessment of the costs and benefits of a patron-client system at any given moment.³⁴ The strength of patron-clientelism lies in its capacity to (1) promote economic development through a combination of carrots and sticks, (2) create flexible and responsive networks through which to govern, and (3) promote civil society and state capacity through cooptation and pyramiding, as well as by providing linkages between the Center and the Periphery. These three benefits have their corresponding costs: (1) while semiclientelism can set the stage for a move toward outright pluralism, it can also lapse into outright authoritarianism; (2) patron-clientelism creates flexible

governance, but this strength, left unchecked, can lead to capricious rule, rent-seeking, and misallocation of resources; and (3) while clientelism can grow civil society and state capacity by linking different categorical ties, it can also become a hindrance on civil society—i.e., it can disenfranchise groups just as it can enfranchise them.

Whether or not patron-clientelism is positive or negative depends on the circumstances under which it operates. Patron-clientelism can be positive as long as the national pie is large enough. Patron-clientelism involves a favored sector of the economy and non-favored sector(s). As long as the favored sector produces enough surplus, the state can use some of the surplus to buy off discontent and garner legitimacy for itself. This is the golden rule of clientelistic development: the misallocations of resources and patronage are outweighed by the economic and political benefits gained from patron-client politics. However, if the favored sector cannot produce enough surplus, the entire system is put in jeopardy. The situation degenerates into politics of the belly, where the instability and discontent created by the lack of patronage leads to greater competition for the remainder of the national pie, and greater incentive for the patrons to engage in rent-seeking behavior. A patron, given the choice between using patronage for himself or the client, chooses himself.

The politics of the belly is a vicious cycle—patronage dwindles, and the clients become less supportive, thereby forcing the regime to resort to physical coercion to stay in power. This repression leads to slower economic activity which in turn leaves the regime with even less patronage. This scenario of the politics of the belly accurately describes the situation that many sub-Saharan countries, including Kenya, face today.

South Korea's Patron-Clientelism: From the Yi Dynasty to Korea Inc.

The story of Korean political development is, in many ways, the story of Korean patron-clientelism writ large. While Korean politics has undergone turbulent changes in leadership, the politics of patronage was and remains central to Korean politics and economics.

Clientelistic Entrenchment and the Colonial Period

Korea's patron-client politics has its roots reaching as far back as the Yi dynasty (1392-1910).³⁵ For centuries, Korea's patron-aristocrats (*yangban*) provided protection to the client-peasants, who reciprocated with rents and tributes. Given the longstanding tradition of patron-clientelism, it was no surprise that political development in Korea took the form of patron-client relationships based on the pyramiding of personalized power.

Japan's declaration of suzerainty rights over Korea in 1910 did nothing to loosen this entrenchment of patron-clientelism, and the head patronage simply changed hands from the *yangban* aristocrats to that of the Japanese. The Japanese pattern of

state-backed development, which helped Korea experience double-digit growth in the 1930s, would become the model of Korean development through the 1990s.³⁶ While the government invested heavily in infrastructure, such as railways, ports, roads, and communications, the heavy hand of the Japanese colonialists also made sure that the country remained stable. Such giants as Mitsubishi, Mitsui, Nissan, Asano, Sumitomo, and Yasuda were among the Japanese conglomerates (*zaibatsu*) with investments in Korea.³⁷ With such precedents, it is little surprise that Korea chose a path of development that mimicked that of Japan. The Korean conglomerates (*chaebols*) had good examples. The government would provide the infrastructure and the “social and political overhead,” and the *chaebols* would build their sprawling industries content in the knowledge that, in return for a certain amount of political and financial support, the state would play the role of the patron.

The story of Korean development after independence followed a similar narrative. Syngman Rhee replaced the governor general, but the *yangban* entrepreneurs who had profited under the Japanese continued as usual, presenting their interests under a new banner—the Korean Democratic Party (KDP). As Rhee was a political outsider vis-à-vis Korean politics, he had little choice but to seek political support from the landed *yangban*-entrepreneurs. To Rhee’s advantage, he had control over large resources of patronage. First, the single most important resource that Rhee and his regime controlled was the allocation of foreign capital and aid. Second, Rhee’s regime had the significant industrial assets left behind by the Japanese. Rhee transferred ownership of these industries to his favored clients “at fire-sale prices.”³⁸

While Rhee’s regime achieved a certain level of political stability over a tumultuous society, he was not immune to the laws governing patron-clientelism. By 1961, Rhee’s regime had failed to satisfy the golden rule of patron-clientelism, and with the high-growth sector (Import-Substitution Industrialization)³⁹ failing to create surpluses large enough to cover decreasing levels of foreign aid, not enough was being transferred from the Import-Substitution Industries to its low-growth (agrarian) counterpart. Stability was threatening to degenerate into the politics of the belly.

On 16 May 1961, a small group of army officers, led by General Park Chung Hee, succeeded in a coup d’état. One of General Park’s first acts was to personally meet with the top business leaders of Korea—many of whom were from Park’s home region of Kyungsang—and strike a lasting deal: Park would not jail them, and businesses in return “would make good on their ‘fines’ by investing the money in industries [and] donating ‘shares’ to the government.” It “occasioned the launching of ‘Korea Inc.’ ... Henceforth, state and big business would share the same destiny: prosper or perish.”⁴⁰ The result was an alliance between Kyungsang-owned *chaebols* and Park.

