

A BRIEF HISTORY OF CALIFORNIA INDIANS

Prior to European contact, historians estimate, there may have been as many as 350,000 Indians indigenous to and living within the boundaries of what is now the state of California, with no fewer than 64, and perhaps as many as 80, separate languages spoken. California Indians were equally rich in diverse cultures and traditions.

Spanish Rule

As with other aboriginal peoples in the western hemisphere, California Indians underwent a catastrophic decline in population following European contact. Contact with Europeans began in the 16th century when the first Spanish expeditions explored areas of California. Twenty-one Spanish missions were established and the laws of Spain were enforced during the 18th century. Lands were held in trust for the crown and Indians residing on those lands were displaced, enslaved or killed. In addition, European diseases ravaged native communities. By 1845, the California Indian population had declined to approximately 150,000.

In 1848, the Treaty of Guadalupe Hidalgo ended the war with Mexico and ceded California and other territories to the jurisdiction of the United States. For California Indians, however, the jurisdiction of the United States did not end their exploration nor slow the rate of their population decline.

The Gold Rush

In the late 1840's the discovery of gold in California brought an onslaught of fortune-seekers with a rapacious appetite for gold, land, and other instant riches. During the "Gold Rush" period which ensued, California Indian tribes were viewed as obstacles to settlement. California Indians were enslaved, starved and targeted for elimination. They were the objects of Sunday hunting parties, stalked and killed as big game roaming the forests of northern California.

On April 22, 1850, the California legislature passed an act "for the Government and Protection of Indians" which provided for limited federal interference in state land issues. Further, this 1850 Act effectively allowed for the sale of Indians into slavery. Although this act was repealed in 1863, its devastating effect on California Indian was irreversible.

In 1851, the California Land Claims Act was enacted by the California Legislature to create a commission to consider the claims of parties who held lands under Spanish rule. As might have been expected, California Indians were not informed of this potential remedy, and the United States and California failed to bring claims on their behalf. A series of claims court decisions established the principle of law that the failure of California Indians to file claims in a timely manner barred subsequent actions. Accordingly, the Indian tribes' land claims against the Spanish were nullified and their lands became part of the public domain.

The Barbour Treaties

During 1851 and 1852, Indian commissioners were assigned to provide for a "just and equitable settlement with the Indians of California" on behalf of the United States. Between March 19, 1851, and January 7, 1852, the commissioners negotiated with California Indian tribal governments eighteen treaties and one supplemental agreement. These came to be known as the "Barbour Treaties."

Under the Barbour Treaties, the United States recognized California Indian tribes as political entities with the sovereign power to enter into agreements in order to alienate their lands. Indeed, the tribes relinquished all rights and title to California land. In exchange, the tribes reserved over 8.5 million acres of aboriginal land and were to receive other goods, subsistence, supplies, livestock and clothing. Guarantees of teachers, doctors, farmers, carpenters and other workers were included in the treaties as well.

On July 8, 1852, the United States Senate, in executive session, refused to ratify the treaties, due to objections from California's legislature and business interests. The treaty documents were then placed under an injunction of secrecy until January 18, 1905. Hence, California Indian tribes who had bargained in good faith and signed the treaties were never notified that the treaties were not ratified and, further, that the U.S. Treaty Commissioners were not empowered to bind the United States.

California Indian tribes abided by the terms of the treaties and ceded the entire state of California and voluntarily relegated themselves to their reserved lands. In spite of the Senate's failure to ratify the treaties, lands which had been occupied by tribes were surveyed as public lands and sold. After deducting offsets for all services and purchases provided, the United States paid for the taking of the lands and reservations, and no other treaties were ever entered into.

Absent ratification of the treaties, settlers recognized no land rights in the tribes and continued their systematic eradication of California Indians. Indeed, by 1855 the population of California Indians had decreased to less than 50,000. Some survivors found refuge at seven military reservations created to protect them between 1853 and 1862. In the 1870s the United States began purchasing or reserving small tracts of land for landless Indians called "rancherias" or "village homes." Many were granted small individual allotments.

The Smiley commission was appointed in 1890 and directed to conduct a survey of the conditions of southern California Indians. As a result, the Mission Indian Relief Act of 1891 was enacted, and small parcels of land in Southern California were set aside for Indians. Yet by the end of the century, homelessness, hunger, disease and extermination had reduced the Indian population in California to approximately 15,000, which represented only about 4 percent of their numbers prior to European contact.

The Barbour Treaties, which many of the tribes still retained as part of their oral history, were "discovered" in 1905. This discovery led to a further extension of congressional

programs to provide for land acquisition for homeless Indians, based on their tribal affiliation.

By 1915, the population rose to slightly over 19,000, and California Indians lived in 55 out of 60 counties, only 1,800 on reservations created by Executive Order or otherwise, 12,000 having individual allotments, leaving at least 4,500 Indians destitute and homeless. More rancherias were established for those who refused to abandon their traditional homelands and the remnants of their tribal existence.

In 1928, the U.S. Congress permitted the Indians of California to file suit against the United States for the compensation promised under the Barbour treaties. In 1944 the Court of Claims allowed relief -- 47 cents per acre as just compensation for the taking of Indian aboriginal lands comprising the State of California.

The Indian Reorganization Act (IRA) of 1934 provided a mechanism for organizing additional tribal governments, and many of the rancherias voted on the application of the IRA to their communities. Hence, the management of internal affairs by California tribes became recognized by the Bureau of Indian Affairs.

The Termination Era

In 1953, the U.S. Congress passed House Concurrent Resolution 108, which called for the assimilation of Indians and the termination of federal responsibilities towards tribes. A series of termination statutes followed, including Public Law 85-671, the "Rancheria Act," in 1958. This Act provided for the termination of federal trust responsibilities to 41 rancherias located in California. Accordingly, distribution plans for trust assets were prepared and carried out through the mid-1960s. Tribes in the Coyote Valley of California were terminated under separate but similar legislation.

Although President Nixon declared the termination policy a failure in 1970, it was not until the 100th Congress that the termination policy was expressly repudiated in the House and Senate. Some tribes terminated in the 1950s and 1960s have been restored to federally-recognized status by act of Congress. Others, such as some of the rancherias, have had the federal relationship restored through the judicial process.