

By : Anthony R. Pico

The Story of the Original San Diegans

For 10 millennia before the Spanish and other European settlers arrived in California, the Kumeyaay Indian Nation lived in the area now divided into San Diego and Imperial Counties and Baja Norte. Although this nation of original inhabitants has been called Southern Diegueño, Diegueño-Kamia, Ipai-Tipai and Mission Indians, the people prefer to be known as Kumeyaay.

Yuman-speaking people of Hokan stock, Kumeyaay territory extended from the Pacific Ocean east to the Colorado River, north to Warner Springs Valley and south to Ensenada. Neighboring nations to the northeast and east were the San Lusieño, Cupeño and Cahuilla. While southern California Indian nations shared many characteristics, there was little uniformity in language, customs, political and social organization or economic resources.

Indian nations throughout California, and North and South America were comparable to the multiple cultures, governments, religions, economic resources and languages of independent nations that abounded on the European, African and Asian continents in the year 1000 AD.

The Kumeyaay planted trees and fields of grain; grew squash, beans and corn; gathered and grew medicinal herbs and plants, and dined on fresh fruits, berries, pine nuts and acorns. Kumeyaay fished, hunted deer and other animals, and were known for basket weaving and pottery. The people had sophisticated practices of agriculture, plant and animal husbandry; maintained wild animal stocks; controlled erosion and overgrowth; built dams; created watersheds and stored groundwater.

A federation of autonomous, self-governing bands, or clans, the Kumeyaay had clearly defined territories that included individual and collectively owned properties. The Kumeyaay united in defense of their territory and communicated by foot couriers. Throughout this vast area trails were forged by the Kumeyaay through the mountains, deserts and river valleys for trading, gathering for funerals, marriages and competitive games with each other and neighboring nations.

A band's territory extended anywhere from 10 to 30 miles, along a stream and tributaries. It included trails, shared hunting, religious, ceremonial and common gathering areas. However, specific land tenured by families and individuals provided the economic foundation of the Kumeyaay existence. Property was generally passed from father to son.

Each family independently planted and maintained fields of grain, grass and other annuals, shrubs, tree groves, cornfields, quarries and hot and cold springs, clay beds and basket grass clumps. However, sharing the produce for the band's benefit was assumed. Territory belonging to a band often included adjacent holdings stretching from the mountains and river plains, to the coast.

The Kumeyaay took advantage of the different climatic zones in the region, surviving fluctuations in the climate by rotating domestic crops and living off varieties of food sources in

the different ecological systems.

Sacred lands were shared. Creation stories and religious rituals were tied to specific locations, or holy lands, just as with the Hebrews, Christians and Muslims. One such place is Kuuchamaa, or Tecate Peak. Another is Wee-ishpa, or Signal Mountain. Burial grounds were sacred, and still are to this day. Each band had worship areas restricted to religious and tribal leaders.

Generally peaceful by nature, the Kumeyaay social and governmental customs of tolerance and individual freedom spawned independent people.

The social structure of the bands included the shiimull, or ancestral descent group, governed by a hierarchy of Kwaaypaays. The shiimull often had family loyalties and relatives that extended beyond the band through marriage. In 1769, when the Spanish arrived, between 50 and 75 shiimull, or bands existed. Each included 5 to 15 family groups.

The Kwaaypaay was usually the male head of a shiimull. He inherited the position from his father, but was not necessarily from the band he led. The Kwaaypaays were raised to become leaders. A common practice was for the Kwaaypaay of one band to be selected from another band, thus ensuring unity among the clans. Also, since the primary duty was to maintain harmony and arbitrate disputes, a Kwaaypaay without relatives in the band to prejudice decisions was more impartial and fair. Even though the leadership was drawn from among the sons of all Kwaaypaays, the final choice, and approval of their leader, belonged to the band.

Each Kwaaypaay, or captain or chief, as they came to be called, had an assistant called the speaker, and a council of Kuseyaay. Composed of male and female priests, scientists, doctors and other specialists, Kuseyaays served as advisers in ecology, resource management, healing, and the spiritual and religious practices of the tribe.