Regionalism

Since Park’s coup in 1961, Kyungsang has dominated over those from the Cholla province.⁴¹ While political constituencies based on common categorical ties is

a common feature of politics, the regionalism of Korean politics is more akin to traditional categorical ties like primordial tribalism in Africa than to modern political parties. The Korean political scene is one of regional competition for dominance. The losers in this battle were the other patronage pyramids, particularly, the Cholla pyramid of Kim Dae-Jung.

Under the military regimes of Park, Doo-Whan Chun, and Tae-Woo Noh, as well as the civilian regime of Kim Young-Sam, the Kyungsangs dominated Korean politics and Korean society while the Chollas found themselves marginalized.⁴² Furthermore, the high-growth, low-growth split has coincided with a larger and more systematic dominance by Kyungsang; that is, the urban high-growth sector has been centered in Kyungsang province. For example, 22 of the 50 largest *chaebols* were founded—and grown—by the Kyungsang Regimes of Park, Chun, Noh, and Kim Young-Sam.

Given this reality, Park's method of economic growth was deceptively simple. He and his Kyungsang-dominated regime played the patron, controlling the allocation of foreign capital. Development was led by the high-growth sector, dominated by the Kyungsang *chaebols*, while the "low-growth" sector was "bought off" with patronage channeled through the rural development program, the Saemaul Undong.

The High-Growth Sector: Kyungsang's Chaebols and the Big Push

In 1973, Park announced a quixotic plan. By targeting six areas of industrialization—steel, chemical, metal, machine-building, ship-building, and electronics—Park demanded that the *chaebols* produce \$10 billion in exports and \$1,000 per capita income within a decade, even though his country had yet to produce a single ship, automobile, or major electrical appliance. Park's directives were officially sent from the Economic Secretariat at the Presidential Palace, through the Economic Planning Board, Korea's main economic bureau, to the *chaebol* leaders. However, in typical patron-client fashion, many of the directives came from personal "face-to-face" meetings between President Park and his clients, a model later followed by his successors.

The Yosu-Yochon complex (petrochemicals), Chanwon (machine-building), Pohang (steel), Okpo (shipbuilding), the Kumi complex (electronics), and Osan (non-ferrous metals) were all built with large government subsidies. All but one of these plants—the petrochemical facility in Yosu, Cholla province—went to the Kyungsang region.⁴³ In a paradigmatic story of Korean development, Park realized there was going to be a large demand for oil tankers because of a shake-up at the Organization of Petroleum Exporting Countries and summoned Chong-Chu Yong (of Hyundai), ordering him to start building ships:

Chong flew off to Greece and landed two contracts for 260,000-ton oil tankers, by promising cheaper and quicker delivery than any other company. He didn't bother to mention that he had no shipyard to build them. He then put

the two orders in front of Barclay's Bank, and it lent him enough capital to build shipyards. No Korean knew how to do this; so Chong sent sixty engineers to Scotland to learn how. Two years later the tankers were finished, before the deadline.⁴⁴

The truly surprising part of the story is not that Chong built his ships against all odds, but that Park was able to convince Chong to build ships in a shipyard yet to be built by engineers who did not know how to build ships. Patron-clientelism takes place in the context of a personal and personalized relationship, and the authority of a patron rests, not in his official-bureaucratic positions, but in his authority as an individual. Park was telling Chong that he would do everything within his power to support the success of Chong's enterprise, and Chong took him at his word.

The Low-Growth Sector: Saemaul Undong

The Saemaul Undong⁴⁵ was Park's attempt to be patron, not only to his Kyungsang clients, but to the rest of the country as well. The two major components of the Saemaul Undong, the Rural Saemaul Undong and the Factory Saemaul Undong, were an effort to both play patron to and repress the rural poor and urban labor force, essentially the two major "have-not" groups. Not surprisingly, the major elements of civic protest came from the Cholla farmers, the poorest of the poor, and the labor unions, whose core leadership was composed of Cholla farmers who had taken factory jobs in the cities and brought their political discontent along with them.⁴⁶

Inegalitarian growth is based on the principle of comparative advantage. Korea was by this point a competitive producer of industrial products. Specifically, the Kyungsang *chaebols* owners and their Kyungsang-dominated business empires were good at producing industrial products through large-scale labor and wage repression. However, the rural sector was uncompetitive at producing rice. It was in Park's best interest to keep Korea Inc. running as smoothly as possible, and as long as enough of the high-growth surplus could be used to buy off the urban and rural poor, the machine ran smoothly indeed.

What is remarkable about Saemaul Undong is that relatively little patronage was required to buy off the rural poor compared to the amount of actual growth that took place. The Park regime targeted and exploited a younger generation of the Korean rural establishment by rewarding them with medals, money, and presidential recognition, while villagers acted as clients. Meanwhile, the Park regime left no doubt as to who the head patron was, and to whom they owed their political allegiance.

The Factory Saemaul Undong accomplished what its rural counterpart achieved in the villages. Patronage included free health care coverage for workers' families, educational and vocational scholarships, and state-subsidized bank loans for the construction of recreational facilities.⁴⁷ More importantly, the government explicitly linked raises in worker salaries to the Saemaul Undong.⁴⁸ While the Factory Saemaul Undong

did not achieve the tremendous success of its rural counterpart, it appears to have been enough—at least during the course of Park’s regime. There were dramatic decreases in labor disputes after 1971, the year the Saemaul Undong was initiated.⁴⁹ While it is not clear that Park’s use of patronage appeased the urban labor force, it is evident that Park’s combination of rhetoric, patronage, and authoritarian-clientelism yielded a relatively controlled labor force. Park had succeeded in quieting or buying off the urban workforce for the time being.

