

Kla-Mo-Ya Casino v. The Klamath Tribes' Culture: Finding Common Ground in a Dichotomous World

Molly Gunther
University of Washington
American Indian Studies: Gaming and Casinos
December, 11th 2013

Summary: The Klamath Tribes have opened their first enterprise in 23 years with the Kla-Mo-Ya casino. Revenues from the casino have sparked a revitalization of culture, yet its capitalistic nature implies current and future influences on the tribe and its members.

Background

The Klamath Tribes once regarded themselves as six different tribes. Time, disease, and white hegemony have grouped these six tribes into one, with three sub-tribes, The Klamath, Modoc, and Yahooskin. Prior to contact, these proud tribes were the occupants of over 25 million acres in the Klamath Basin of Oregon. Their land was their lifeline. The Klamath tribes believed that all necessities of life could be given, (rather than taken), from the Earth. Their spirituality has been passed down by many generations through oral traditions and histories, and they still currently identify with many of their ancestral beliefs. A good work ethic is a source of pride for members of the Klamath tribes and is highly encouraged by their elders. It is this encouragement that helped, and continues to help, the Klamath tribes' success as a politically active and economically driven, sovereign nation (Klamath Tribes, n.d.).

The sovereignty of the tribe was challenged in 1954, despite having a signed treaty with the United States government. The Klamath tribes lost their federal recognition, tribal sovereignty, and reservation land status when congress passed the Klamath Termination Act of 1954. The federal termination policy was drafted as a hope for the United States to finally “get out of the Indian business” and was targeted towards tribes who seemed ready to be fully incorporated into American society and would therefore no longer needed their special status and trust relationship with the United States. These tribes, deemed “civilized” enough, were generally tribes who had strong economies and were either fully self-sufficient or

close to it (O'Brien, 1989). The Klamath tribes, having been fully self-sufficient and the second wealthiest tribe in the nation at that time (Klamath Tribes, n.d.), were one of these targeted tribes. The introduction of taxes to the tribal members and enterprises, and the tribes' decision to sell all tribally shared land to the government proved to be devastating to their economy and the general welfare of the tribe (Robbins, 2002). The Klamath tribes regained federal recognition in 1974 with the United States shift in Indian policy from termination to self-determination. In 1997, 23 years after restoration, the Klamath tribes opened their first tribal enterprise since termination (Klamath Tribes, n.d.). The Kla-Mo-Ya casino is tribally managed and owned.

With the creation of tribal casinos, Indian tribes have had to give up certain aspects of their sovereignty despite their retained right to conduct gaming on reservations having been upheld in the Supreme Court decision, *Cabazon Band of Mission Indians v. California*. Congress passed the Indian Gaming Regulatory Act (IGRA) in 1988. This act represented the "right" of the federal government to exercise "plenary authority" over tribes (*Lone Wolf v. Hitchcock*), and also outlined federal regulation of the use of casino revenues by the tribe. The IGRA mandates the use of casino revenues to five specific areas,

 "To fund tribal government operations or programs.

 To provide for the general welfare of the tribe and its members.

 To promote tribal economic development.

 To donate to charitable organizations.

To help fund operations of local government agencies providing services to tribes” (Indian Gaming, n.d.).

Tribal-state compacts are used between the tribe and its encompassing state to dispel future tribal/state jurisdiction and regulatory disputes through state imposed regulations, agreed upon revenues given to the state, and much more depending on each unique tribe-state compact. As with the IGRA these compacts compromise certain aspects of the sovereignty of tribes. In this paper I will be researching the cultural, political, and economic components of the Kla-Mo-Ya casino and what their implications may be for the Klamath Tribes and their members. In this era of restoration and revitalization for the Klamath tribes, how does the casino, if at all, help promote cultural revival in the face of the political and economic pressures of the 21st century?

Findings:

Culture

naanok ?ans naat sat'waYa

naat ciwapk diceew'a

This phrase in Klamath is translated, "We help each other; We will live good" (Klamath Tribes, n.d.). This adage of the tribe is indicative of the Klamath tribes' values of community and sharing. Cultural preservation is paramount to the Klamath tribes' existence (Klamath Tribes, n.d.), yet I was hard pressed in my research to find any detailed information about many of their specific cultural traditions. The tribal website includes facts about their history, mainly post European contact, and small mentions of their ancestral spiritual beliefs. Certain

links on the page require an ID and password for tribal members only, and I was unable to access it. This could be indicative of the tribes' privacy wishes to keep certain cultural information within the tribe. The Klamath tribes are a relatively small tribe with only 3,700 enrolled members currently (Oregon Blue Book, n.d.), therefore I do believe that some of their cultural information is kept solely within the tribe. However, I was still perplexed as to why cultural information was necessarily hard to come by. The "history" section is essentially copied and pasted on their casinos website to mirror the tribal website, which could be due to it being run by the same person, and they didn't feel the need to write a different one, or another possibility is that the peoples of the Klamath tribes were deprived of passing down many histories and traditions due to the pressures of assimilation and loss of their land base during the termination era.