The Kwaaypaay called upon these counselors to assist in providing information and making decisions for the tribe's welfare. Once a decision was made, it had the force of law.

However, each family was free to follow and participate in the decision, or break off from the band; leave the band's territory and pursue its own course of action without punishment or retribution.

The Kumeyaay lived life through songs. They danced and sang to celebrate, mourn and teach. Culture, traditions, history and social values were transmitted through songs. Songs taught everything the people needed to know to survive. There were songs about the environment such as salt, wildcats and plants. There was no written language. Songs contained the collective wisdom and memories of the Kumeyaay people.

Individuals and clans had songs. Spiritual and creation songs and dances, such as the Bird Song and Eagle Dance, taught moral lessons and connected people with the ancestors and the meaning of life and death.

In 1542, life began to change for the Kumeyaay. No longer a story of a culture and people evolving, living, dying, shaping and being shaped by the environment, it was a time of death

caused by hunger and disease, occupation, slavery, rape and genocide.

The last 500 years of the millennium for the Kumeyaay was a time of survival and conquest. The shared history became a story of clashing cultures and the struggle of the Kumeyaay to adapt, yet maintain their cultural identity in a changed world.

First came the Spanish, followed by the Mexican government and the United States. Each believed the land and people who had lived here for millennia existed for their use and abuse.

Unable to provide protection from the influx and military might of the newcomers, removed from food sources and land, unable to speak the language or understand the customs of the immigrants, and without legal protection of civil rights, the Kumeyaay became totally dependent upon a hostile populace, strangers in their own land. Denied customs, culture, social and political traditions, the Kumeyaay became strangers to themselves.

Despite common beliefs that Californian Indians, beleaguered of soul and body, crept away to die, these ancestors survived. Their story of sacrifice and courage and belief that the Kumeyaay would reclaim a place in this land is as positive and encouraging as their suffering was devastating.

1769-1822 The Mission Period

In September 1542, the coastal Kumeyaay encountered the first European, Juan Rodriquez Cabrillo, when his ship sailed into San Diego Bay.

Then, in 1769, the Spanish sent a colonizing force into upper California.

Spanish army units founded a presidio (army post) in San Diego Bay and Franciscan Juan Crespi arrived with the first overland group of Spanish missionaries and soldiers. He was followed in July by Father Junipero Serra, with a group led by Gaspar de Portola. Father Serra, founder of the Mission San Diego, and others like him were charged with bringing the natives to Catholic Christianity. Thus began the mission years for the Kumeyaay.

The directive of the priests was to educate the natives in "civilized pursuits and to make them working class citizens of the Spanish Empire." Once converted and properly indoctrinated in the customs of the church and the realm, these baptized Indians would be granted a piece of land. The local missions also were expected to supply the army with food, livestock and laborers for mission pueblos and private ranch holdings granted by the Spanish government.

Kumeyaay coastal land was confiscated and the people captured and forced to work for the Spanish. Soldiers scoured the countryside for Indians to be rounded up for conversion and indentured slave labor. After a period of indoctrination and servitude, some were released to return to their homes. The women were often raped and used as property of the militia. Unmarried Indian girls, the sick, some elderly and men trained as specialists in leather and woodworking, carpenters, farmers and blacksmiths were permanently kept at the mission, often against their will.

To avoid capture the Kumeyaay fled east to the mountains to make new homes. Kumeyaay ritual and spiritual practices were outlawed. The Kumeyaay revolted against forced servitude and abduction. In 1776, there were a number of uprisings and skirmishes, one destroying the San Diego Mission, which was rebuilt on another location. The Spanish forces moved inland, taking Kumeyaay lands in Santee, El Cajon, Jamacha and Jamul to gain control of better water resources.

Death stalked the Kumeyaay in many ways. Without natural immunities the Kumeyaay, exposed to European diseases, died by the thousands as smallpox and measles spread through the villages.