Park’s Success: Achieving the Precarious Balance

Park’s economic triumphs resulted from his ability to play patron both to the Kyungsang and to the country at large. Park’s creation of the Saemaul movement was a shrewd and calculated political move, which went hand in hand with the shift to authoritarian-clientelism, the coercive repression of labor, student uprisings, and the like. He was able to buy off the rural sector and regain their support, thereby providing himself and his political client-patrons a systematic means of bolstering their political positions. Labor and the non-*chaebols*, non-Kyungsang urban sector was, however, much more volatile and difficult to control.

Inegalitarian growth like this could not go on forever. At the high-growth end, the debt crisis of 1997 points to the economic limitations of a system of state-guaranteed loans fueling vast and ever-growing *chaebols*. At the low-growth end, the Kwangju rebellion of 1980, the ensuing massacre and countless other protests and strikes point to the political limitation of such a system.⁵⁰ Korea’s patron-clientelism did enable Park to push a highly select group of capable clients to develop Korea’s industries and grab international market share at the cost of a repressed, under-represented, and non-favored sector.

For all of its problems, Korean growth was based on a single patron-client cluster: the president and the *chaebols* centered around the Kyungsang province. The practice of nurturing a single group of clients while buying off non-favored clients without full-scale income redistribution was a model also used in sub-Saharan Kenya by its first president, Jomo Kenyatta.

Kenya’s Patron-Clientelism: From Positive Patron-clientelism to the Politics of the Belly

Emergence of the Kikuyu-entrepreneurs and Colonialist State-backed Development.

The story of Kenyan colonial development mirrors that of Korea. Beginning with the depression of the 1930s, British efforts to protect the “Sterling zone” from America’s “Dollar zone” initiated a major shift in colonial development policy. In addition to providing raw materials, Kenya and the rest of British East Africa also became a producer of consumer goods for the colonial market. Kikuyu farmer-entrepreneurs

benefited from this shift in policy.⁵¹

The onset of colonialism changed the nature of traditional patron-client relationships in the highlands of Kenya. Under British direct rule, indigenous leaders with local political clout were expected to introduce colonial policies, including hut taxes and corvee labor, at the local level. Like the Japanese and the *yangban* in Korea, the British colonial government had every reason to support the existing chiefs or rulers. In return, the chiefs controlled the distribution of government patronage.⁵²

This group of Kikuyu ruling-entrepreneurs began selling surplus produce to the newly established railhead at Nairobi as early as 1900.⁵³ In addition to agricultural development, the Kikuyus became involved in Import-Substitution Industrialization. The Kikuyu entrepreneurs learned that if one collaborated with the state, one could control the allocation of patronage, be it licenses to distribute Coca-Cola or access to new varieties of seed for cash crops. When independence came in 1963, this established Kikuyu patron-client pyramid took power. If Korea Inc. was the fusion of the Kyungsang entrepreneurs and president Park, then “Kenya Inc.” was the fusion between the Kikuyu entrepreneurs and their Kikuyu President, Jomo Kenyatta.

Tribalism

At the time of independence, Kenya was a country ripe for ethnic contentions.⁵⁴ Kenyan politics is dominated by regional and ethnic politics. The ancient categorical tie of ethnicity has arranged itself vertically into cohesive patron-client pyramids, much like the regional pyramids of Korea. The results of the semi-competitive multi-party elections of 1992 and 1997 demonstrate this stark reality.⁵⁵

In the period preceding independence in November of 1963, two parties emerged. The Kenya African National Union (KANU) represented Kikuyu, Luo, Kamba, and Kisii interests, while the Kenya African Democratic Union (KADU) consisted of the Luhya, Kalenjin, Mijikenda, and the nomadic peoples of northern Kenya. In addition to being demographically superior, KANU was also the party of the better-educated and wealthier “have’s” versus KADU’s “have-not’s.” Each constituency voted along ethnic lines in the 1963 election, and KANU defeated the KADU by a 67 to 17 percent margin.⁵⁶ After the victory, Kenyatta sought to consolidate Kenya and his personal power by wooing KADU members into his own regime. By 1964, Kenyatta persuaded the KADU politicians to merge with KANU, forming a de facto one-party state. In the same year, Kenya’s constitution was amended to make Prime Minister Kenyatta the first president of Kenya.⁵⁷

During the first years of Kenyan independence, Jaramogi Oginga-Odinga, a prominent member of KANU and a Luo, became increasingly vocal about Kenyatta’s “trickle down” economic policy of favoring the already-established Kikuyus. He left his post as the vice-president of KANU to form the Kenya People’s Union (KPU) and sought to challenge Kenyatta and his Kikuyu supporters. After Odinga’s departure from KANU, Kenyatta and Daniel Moi replaced the Kikuyu-Luo alliance with

the Kikuyu-Kalenjin alliance. Many of the landless peasants and “squatters” were Kikuyu, and the resettlement schemes gave Kikuyu peasants lands in the Rift Valley to which the Kalenjins had traditional claims.⁵⁸ The Kenyatta-Moi alliance meant that Moi, a Kalenjin, would use his influence to quell resistance to Kikuyu settlement in return for patronage projects for the Kalenjin. Moi was appointed vice-president of Kenya in January 1967.

Like Park, Kenyatta followed a two-pronged model of development. On the one hand, Kenyatta would use his position to patronize the Kikuyu dominated coffee plantations. On the other hand, he would use the ideology of Harambee to transfer surpluses to the non-favored grain-growers.