During my research I came across a posting in the Chiloquin forum from a non-Native named Johnny in reference to the Klamath tribe members, "I grew up near an Indian Reservation (Blackfeet) in Montana. I was always so amazed at their deep, rich culture...Its a different story here. I don't know how or why they call themselves Natives...Maybe they should send someone to Montana to learn how to be real Natives." While the controversy of his statement is obvious, I was more intrigued with the response from a tribal member who simply titled his response, "termination". He combats this statement by saying, "[Termination]Of the Tribe in 1954 is the reason. When everything you know, everything you live, your very existence is taken right down to your identity as a Native...your world is changed forever. The effects of termination devastated this Tribe and its members. The

suffering still exists today. Our Tribe is broken, we are fragmented.. Until we can get past that.. we will continue to struggle.” The forum goes on with a battle between the members and non-natives over what it means to be “native”. Many non-natives speculated on how the tribes sold their land, are greedy, sold their heritage, and many more infuriating statements against the Klamath tribes (Topix, 2013).

Many ignorant people are so quick to argue against any political or economic gain for tribes. Often this is because the idea of tribes as being politically or economically motivated and being able to compete in those areas today is contrary to these peoples beliefs of what the tribes *cultural* motives *should* be. Before I was able to assess the role of the Kla-Mo-Ya casino to the tribes’ cultural vitality, I first had to define to myself what the “culture” of the tribe was, and in order to do so I had to look at the historical facts.

When the tribes lost recognition, the United States had not yet experienced the civil rights movement, non-whites were deeply oppressed and Natives on the west coast received some of the worst of that oppression. How would you react to the dissipation of your nation and life as you know it? Most members had never known such a large sum of cash at one time. Some members fell into addictions and lost the money or else did not know how to manage it properly and soon found themselves impoverished and without the support of their tribal community or the federal government (Robbins, 2002). The attitudes of the government and its citizens were supportive of assimilation, Native culture was frowned upon and without the support of a community and land base, preserving cultural traditions became increasingly hard (O’Brien, 1989). Diabetes and other health issues spiked,

and over 50% of the Klamath tribal members were unemployed. These calamities resulted in many members moving away from the reservation lands (Robbins, 2002). Cultural preservation was forced to take a back burner, but what remained of the scattered tribe fought for restoration. After 20 years this fight proved successful and sparked the beginning of the process to revitalize their community and culture.

For the purpose of this paper, my definition of the Klamath tribes' culture is this: culture is not static. It is not a fixed context in which we can place ourselves and define ourselves, or other people. People like Johnny who post forum topics labeled, "Why do the Klamath Tribes call themselves Native Americans?" (Topix, 2013), are fundamentally limited in that they do not understand just how effective the assimilation efforts of American society could be, they do not understand the colonial history of our past and how it still impedes tribes from the 100% revitalization of ancestral cultural practices. Evidence of these culturally destructive efforts can be seen even in the name "The Klamath Tribes". The Modocs, once their own separate peoples, waged war in the lava beds of northern California against the United States. Modoc leader Kentipoo, with only fifty Modoc warriors, held off the U.S. Cavalry for seven months despite their number being over one thousand. The Modoc warriors were fighting to gain a reservation in their own homeland rather than be sent off to share a reservation with their traditional enemies, the Klamaths (O'Brien, 1989: 65). I do not mean to confuse people and say that assimilation and termination resulted in the Klamath tribes' loss of culture; rather that restoration resulted in the reappearance and resurgence of the culture, or cultures, they retained. To view tribes as only being "native" enough by whether or not they

practice and preach every traditional aspect of their ancestral culture is to be naïve and misinformed. What is important to note is that some aspects of the Klamath tribes' ancestral culture have survived and are embedded within the very culture the tribe claims today.