1822-1848 Mexican Period

Following the Mexican Revolution and founding of the Republic of Mexico in 1822, the Spanish holdings were secularized. During the Mexican period, the missions became parish churches and mission lands, rancharos. Prior commitments made to Hispanized Kumeyaay for small plots of land by the Spanish were dismissed. Mexican governors gave the best mission lands to Mexican nationals, and conceded large land grants, absorbing farms of Hispanized Indians granted by the Spanish, as well as Kumeyaay villages within their boundaries.

Kumeyaay living on former mission properties were turned over to Mexican nationals to serve as peon labor. Missions were placed under majordomos, who used the Indians as servants for their large families. Majordomos allocated passes to the Kumeyaay laborers to leave the rancharos to visit their families, and sent patrols to recapture those who did not return. The Kumeyaay became prisoners on their own land, trading one form of enslavement for another.

When repeated requests to the Mexican government by the Kumeyaay about abuses of their land and water rights were ignored, inland bands led numerous uprisings and revolts. In San Diego, Mexicans seldom left the presidio or pueblos without military guard.

Eventually, the United States moved to acquire the California territories. In December 1846, the U.S. Army led by Gen. Stephen Watts Kearny passed through Yuma, San Felipe, Warners Valley, Santa Ysabel and San Pasqual, destroying Kumeyaay homes for firewood.

The Kumeyaay and other Indians were friendly toward the Americans, hopeful that this new government would keep promises to settle the land disputes and treat the Indians fairly. During the battle of San Pasqual between the Mexicans and U.S. Army, the Kumeyaay aided General Kearny. After the battle, they guided him to San Diego.

The 1848 Treaty of Guadalupe Hidalgo transferred California to the United States and guaranteed existing land titles, all rights and immunities, and religious freedom to Mexican citizens. All these rights also were to be applied to baptized Indians who became Mexican citizens; however they were rarely enforced for the Christian Kumeyaays, and never for the traditional Kumeyaays.

When California became a state in 1850, it was the worst period yet for the Kumeyaay Indians.

Technically wards of the federal government, caught in a battle between states' rights and the federal government, the Kumeyaays found themselves with no protection.

California passed the act for the Government and Protection of Indians in 1850. This act assumed state authority over the Indians and empowered county sheriffs to mark boundaries and protect Indians and Indian lands "as needed." The act also legalized the indenturing of Indian children, granting custody for males until age 18 and females until 15 years old.

Children often were seen being driven to market, where Indian boys were sold for \$50, and girls for \$100. Thousands of Native Americans were made legal wards of Anglos who sought a cheap and steady labor supply. An advertisement inviting new settlers to California boasted free land and free Indian labor.

California Indians, through a succession of laws and the state's refusal to grant the federal government the rights to deal with Indians, lost both property and civil rights, including the right to bear arms, testify in court on their behalf, attend public schools, practice religion or speak their language.

Indians arrested for vagrancy, which was common for those forced from villages and mission homes, or without proof of work for 10 days, were jailed and auctioned off by sheriffs as laborers. Anglos got them out of jail in return for which Indians were forced to work for "duration and pay rates established by their benefactors."

California distinguished itself for its harsh treatment of Indians. In 1850, a special federal commission was sent to deal with California Indians. The commissioners brought treaties to be signed by Indian leaders of the southern region.

The 18 treaties, covering more than nine million acres, allowed the majority of bands to remain on their aboriginal lands and provided sufficient land for what was left of the coastal bands to relocate to the mountains. When these treaties were sent to the United States Congress for ratification, the new Anglo-American settlers and Mexican land owners objected. The California Legislature sent a report to Washington, opposing the treaties and recommending the removal of all California Indians to Indian Territory (the present state of Oklahoma).

The U.S. Senate shelved the treaties. But no one told the Indians that their treaties had not been ratified and that they had no legal title to their ancestral family and tribal land.