Kenya’s High-Growth Sector

After independence, the Kikuyus generally became more educated and better equipped to take advantage of market-based capitalism. Kenyatta encouraged Kikuyu businessmen to take the lion’s share of foreign joint ventures and direct investments, reinforcing the dominant class of Kikuyu bourgeoisie in all aspects of business, finance, trade, and industry. This class of Kikuyu entrepreneurs, protected by the Kenyatta regime, became the stable intermediaries between indigenous petty-bourgeoisie and the foreign investors, pushing successfully for policies favorable to foreign investment and trade. However, this came at the cost of egalitarian development.⁵⁹ While the Kikuyu entrepreneurs were enjoying the fruits of a policy of rapid growth, much of the non-Kikuyu peasants were left relatively poor and powerless.

By the time of Kenyatta’s death in 1978, this class of Kikuyu entrepreneurs were well on their way to industrialization. A good example is Udi Gecaga and the Lonrho group. Coming from a coffee background, Gecaga expanded into the hotel and tourism business. He used his earnings from cash cropping, which included coffee and pyrethrum to expand into other urban, industrial areas. In conjunction with a class of Asian entrepreneurs, Kenyatta was in a position to launch his own version of the Big Push.

As optimistic as this may now sound in retrospect, the possibility of an industrialized and economically competitive Kenya was very real under the Kenyatta regime. As in Hyundai’s paradigmatic leap into shipbuilding, the crucial ingredient was not so much know-how, but rather the capacity for the state and industry to move in a single direction. While Korea was already at a higher stage of economic development, Kenyatta may have had the necessary ingredients in place for the construction of a Kikuyu-based Kenya Inc.

The Low-Growth Sector: Linkage Creation Through Harambee

Like Park, Kenyatta ruled from a power-base comprised of both dominant and marginalized patron-client clusters. While the Kikuyu entrepreneur-farmers were growing rich, Kenyatta realized that he would have to be patron not only to the Kikuyu,

but to the entire nation. Kenyatta's vehicle for forming linkages between himself and the low-growth sector was a rural development project—Harambee.⁶⁰ Harambee, was more of an ideology than a systematic program, but it easily equaled Korea's Saemaul Undong in its pervasiveness.

The key to linking the Periphery to the Center was the members of Parliament (MP). While Kenya inherited the Westminster model of government, the major significance of the National Assembly lay not in the "collective activities of their members, such as deliberation and passing of bills ... but rather in the individual behavior of each member outside."⁶¹ Kenyan legislators are elected representatives of local communities who are expected by their constituencies to be representatives of the Periphery to the Center by lobbying for the allocation of resources to their local constituencies.⁶²

Kenyatta's shrewd ability to form, manipulate, and adapt his networks of clients ensured the success of his regime as well as his tribe. His use of the "African system of government" prevented his patron-client system from degenerating into a vicious and predatory cycle of corruption and decay. His MPs and other bureaucrats were given room to maneuver and establish their own sociopolitical spheres, while remaining accountable to their constituencies for support.

Moreover, Kenyatta's regime nurtured the foundations of a civil society in the truest sense—a sociopolitical sphere made up of associations that cut across tribal and economic lines. The Kenyatta regime was able, if only briefly, to form a coalitional government which represented both the high-growth and low-growth sectors by joining forces with Daniel arap Moi.

Moi's Failure: Dismantling the Kikuyu Machine and the Politics of the Belly

If the Kenyatta regime can be said to be patron-client politics at its best, then Moi's regime serves as an example of patron-client politics at its worst. The failure of the Moi regime centered around the weakness and inflexibility of Moi's network of clients and the dismantling of the Kikuyu machine in pursuit of an egalitarian rather than a high growth policy. This led to a cycle of dwindling patronage and economic slow-down. As such, the Moi regime became a prime example of the politics of the belly.

First, Kenyatta's regime was based on the populous, wealthy, and educated Kikuyus with well-established connections both to the internal market, while the Kalenjins were a consortium of small, poor, and less educated peasant-farmers who were removed both geographically and economically from Nairobi and the rest of the world.

Moi made an explicit effort to direct patronage to Kalenjin areas at the expense of the Kikuyus in order to extend his own patron-client networks.⁶³ Second, Moi shifted Kenyan development policy from one concentrating on high growth to one emphasizing income redistribution. The current agricultural policy most clearly dem-

onstrates this shift. The Kikuyu farmers who resided in the rich highlands were export-oriented, growing tea and coffee, while the Kalenjin farmers of the Rift Valley grow grain that is well suited to the drier climate and lower quality of soil. As such, the Moi administration placed great emphasis on increasing the production of wheat. During the 1980s alone, the production cost of wheat more than tripled.⁶⁴

The problem is one of comparative advantage: Kenya is a highly competitive grower of tea and coffee but a relatively inefficient producer of wheat. In order to induce Kalenjin farmers to grow wheat, the producer price had to be increased to 140 percent of the market price in the mid-1980s.⁶⁵ The policy of allocating resources to Kalenjin farmers at a great price illustrates why the Moi administration consistently rejected pressure to liberalize the grain market until it was forced to do so as a condition for receiving World Bank aid in 1993.⁶⁶

Moi chose to trade long-term economic growth through the success of the Kikuyu for the short-term political benefits of redistributing wealth to have-not tribes. As a result, Moi was faced with a worst case-scenario for patronage systems; patronage decreases, the clients become less supportive, and the regime uses political and physical repression to secure its power. This repression leads to slower economic activity that, in turn, leaves the regime with even less patronage, and so on. This politics of the belly continues today.