Indian tribes participation in the modern economic and political systems, have given rise to speculation that this participation results in loss of culture. The Klamath tribes and their casino both possess Facebook pages and a twitter account has been created to represent the casino as well. Does the use of social media take away from Klamath culture? Or does it simply take away from society's misconceptions of natives as the "pristine primitive" and the generalized single story of the Native American? Acushla Dee O'Carroll, a Maori tribe member and Fulbright scholar, researched the positive and negative effects of social networking sites for her tribe, and found that, "social networking sites enabled connectivity and engagement in meaningful ways through virtual connection". The Klamath tribes' Facebook page displayed information about community and cultural events that people might otherwise have not seen. It is in this way that the tribes' participation in the modern economy can result in the creation of things like a Facebook page, and they may be assets to cultural preservation rather than culturally toxic.

Society looks to written histories in order to understand past societies and their cultures, but we do not take into account the external sources of influence of that culture. Native tribes have been exposed to American hegemony for centuries and most tribes today look to their own written histories which only came into existence *after European contact*. This explains why the Klamath tribes' history is

mainly post 1850's. Therefore can we argue that any tribe is truly preserving their ancestral culture? Can it truly be argued that casinos have negative effects on tribal cultural preservation? My research did not answer these questions but I think they are important to think about for my analysis.

Policy and Political Issues

Tribal sovereignty is arguably one of the most important factors in cultural preservation. Issues of sovereignty are seen in, I believe, every Supreme Court case regarding Native Americans in the history of this country. In *Cherokee Nation v. Georgia* the special status of the relationship of Indian tribes to the United States was determined as, "that of a nation claiming and receiving the protection of one more powerful; not that of individuals abandoning their national character, and submitting as subjects to the laws of a master," and further goes on to describe their relationship as that of a, "ward to their guardian" and the tribes as "quasi-sovereign" (Wilkinson, 2001:143). What this means for the tribes is that they are subject to federal regulation. What this also means for the tribes is that they are not subject to state regulation unless explicitly dictated by the federal government or with agreement from the tribe. Later cases such as *Oneida Tribe of Indians v. State of Wisconsin* declared that Indian tribes could legally host games on their reservations, and preserved this aspect of Indian tribal sovereignty (Mullis and Kamper, 2000:16).

The use of tribal gaming and casinos in this way is promoting tribal sovereignty which is essential to cultural revitalization. Termination may have been devastating to the Klamath tribes' economy and tribal solidarity but with regained

recognition the Klamath tribes were quick to regain sovereignty, and part of, “tribal sovereign power is economic independence from the federal government” (Mullis and Kamper, 2000:15). Kla-Mo-Ya casino is a means to that economic independence. The casino reinforced their tribal sovereignty with further written legal documentation. In the section 2 findings of the compact between the state of Oregon and The Klamath tribes it states, “The State and Tribes are separate sovereigns and each respects the law of the other sovereign,” (Compact, 2002:3). Furthermore the compact reinforces the Klamath Tribes sovereignty to not pay taxes to the state of Oregon, due to its sovereign status, (Compact, 2002:26).

Due to Oregon’s state lottery, class I, II, and III, are all allowed in Oregon tribal casinos. The tribes do not need a license or compact with the state as requirements of those are inconsistent with their sovereign status but most tribes enter into tribal-state compacts to ease the process and limit future state intervention. Under section 5 of their tribal-state compact with Oregon the tribe grants ultimate jurisdiction to the State over criminal offenses committed by or against non-Indians or Indians when committed within the gaming facility. It also grants state law enforcement access to anywhere within the gaming facility at all times, and gives the state police the right to inspect any and all records pertaining to the operation of class III gaming at the cost of the tribe. This is not necessarily revoking any of the Klamath tribes’ sovereignty as Oregon is a Public Law 280 state which grants them concurrent jurisdiction with the tribe over tribal members in criminal and civil offenses. Most of the customers seen at the Kla-Mo-Ya casino are not tribal members so it makes sense for them to staff Oregon State police rather

than have to call them and hope they arrive in time as tribal enforcement are not legally allowed to arrest and detain non-tribal members (*Oliphant v. Suquamish Tribe*). The tribes also agreed to establish a charitable fund to be used for the benefit of the public within 90 days of the compact (Compact, 2002:44).

Gaming licensing has remained in the power of the tribe to issue. Taxation of gaming revenues is not explicitly noted but charitable donations are required of the tribe from its casino revenues (Compact, 2002). This allows the tribe to exercise its sovereignty through power of choice of which charities it wishes to donate to. The IGRA enforces what the revenues from the casinos need to be spent on, though it is up to the tribal government to allocate the resources in whichever manner they choose to the specified programs and institutions. This allows the tribes to use casino revenues to educate members and promote cultural revitalization as well as the health and general welfare of the tribe. The Klamath tribes are currently in the process of creating a plan for a cultural and heritage center for tribal members (Klamath Tribes, n.d.). Accounting information, as well as enrollment requirements were either not available on the internet or information reserved for tribal members only.