In March 1851, Congress passed the Act to Ascertain and Settle the Private Land Claims in the State of California, appointing a federal land commission to hear evidence presented by those who claimed valid Mexican land titles and to determine lands held, used and occupied by Indians. The act specifically required the commission to determine Indian lands, but did not request Indians to present claims. The commissioners were negligent in their duty to identify Indian land rights, ignoring all evidence of Indian villages usurped by rancho and mission allotments.

Even worse, the commission declared that all land that did not have a title confirmed by the commission, or as Mexican pueblos, which was almost all Indian land, was public land of the

United States, open to pre-emption and homesteading.

Unaware that the treaties had not been ratified, or that the special commission had placed their land in the public domain, the Kumeyaay remained in their villages, farming their lands, raising animals and following familiar economic traditions. Despite land loss, the Kumeyaays continued to support themselves. None received rations or aid of any kind. They even paid local taxes.

By 1870, farming and ranching conditions for the Kumeyaay had deteriorated. They had lost so much land and their existing homes that most were starving and ill-equipped to survive either summer droughts or winter cold. Mounting political pressure pushed the president to create two San Diego County reservations by executive order. These two small pieces of land & emdash; the San Pasqual and Pala reservations & emdash; were expected to accommodate all the Indians of southern California and some northern California tribes.

Much of the land was rocky and without good natural water sources, making it inadequate for grazing livestock, much less providing farmland for all the Indians of southern California. Indians opposed this plan, realizing they could not survive under such conditions. The Kumeyaay did not want to leave their ancestral homes and farms. The San Pasqual and Pala bands objected to being overwhelmed by the large numbers of other Indians who would be pushed into their small farming villages and valleys.

First canceled, then, five years later the two reservations finally were created in 1875, concurrent with another presidential order, which withdrew an additional number of small reservations from the public domain (actually original native lands). Many Kumeyaays opposed this action, feeling that the reservations being surveyed were not preserving Indian homes or farms, but removing Indians to poor land where they would be unable to provide for themselves.

Inadequate as these lands were to sustain the traditional independent lifestyle of the Kumeyaays, many reservations came into existence at this time, including the Sycuan Reservation and El Capitan Grande from which the Viejas and Barona bands descended.

Recognizing that executive orders could be repealed and promises to Native Americans were subject to cancellation, settlers continued to file homestead claims, or move onto the reserved lands. Some claimed their move predated the presidential order. Others moved onto reservation land and declared Kumeyaay improvements their own, not for the purpose of acquiring the property, but to file for compensation from the government when the land finally was deeded to the Indians. Other land historically belonging to the Kumeyaay, or formerly granted under Spanish and Mexican law, was once again ignored. The theft of Kumeyaay farming and grazing land continued unchecked.

The Kumeyaay, irrespective of their original home sites, farms or clans ultimately wound up concentrated on tiny reservations of the worst possible land, without water or an environment conducive to farming or any form of economic self-sufficiency.

California set itself apart from other states by refusing to approve federal treaties with the Indian tribes for land, and also by establishing an official policy of extermination. As stated by

California's first governor, Peter Burnett, in 1851, "that the war of extermination will continue to be waged until the race becomes extinct must be expected." In 1851-52, the California Legislature authorized payment of claims totaling more than \$1 million to pay the voluntary militia for bullets and bounty on dead Indians.

The state's first bond of \$400,000 was issued in 1854, to pay for bodily proof of an executed Indian.

During this time, the former New York Century newspaper wrote, "In the Atlantic and Western states Indians have suffered wrongs and cruelties at the hands of the stronger race, but history has no parallel to atrocities perpetrated in California." Chauncey S. Goodrich, in his thorough analysis of the legal status of California Indians concluded: "The swift economic development of California was bought at a certain cost of human values. It was the Indian who paid the price."

More than 25,000-strong when the Spanish arrived in 1769, the Kumeyaay numbered about 3,500 when the Anglo-Americans took over the territory. The 1990 census reported about 20,000 Indians (including all urban ethnic and tribal groups) in San Diego County.

The Kumeyaay proved very adaptable and quickly passed along the farming and other skills learned in the missions and as laborers on ranchos. In fact, lands that were taken were often productive farms and ranches. With time and by honoring the civil rights of the Indians and leaving enough land and resources to create opportunity, both the Kumeyaay and American settlers could have lived and prospered side by side.