Why Patron-Clientelism is Good for Markets and Democracy

The case studies of Korea and Kenya are instructive in dispelling the widely held notion that clientelistic governance impedes economic growth.⁶⁷ The comparison between the two countries is especially important in demonstrating that clientelism—and its degenerate counterpart, politics of the belly—is not an affliction of the weak, poorly performing Sub-Saharan states, but also the poster-child of dramatic growth in East Asia. These case studies are enough to bring into serious question whether clientelism should be so unilaterally and unequivocally blamed and criminalized.

Why then is clientelism so universally condemned? The answer appears to lie in the conception of good governance and democracy. The thinking of the Western development community appears to be that if free market capitalism is not the solution to underdevelopment, then good governance is.

The rule of law and civil society are thought to be classic indicators of good governance. On the one hand, the “rule of law, not of people” places institutional checks on the action of self-interested states. On the other hand, civil society guards against state-intervention, standing in contradistinction against coercive or inegalitarian states.

The former conception is a reflection of the legal philosophies of the concept of rule of law.⁶⁸ The main problem of clientelism, from this perspective, is that it does not sufficiently check a potentially self-interested state. In the context of economic development, the problem of clientelism is that it is inherently inegalitarian; clientelistic

growth is both unequal and inequitable.

However, market capitalism, which clientelism mimics, is itself an unequal and inequitable form of distribution. Even in the most egalitarian developed nations, wealth is accumulated and propagated by the power structures which, to a large extent, predetermine who will get what and how much.⁶⁹ The legal and political structures that protect that wealth also pick winners and losers by enforcing, *a fortiori*, creating, property rights.⁷⁰ In a word, state intervention is a given. The real question is, What kind of state intervention? The evidence above strongly suggests that clientelistic intervention is effective—albeit, only in the short run.⁷¹

The countervailing problem of the rule of law is that it does not offer the kind of face-to-face, flexible, responsive governance necessary to rule over a precarious coalition of contentious categorical groups. Park achieved this precarious stability by pyramiding and manipulating the existing patron-client networks. The paradigmatic case of Hyundai's entrance into shipbuilding is illustrative of this point. The failure of Kenya was not so much that its civil society could not stand against the government; rather, the problem was one of vertical linkage between the state and civil society. Moi's inability to mobilize civil society caused Kenya's precipitous decline, not any weakness of Kenya's civil society.

Moreover, the competitive nature of ethnic/regional tensions place tremendous limitations on the leaders of underdeveloped nations. The low-growth sector acts as a check as a categorical group competing for power—the Kalenjins and Luos in Kenya, and the Cholla region in Korea. The presidency of Kim Dae-Jung is a clear demonstration that the competition is real.

While clientelism mimics capitalism in its inegalitarian nature, it also mimics democracy in its ability to enfranchise the voices of the Periphery. As demonstrated, a single patron-client cluster can simultaneously involve several forms of exchange.⁷² For example, a patron living in Kenya can simultaneously play the role of an MP (as a political representative of his clients) and the role of a businessman (as an employer and economic benefactor to his clients). In this way, patron-clientelism can serve as an “alternative means of interest articulation”—that is, an alternative way of forging links between the Center and the Periphery.⁷³ Because it is impossible to legislate particularistic concerns—for example, the demand that a particular primary school be built in one village rather than in one next to it—patron-client networks are used to voice these concerns. Because a patron can be both an MP and a business benefactor, clients can voice both their political and economic concerns through a single channel. In a full-fledged liberal democracy, political interests are voiced through electoral representation or directly, through petitions by various institutions of civil society. In societies where such institutions do not exist, patron-clientelism can enfranchise voices which normally could not be heard through official legislative channels.

Therefore, quite contrary to the orthodoxy of the Western development community, patron-clientelism is good both for markets and democracy, and the across-

the-board condemnation of cronyism in both its positive and admittedly negative forms is unwarranted. The Western development community's unqualified prescription of the rule of law and civil society for developing nations is the right medicine for the wrong illness; the real illness is state weakness, not unchecked state power. Thus, the solution for developing nations may not turn out to be the rule of law and civil society, but perhaps forms of governance which create and enforce state-society relations—a task well suited for the existing patron-client networks which remain untapped in many parts of the underdeveloped world.

NOTES

¹ "Development Finance: Old Battle; New Strategy," *Economist*, 8-14 January 2000, 75.

² World Bank, *East Asian Miracle: Economic Growth And Public Policy* (Washington, D.C.: World Bank, 1993). This survey took into account non-economic factors contributing to high levels of growth. World Bank, *World Development Report* (Washington, D.C.: World Bank, 1981).

³ The *Economist* characterizes it in the following way: "In recent decades, the World Bank, and to a lesser extent, the IMF have been through numerous fads. In the 1970s everyone talked about 'basic needs'; in the 1980s it was 'structural adjustment'. Now the buzzwords are 'poverty reduction', 'governance', 'participation', 'civil society' and 'putting the country in the driver's seat'." "Development Finance," 74-75.