Economics

The Klamath tribes are one of many federally recognized tribes to seize upon the economic opportunity of Indian gaming. To some members this can mean a reversal of fortune and opportunity for economic success, yet for many members and non-members these casinos bring with them social conflict and cultural antagonism. The Kla-Mo-Ya casino revenues are secured solely to the tribe. These

revenues have undoubtedly influenced tribal functionality and government. Requirements of the IGRA have led to the use of casino revenues to greatly improve the lives of Klamath tribal members. In a 2011 Oregon Indian Gaming analysis it was found that 46% of gaming revenues went to Indian health care programs, 21% to family/social services, and 7% to education/job training (Whelan and Jensen 2012:19). The Tribes have expended a lot of effort contributing and finding funds to be used for loans and grants available for tribal entrepreneurs, as well as funds for scholarships for tribal members (Buchal, n.d.). In 2006 the tribe amended their gaming ordinance to allow per capita payments of excess revenues to all tribal members (Foreman, 2006).

As stated earlier, land is one of the most important things to the Klamath tribes; it is a part of their past and present culture. A huge motivator in their economic endeavors is to reacquire land once considered under treaty to be part of the Klamath Reservation. In a press release on August 28, 2008 Tribal Chairman Joe Kirk announced the purchase of a 108 acre area known as the Crater Lake Mill site,

"This private land was part of the Tribes¹ former reservation before we were terminated in 1956 by the federal government. We will create a 'Green Enterprise Park' at this location. The Park will focus on the development of forest-based enterprises that can utilize small diameter trees and other by-products of wildfire hazard reduction treatments and other forest restoration activities. Enterprises being evaluated for the site include a bundled fire wood

business, the manufacturing of wood chips, small diameter poles and posts, juniper products and green houses.”

This site is not only a good example of the tribes’ economic diversification efforts but also shows their environmental sustainability efforts. The Klamath Tribes have diversified their assets through purchasing several different land areas and promoting individual tribal businesses such as with entrepreneurial grants as stated above.

The revenues from the Kla-Mo-Ya casino have been used to contribute to the non-tribal community as well. I was unable to find a specific number for Kla-Mo-Ya casino but Whelan and Jensen (2011) found that, “In 2011, the economic activity from tribal gaming generated approximately \$23.9 million in state income tax revenues (not including gaming regulation). This represents 66 percent of the total \$36.1 million in revenues to the State of Oregon resulting from tribal gaming and government activities”(23). These tax revenues contribute to funds used for economic endeavors of the state of Oregon which benefit tribal members and non-tribal citizens alike. “We help each other, We will live good”, the mantra of the Klamath tribes, is expressed in its use of casino revenues to help community members outside of the tribe.

One of the five specified revenue delegations in the IGRA allows for use of casino revenues, “to fund government operations or programs,” which includes the expansion of tribal government, and funds available for use of legal counsel. Recently the Klamath tribes have shown this expansion in politics, they are currently in a battle over water rights in the Klamath Basin as water levels fall

below the agreed upon level in treaties. They fight not only for the preservation of their treaty agreements but for the sustainability of the environment as these low levels hurt wildlife and fish as well (Ratliff 2006). Water and environmental health are both important cultural components for the Klamath tribes.

Unfortunately, casinos do come with a plethora of downsides, including gambling addiction, issues of the environment, community dissent, and criminal activity. Oregon is one of the most heavily regulated states for these things, and tribal casinos are eager to help stop them. Oregon tribes pay for nearly three-quarters of all the regulatory activity done in the state on gaming even though their casinos account for less than 33 percent of the gaming done (Whelan and Jensen 2012;12). While researching on the tribe's website and the casino's website I found little about preventing addiction to treating it. I found a link on their tribal page to the gaming commissions' website and nothing on their casino website. Searching through their media pages I found most players featured to be older, and mainly Caucasian, with no immediately apparent tribal affiliation. Community dissent was not something I found much of other than a few yelp reviews from angry spouses of people spending more money than they should have at the casino.