Myths that Indians were lazy, unwilling to learn, and did not know how to use the land do not hold up historically. Most were created and perpetuated to justify stealing, slave labor, racial murder and persecution. Local records indicate that until 1930 the Kumeyaay constituted the entire work force for the county's early agricultural and livestock farms and ranches, as well as whaling, shipping and fishing industries. Indians also helped to build San Diego's roads and railroads, all of which took skill and a work ethic.

The 20th Century

Throughout the 20th century, the Kumeyaay continued to struggle just to survive, not to mention the attempt to find justice and to protect their cultural identity, and civil and constitutional rights. By 1929, California Indians had learned the language and the political rules. They filed suit against the government for land lost by the U.S. Senate's 1851 tabling of treaties. The attorney general of California was appointed the attorney for the tribes, over the protest of the Indians. The courts awarded \$17.5 million, or \$1.25 per acre, for treaty land lost. The value of all goods and services ever given to or spent to eradicate or enslave Indians was deducted, leaving \$5.2 million, or \$150 per capita.

A second suit, filed in 1949 and settled in 1964, concerned compensation for other Indian lands, excluding the previously settled treaty loss claim and Mexican rancho land grants, resulted in a settlement of 47 cents per acre.

The United States' termination policy of 1953-1968 brought Indian tribes near the brink of collapse. The federal government declared that reservation services and Indian benefits should

be ended at the earliest possible time. In the decade that followed, Congress terminated assistance to more than one hundred tribes, regardless of treaty promises.

Each of these tribes was ordered to distribute its land and property to its members and dissolve its government. California tribes were hardest hit. The Mission Federation of Indians was formed, which included Kumeyaay, who went to Washington, D.C., to fight termination of local bands.

Also in 1953, Public Law 280 was passed by Congress without discussion with California Indians. This law conferred criminal and some civil jurisdiction over tribal matters to the state. In addition to usurping authority for enforcing criminal activities on tribal land, the civil provisions of PL 280 gave the state jurisdiction over areas of private rights such as divorce, accidents, child custody, probate and other domestic issues.

In return, the state agreed to be responsible for the welfare of the reservations. California is one of only four states to have adopted PL 280.

As a result of PL 280, federal services, except those relating to the land trusteeship, were terminated, leaving California Indians again dependent on the state, their longtime enemy, for aid and assistance with reservation problems. Even though the state now received federal funding to supply services in San Diego County, the Kumeyaay were regularly and shamefully denied health and old age care, as well as Aid to Families with Dependent Children.

Indians were turned away from the county hospital, which was accepting federal funding for Indian care. In 1950, Indians were segregated in San Diego County schools and labeled retarded as a result of IQ tests that failed to register cultural differences in children. Not one Indian graduated from high school in the county that year.

Rights guaranteed the Kumeyaay as citizens of the United States under the Treaty of Guadalupe Hidalgo did not become a reality until the passage of the U.S. Indian Citizenship Act in 1924, and American Indian Religious Freedom Act of 1978.

Then there was the nagging issue of water rights. Just as the loss of good land created havoc with the ability of California Indians to provide for themselves, the newcomers' insatiable thirst for water proved devastating. Water rights issues were litigated early in the century, and continue today.

An example is El Capitan Reservoir. Kumeyaay bands placed and originally located on the El Capitan Grande Reservation were evicted from their valley homes in 1934, as a result of the city of San Diego's desire to provide water for new development. A special Act of Congress condemned the prime watershed of the reservation, turning it over to the city. Indians protested, but were forcibly removed and their homes burned.

The Barona and Viejas bands were formed as a result of El Capitan bands acquiring nearby property to rebuild their homes, school, church and farms. Replacing the valuable watershed and water source proved more difficult.

The 20th century continued to be a time of shifting federal policies toward Indians from isolation and concentration into reservations, assimilation, reorganization and termination. Able at last to get legal representation, legal suits continued for civil rights, and the protection and recovery of water and land rights. Occasionally the Indians won.