⁴ Ibrahim F.I. Shihata, "Corruption—A General Review with an Emphasis on the Role of the World Bank," *Dickinson Journal of International Law* 15 (Spring 1997): 454-455. See also Susan Rose-Ackerman, "The Role of the World Bank in Controlling Corruption," *Law & Policy in International Business* 29 (Fall 1997): 93; International Monetary Fund, *Newsbrief 97/15*, "IMF Adopts Guidelines Regarding Governance Issues" (4 August 1997) at <http://www.imf.org/external/np/sec/nb/1997/NB9715.HTM>; and World Bank, *Poverty Reduction and Economic Management Network, Helping Countries Combat Corruption* (Washington, D.C.: World Bank, 1997).

⁵ Shihata openly admits that the "emerging consensus in modern economic writings ... that the long term effects of corruption on competition in the market ... are inequitable and disruptive" is held "*in spite of the dearth of empirical research*" [emphasis added]. See Shihata, *supra* note 4 at 454.

⁶ It is important, at the forefront, to emphasize that this article is not a reiteration of the old cultural relativism argument. The fact that patron-clientelism flourishes in *both* Korea and Kenya is a strong critique of the cultural relativist/cultural essentialist positions. The argument that "Asian Values" obviates the need for checks and balances in Asian governance is directly opposed. See also *infra* note 24.

⁷ The literature on patron-clientelism (or political clientelism) began with anthropological and sociological analyses of Mediterranean societies (Eisenstadt being among the early contributors) and was adopted by political scientists to examine Latin American political economies. Some of the major contributors include Christopher Clapham, Eric R. Wolf, James C. Scott, S.N.

Eisenstadt, and Rene Lemarchand. Although the literature is large and varied (spanning everywhere from Latin America to Africa to Southeast Asia), the most important contributions have been made readily available in several excellent editions. *See e.g.*, Steffan W. Schmidt et al., eds., *Friends, Followers and Factions: A Reader In Political Clientelism* (Berkeley: University of California Press, 1977); S.N. Eisenstadt and Rene Lemarchand, eds., *Political Clientelism, Patronage and Development* (Beverly Hills: Sage, 1981); Christopher Clapham ed., *Private Patronage and Public Power: Political Clientelism in the Modern State* (New York: St. Martin's Press, 1982); Monday U. Epko ed., *Bureaucratic Corruption in Sub-Saharan Africa: Toward a Search for Causes and Consequences* (Washington, D.C.: University Press of America, 1977)]. For a more complete bibliography, *see* James C. Scott, "Political Clientelism: A Bibliographical Essay," Schmidt et al., 483, and Jonathan Fox, "The Difficult Transition from Clientelism to Citizenship: Lessons from Mexico", *World Politics* vol. 46, no. 2 (1994): 151-184.

⁸ James Scott, "How Traditional Rural Patrons Lose Legitimacy: A Theory with Special Reference to Southeast Asia," Schmidt et al., 125.

⁹ Fox.

¹⁰ Authoritarian-clientelism differs from authoritarianism outright in that it relies on "material inducements and coercive threats" for compliance rather than on coercion alone (Ibid., 157).

¹¹ Ibid., 158.

¹² Ibid., 160.

¹³ Stability has long been held to be one of the most essential factors in development, political or economic. *See* World Bank, "Refocusing on the Effectiveness of the State," *World Development Report 1997* (Washington, D.C.: World Bank, 1997), 29-38; Asian Development Bank, "Governance in Asia: From Crisis to Opportunity," *Asian Development Bank Annual Report* (Washington, D.C.: World Bank, 1998), 15-25.

¹⁴ Scott, 126.

¹⁵ *See* Jeremy Waldron, "The Rule of Law in Contemporary Liberal Theory" in *Ratio Juris* 2, no. 1, (March 1989): 79-96.

¹⁶ Cass R. Sunstein, "Rules and Rulelessness," *Chicago Working Paper on Law and Economics*, no. 27 (n.p.): 4-9.

¹⁷ Ibid., 9.

¹⁸ Ibid.

¹⁹ Lee Kwan Yew in Singapore, Mahatir in Malaysia, Generalissimo Park in South Korea, the Ramos in the Philippines, and the Liberal Democratic Party in Japan are only the most prominent examples.

²⁰ Stated in its strongest form, the neo-Confucianist thesis argues that common Confucianist heritage shared by East Asian economies both fueled its accelerated development and obviates the need for political institutions of checks and balances to the extent of the developed North. Lee Kwan Yew of Singapore has been the most ardent political proponent of this notion (sometimes referred to as "Asian Values"). For the foundational text, *see* Lucien Pye, *Asian Power and Politics* (Cambridge: Belknap, 1985). For a more recent iteration, *see also*, Lucien Pye, *The Spirit of Chinese Politics* (Cambridge: MIT Press, 1992). This argument has fallen precipitously into disfavor both by Western and East Asian contributors following the East Asian financial crisis. *See e.g.*, "Asian Values Revisited: What Would Confucius say now?," *Economist*, 25 July 1998, 23-28; Kim Kyung Il, *Kongja-Ga Jukuhya Nara-Ga San-Da*, (Seoul: Ba-Da Chul Pan Sa, 1999) (arguing that neo-Confucianist values must be left behind in order for

Korea to survive as an economically viable country).

²¹ Thomas Carothers, "The Rule of Law Revival," *Foreign Affairs* 77 no. 3 (March/April 1998): 104-105.

²² Adam Seligman, *The Idea of Civil Society* (New York: Macmillan, 1992).

²³ *Ibid.*, 11.

²⁴ Amy Chua, "Markets, Democracy, and Ethnicity: Toward a New Paradigm for Law and Development," *Yale Law Journal* 108, no. 1 (1998): 1, 5.