Conclusion

The Kla-Mo-Ya casino has proven to be an essential enterprise for the Klamath tribes' economic and political growth. The use of its revenues are used to improve the lives of its members through funding important tribal programs, scholarships, grants, and per-capita payments to tribal members. The modernization of the tribal government has allowed for increased sovereignty as

the legal playing field is leveled. While arguments against Indian casinos are prevalent, I argue that before speculations of “culture loss” due to casinos are brought in to the conversation one must first identify the stereotypes and misconceptions embedded in the American belief system from our colonial history. As I stated earlier, culture is not static, it is ever-changing and should not be defined for a group of people based on lack of information, stereotypes, or notions of behavioral norms. If we as a society can reconstruct the native narrative and respect native communities as humans subject to a historically oppressed past and resurging continuous present, then perhaps we would not need to be researching tribal casinos in this way. If this paper were an assessment of the pros and cons of the gaming industry in general my results and opinions would be quite different. Casinos and culture do not need to be antonyms, and the Kla-Mo-Ya casino is proof of that. In this paper I have identified many ways in which the Kla-Mo-Ya casino is in fact supplemental to cultural preservation. Cultural revitalization can only be fully achieved through tribal sovereignty and tribes are finding that economic self-sufficiency is the way to increase and maintain that sovereignty. While it is true that certain capitalistic values can be inserted to compromise native culture in certain cases I have found that with the Klamath tribes the pros of this economic endeavor outweigh the cons. Termination had devastating effects on the tribes and their cultural preservation efforts. These effects are not reversible, but the tribes can rise to meet them. The Kla-Mo-Ya casino has brought hope back to a once hopeless tribe, through the revitalization of their language, reacquisition of reservation lands, and the return of members to the area. Culture is not static; it is ever changing and

encompassing. The Kla-Mo-Ya casino has certainly changed things for the Klamath tribes, perhaps including culture, but it can also be attributed to revitalizing and retaining culture, and re-educating members so that their culture will continue to survive, just as their people have.

References

- Brien, S. (1989). *American Indian tribal governments*. Norman: University of Oklahoma Press.
- Forman, A. (2006, April 24). amendappr042406. *National Indian Gaming Commission*. Retrieved December 2, 2013, from <http://www.nigc.gov/Portals/0/NIGC%20Uploads/readingroom/gamingordinances/klamathtribes/amendappr042406.pdf>
- Indian Gaming | Industry Overview. (n.d.). *Indian Gaming | Industry Overview*. Retrieved December 1, 2013, from <http://www.indiangaming.com/industry/>
- Mullis, A., & Kamper, D. (2000). *Indian gaming: who wins?*. Los Angeles: UCLA American Indian Studies Center.
- Oregon Blue Book: Klamath Tribes. (n.d.). *Oregon Blue Book: Klamath Tribes*. Retrieved December 2, 2013, from <http://bluebook.state.or.us/national/tribal/klamath.htm>
- Ratliff, P. (2006, February 8). Klamath Basin Water Crisis. *Klamath Basin Water Crisis*. Retrieved November 4, 2013, from <http://www.klamathbasincrisis.org>
- Robbins, W. (n.d.). Oregon History Project. *Oregon History Project*. Retrieved December 2, 2013, from http://www.ohs.org/education/oregonhistory/narratives/subtopic.cfm?subtopic_ID=171
- THE KLAMATH TRIBES ECONOMIC SELF SUFFICIENCY PLAN October 31, 2000 .

(2000, October 31). *Theklamathtribes.org*. Retrieved November 2, 2013, from <http://www.klamathtribes.org/background/ESPwebo3.pdf>

The Klamath Tribes | Home. (n.d.). *The Klamath Tribes | Home*. Retrieved December 2, 2013, from <http://www.klamathtribes.org/>

Whelan, R., & Jensen, C. (2011). ECONOMICS & FINANCE & PLANNING The Contributions of Indian Gaming to Oregon's Economy in 2011 and 2010. *ECONorthwest, 1*(ECONOMICS & FINANCE & PLANNING The Contributions of Indian Gaming to A Market and Economic Impact Analysis for the Oregon Tribal Gaming Alliance), 12, 19. Retrieved November 2, 2013, from <http://www.ctuir.org/gaming%20impact%20study.pdf>

Why do the Klamath Tribes call themselves Native Americans?. (n.d.). *Topix*.

Retrieved December 2, 2013, from

<http://www.topix.com/forum/city/chiloquin-or/TKNJ4BLS445MTTVA6>

Wilkinson, C. F. (2001). Selected United States Supreme Court Decisions. *Indian tribes as sovereign governments: a sourcebook on federal-tribal history, law, and policy*. (p. 143). Oakland, CA: AIRI Press. (Original work published 1988)