In 1972 President Richard Nixon ended the termination policy and initiated a policy of self-governance and economic development for tribal reservations. Laws were passed to increase economic incentives and federal funding was restored for many tribal programs, including health and education services. Despite the failure of the federal government to provide the means for economic self-sufficiency, as a result of the new U.S. policy of strengthened self-governance tribes began to seek and initiate economic opportunities.

The most significant economic opportunity to come to tribes was gaming. Isolated and removed from mainstream commercial corridors, most reservations had little to attract consumers or businesses. With the landmark *Cabazon vs. California* Supreme Court decision in 1987, tribes secured the recognition that as governments, they could engage in gaming in states, which were either engaged in some form of government-sponsored betting, or did not forbid gaming as state policy. Again, California displayed its hostility toward Indians by attempting to close down a small bingo parlor on the Cabazon Reservation in Riverside County and Barona in San Diego County even though the state was engaged in lottery and keno gambling.

What followed for the next decade is modern history. Three Kumeyaay tribes, the Barona, Viejas and Sycuan bands, opened gaming facilities, which have grown into successful businesses. Tribal government expenditures of gaming revenue and Indian games and facilities are regulated by a federal law, passed in 1988, named the Indian Gaming Regulatory Act. Besides creating an oversight body, IGRA requires tribes and their respective states to negotiate compacts for joint regulation, limits or types of games allowed and revenue sharing.

Again, California proved to be one of the most difficult states. Even though the lottery generates more than \$2 billion in annual revenue for the state, and racetrack and card room betting is commonplace, the tribes engaged in a political fight with former Gov. Pete Wilson. The battle focused over the types of electronic games the tribal casinos could offer, and how many. The neighboring state of Nevada weighed in heavily with political contributions and lobbying to protect what it viewed as competition from the tribes to its major economic resource.

Nine years of legislative fights and legal suits with the Wilson administration culminated in a final compromise offered by the governor in the form of the Pala Compact. The majority of the tribes in the state rejected it on the basis that they were not part of the negotiations, which were conducted exclusively with a non-gaming tribe in San Diego County.

The tribes also objected to the reach of the Pala Compact, on the grounds it went beyond gaming and attempted to regulate and control governmental policy belonging to the tribes.

Facing closure of their businesses by U.S. attorneys, without a tribal-state compact, the tribes mounted a voter initiative, Proposition 5. Providing for joint-state regulation of the games, and revenues for local governments, non-gaming tribes and other California citizens, Proposition 5,

in a historic turn- about of Indian political fortunes, passed in November 1998. The vote was 68 percent in favor of the tribal-proposed agreement in San Diego County.

Even though the voters approved a compact allowing the tribes to keep the limited scope of games they had been operating, a state Supreme Court challenge by Nevada casino-backed organizations and a labor union saw the will of the voters overturned in August 1999. The decision was based on the state's constitutional prohibition against "Nevada and New Jersey-type casino gambling."

Upon dismissal of Proposition 5, the tribes and the new governor, Gray Davis, entered into negotiations on new compacts. These compacts were signed by the governor and ratified by the state Legislature on Sept. 10, 1999. However, these compacts, signed by 60 tribes, require a change in the state constitution to legalize and implement them. This measure, entitled Proposition 1A will be on the March 7 California primary ballot. Proposition 1A changes the state constitution to allow casino-type gambling on tribal reservations only.

By the end of the 20th century, fortunes for some of the Kumeyaay, three of the 13 bands in San Diego County, began to change as a result of revenues generated from gaming. Gaming has provided tribal governments revenues to take care of their lands and people for the first time in 300 years, and to look to the future as participants in the region's economy, and as self-sufficient and contributing members of the community. The Kumeyaay face the dawn of the new millennium with a vision of healing the crippling effects of poverty and racism, and the opportunity for a cultural and economic renaissance.

Anthony R. Pico is tribal chairman of the Viejas Band of Kumeyaay Indians.