²⁵ *Ibid.*, 20.

²⁶ My use of the terms "strong" and "weak" are in reference to the categorizations of Joseph Migdal. See Joseph Migdal, *Strong Societies and Weak States: State-Society Relations and State Capabilities* (Princeton: Princeton University Press, 1988).

²⁷ Robert Jackson and Carl Rosberg, "Sovereignty and Underdevelopment: Juridical Statehood in the African Crisis," *Journal of Modern African Studies* 24, no. 1 (1986): 1-31.

²⁸ The paternalism argument in the context of East Asia is the contention that economic and political development in traditional underdeveloped societies does not break up primordial communities and families, but rather, that these communitarian tendencies play a positive role in development and capital accumulation. See Peter L. Berger and Hsin-Huang Michael Hsiao, eds., *In Search Of An East Asian Development Model* (New Brunswick: Transaction Books, 1988). Along similar lines, the notion of amoral familism originates from sociology and anthropology and argues that economic development does not destroy familism, but rather transforms traditional familism into a new rational, competitive, profit-seeking—i.e., modern, amoral—version of itself. See Dongno Kim, "The Transformation of Familism in Modern Korean Society: From Cooperation to Competition," *International Sociology* 5, no. 4 (1990): 409. The term "guanxi" is the Mandarin word for "relation," "connections," or "importance" used somewhat loosely both in the popular press and in academic literature to mean something close to the use of one's personal, social connections. See Ellen Hertz, *The Trading Crowd* (Cambridge University Press, 1998): 108-12.

²⁹ Scott, 127.

³⁰ *Ibid.*, 128.

³¹ *Ibid.*

³² Joel Barkan, *Beyond Capitalism vs. Socialism In Kenya And Tanzania* (Boulder: L. Rienner, 1994); Joel Barkan, "The Rise and Fall of the Governance Realm in Kenya," in Goran Hyden and Michael Bratton eds., *Governance And Politics in Africa* (Boulder, C.O.: Lynne Rienner Publishers, 1992), 167-192.

³³ Jean-Francois Bayart, *The State In Africa: The Politics Of The Belly* (New York: Longman, 1993).

³⁴ Economic analyses of corruption have turned on the notion that a bribe constitutes a dead weight loss—that is, a transaction with no corresponding benefit. Others have argued that corruption can create economic benefits by creating markets where none could exist otherwise. See Joseph Nye, "Corruption and Political Development: A Cost-Benefit analysis," in Epko, 13. Payoffs and bribes may very well create economic efficiencies, but the emphasis here is on its non-economic benefits, such as forging linkages between the Center and the Periphery—in a word, on its ability to create social capital. See generally, James S. Coleman, "Social Capital in the Creation of Human Capital," *American Journal of Sociology* vol. 94, supp. S95-S120 (1988): 95-120. Coleman argues that over and beyond human and material capital, we must consider the

importance of a form of social capital that inheres in human relationships and networks.

³⁵ See e.g. Bruce Cumings, *Korea's Place In The Sun* (New York: W.W. Norton, 1997), 87-138; John E. Turner, et al., *Villages Astir: Community Development, Tradition, and Change in Korea* (New York: Praeger, 1993), 31-71.

³⁶ Jung-En Woo, *Race to the Swift: State and Finance in Korean Industrialization* (New York: Columbia University Press, 1991), 31.

³⁷ *Ibid.*, 35.

³⁸ Woo, 65. See also Cumings, 215.

³⁹ Import-Substitution Industrialization was popular form of development led with an emphasis on “substituting” foreign imports with locally produced products. The system is most prominent for its spectacular failure in the Latin American countries in the 1970s and 1980s.

⁴⁰ Woo, 84.

⁴¹ See generally, Man-Hum Kim, *Hankkuk Jungchi Ui Jeinshik* (Reconceptualization Of Korean Politics) (Seoul: Pulbit, 1997); Young-Shin Nam, *Jiyuk Paeggwon Jui Ui Hankook* (Political Regionalism Of Korea) (Seoul: Semulsa, 1991); and Han-Soo Choi, “Hankkuk ui Jungchi Munwha wa Jiyuk Jui” (Korea’s Political Culture and Political Regionalism), *Hankkuk Junchi Ui Iheh* (An Understanding Of Korea’s Poltics) (Seoul: Kunkook University Press, 38).

⁴² For example, under the regimes of Chun, Noh, and Kim Young Sam, there were roughly three times as many senior-level government positions filled with officials from the Kyungsang province as there were from the Cholla region. Man Hum Kim ,178.

⁴³ See Cumings, 326.

⁴⁴ *Ibid.*, 324.

⁴⁵ “Saemaul” means literally “new village.” The term came to be strongly linked to the ideology of self-help.

⁴⁶ After Park’s Big Push and a series of Five Year Plans, Korea’s top thirty chaebols accounted for close to 80 percent of Korea’s gross domestic product. While Korean economy as a whole at an average of 10 percent per annum between 1962-1969, the non-industrial sector (agriculture, forestry and fisheries) grew at a meager 2.5 percent per annum during the same period. By 1968 the average household income of the rural population was only 65 percent of the average income of an urban household. See Turner et al., *supra* note 50 at 75.

⁴⁷ Institute of Saemaul Studies, *Determination and Capability of The Koreans* (Seoul: Institute of Saemaul Studies, 1981), 196.

⁴⁸ To take one example, the Institute of Saemaul Undong reports that the average wages at the Dae-Han shipyard increased 32.2 percent under the Saemaul Factory Undong. *Ibid.*, 188.

⁴⁹ Labor disputes over wages decreased by 93 percent between 1971 and 1979, while disputes over unfair dismissals decreased 97 percent during the same period (Woo, 112).

⁵⁰ There is a growing literature on interpreting the Kwangju rebellion (aka, Kwangju massacre). See e.g. Donald N. Clark, ed., *The Kwangju Uprising: Shadows Over the Regime in South Korea* (Boulder: Westview Press, 1988).

⁵¹ Gavin Kitching details the emergence of a class of Kikuyu farmer-entrepreneurs—what he terms “petty-bourgeoisie” beginning as early as the turn of the century. See Gavin Kitching, *Class and Economic Change in Kenya: The Making of an African Petite Bourgeoisie* (New Haven: Yale University Press, 1980).

⁵² David Throup, *Economic And Social Origins Of Mau Mau 1954-53* (Athens: Ohio University Press, 1988), 144.

⁵³ Kitching, 77.

⁵⁴ Kenya is composed of approximately 40 ethnic groups, of which the five largest groups account for 70 percent of her population. See Barkan, *Beyond Capitalism vs. Socialism*, 10.

⁵⁵ In the 1992 elections, Moi received 95 percent of the votes from his home region of Baringo, while Matiba (Kikuyu) and Odinga (Luo) recorded 94 percent and 95 percent of their respective home regions. Similarly, in the 1997 elections, 70 percent of voters in the Rift Valley province favored Moi, while 89 percent of the voters in the Kikuyu stronghold of Central province cast their ballots for their Kikuyu patron, Mwai Kibaki. The full 1997 election results are available at "1997 Elections Statistics," from the Web site of the Democratic Party of Kenya at <http://www.dp-kenya.org/elections/1997pres.shtml>. 2 February 2003.

⁵⁶ David Throup, *Arap Moi's Kenya* (unpublished paper, African Studies Workshop at the University of Chicago).

⁵⁷ Ibid.

⁵⁸ Colin Leys, *Underdevelopment in Kenya: The Political Economy of Neo-Colonialism* (Berkeley: University of California Press, 1975), 228-29.

⁵⁹ Kenyatta's policy of inegalitarian growth is explicitly and unequivocally laid out in the 1965 sessional paper entitled *African Socialism and Its Application to Planning in Kenya* (Nairobi: Heinemann, 1984), 18.

⁶⁰ Harambee literally means "pulling together" in Ki-Swahili. It has developed new connotations, including "self-help" and "communal giving." Harambee was a system of (usually) rural self-help which centered around a single project towards which the people of a village or region was called to offer help either in cash, supplies or labor. The projects were widely popular, and became a way for the peasant class to benefit from wealth redistribution, as wealthy personage—sometimes including provincial commissioners and even the president himself—volunteered large donations with the belief that it would benefit their constituency. It was a voluntary and civil—that is, non-state—system of self-taxation for the rich and poor alike.

⁶¹ Joel Barkan, "The Rise and Fall," 73.

⁶² At election time, the MPs are judged on their success in bringing resources from the Center to their constituents, and the MPs accordingly spend much of their time employed in these "unofficial" duties. (Ibid.)

⁶³ This policy is evident in many facets of Kenyan life (Ibid., 29-33). In the first place, Moi has replaced his cabinet with Kalenjins, a move which was to be expected. In the second place, leadership of major firms and para-statal underwent a major change. The head of Kenya Airways was replaced by Kipsigis Taita Towett, a Kalenjin. The remnants of the once-powerful Kikuyu controlled Kenya Farmer's Association has been replaced by the Grain Growers' Cooperative (GGC) and is supervised by a Kalenjin, Vincent arap Too. Udi Gecaga, Kenyatta's former son-in-law and head Lonrho operations in Kenya was replaced by Mark arap Too, another Kalenjin. The Chairmanship of the Kenya Commercial Bank was also given to a Kalenjin, Ben Kipkorir. In the third place, the demographics of the military and police have undergone major changes. The attempted coup of 1982 by Kikuyu and Luo Air Force officers played a major part in this shake up. The once-prominent air force has been punished with little funding, and Kalenjins hold one-fifth of the senior posts, and the number Kalenjin police officers in senior posts has also increased sharply—a major change since the Kikuyu- and Luo- dominated Kenyatta era.

⁶⁴ Barkan, *Beyond Capitalism vs. Socialism*, 158.

⁶⁵ Ibid., 160.

⁶⁶ Ibid., 161.

⁶⁷ See discussion *supra* note 4.

⁶⁸ See Frederick Hayek, *The Constitution of Liberty* (London: Routledge & Kegan Paul, 1960): 133-161.

⁶⁹ See e.g., Mark Tushnet, "An Essay on Rights," *Texas Law Review* 62 (May 1984): 1363.

⁷⁰ See Felix Cohen, *Transcendental Nonsense and the Functional Approach*, *Columbia Law Review* 35 (June 1935): 843-845.

⁷¹ Peter Evans, *Embedded Autonomy: States and Industrial Transformation* (Princeton: Princeton University Press, 1995), 10 (Evans argues that state intervention exists to greater or lesser degrees in both developed and underdeveloped countries.)

⁷² Eisenstadt and Lemarchand, 13.

⁷³ James C. Scott, "Corruption, Machine Politics, And Political Change" in Epko, 101. (Scott shows how patronage channels are used to manipulate the implementation of policy in urban "machine" politics.)

