

Myths & FACTS!

The truth about the

FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT



**FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE**

The First Nations Land Management Act (FNLMA) is the guiding document that First Nations become subject to

No, this is incorrect.

- The Framework Agreement on First Nation Land Management (FAFNLML) is the principle document
- It is the FAFNLML that is actively being implemented by First Nations and Canada.
- First Nations
 - Sign the FAFNLML
 - Ratify the FAFNLML through a community vote and
 - Implement the FAFNLML through their land codes
- The First Nation Land Management Act (FNLMA) only ratifies the FAFNLML.

The FAFNLML/Land Code will force First Nations members to relinquish their Indian Status

No, neither document affects eligibility for, or relinquishment of, Indian Status or Band Membership.

The FAFNLML/Land Codes create “Municipalities” of First Nations

No. Municipalities are creations of provincial law and subject to provincial legislation.

First Nations are not brought under provincial authority or made municipalities under the FAFNLML.

There is a “secret transfer” document that shifts responsibility to the province for First Nation lands

No. There is no such document. First Nations do not come under the jurisdiction of provinces through this process.

The FAFNLML/Land Code prevents First Nations from asserting Aboriginal Title over Lands

No. Aboriginal and treaty rights are not affected by the FAFNLML. First Nation ability to make Aboriginal Title claims to unceded or traditional lands are not changed.

The FAFNLM/Land Code is a land surrender

No. Land surrenders are prohibited under the FAFNLM.

- First Nations reassert control over their reserve lands and resources, and in no way surrender any rights or title.
- As a matter of Law, no document can be construed as a surrender of reserve lands without express words and a clear intention to that effect. No such wording or intention appears or has ever appeared in the FAFNLM.

The FAFNLM/Land Code facilitates the creation of Fee Simple title out of Reserve Lands

No. The FAFNLM forbids the creation of such title.

- First Nation Lands continue to retain the same protections as “Lands Reserved for the Indians” under section 91(24) of the Constitution Act, 1867.
- The First Nations Lands Advisory Board and the First Nations which have signed the Framework Agreement are strongly opposed to the proposal to create fee simple lands and passed a resolution in 2010 to this effect.

The FAFNLM/Land Code is about getting rid of lands reserved for the Indians

No. See above. No in fact the opposite occurs as follows:

- Lands retain section 91(24) status as defined by the Constitution Act
- Surrender for sale of reserve land is prohibited
- Expropriation of land by the province is prohibited
- Expropriation of land by the federal Crown is very restricted to a national public purpose, for as short a time as possible, with a reversion to reserve status after the use is over. In addition, other land of equal size and value is given reserve status. This results in an overall larger reserve.

The FAFNLM/Land Code is part of Canada’s Inherent Right - Self Government Policy

No. The FAFNLM was negotiated and completed before the creation of Canada’s Inherent Right Policy.

The FAFNLM/Land Code will create taxation

No, the FAFNLM does not deal with taxation.

The FAFNLM is an unstudied, unproven experiment with no statistics or tangible outcomes

No, there are many First Nations that have been operating under their own land codes for more than 22 years now.

- 82 First Nations in Canada have developed, approved and implemented their own land codes.
- A wealth of information and studies are readily available on the labrc.com website and the websites of most Operational First Nations.

The FAFNLM is a federal government program

No, it is a nation to nation agreement that is being implemented by First Nations and Canada.

The FAFNLM was a specific arrangement sought, developed and driven by First Nations as an alternative to the Indian Act lands provisions. The FAFNLM cannot be changed without First Nations consent or support.

Once a First Nation approves and implements its own land code, they can never go back to the *Indian Act* lands provisions

Yes, this is true.

Despite governance challenges of Operational First Nations, none have indicated a willingness to go back. For some First Nations, the land code has become part of broader self-government arrangements.

First Nations must develop all their laws before becoming operational under a land code

No. The main purpose of a land code is to establish mandatory community participation processes for the development and approval of laws over reserve lands, environment and resources. Creating the laws in advance would negate participation of community members.

The land code and its proposed law-making approach as well as other proposed rules must be agreed to by eligible voters on and off reserve in a ratification vote before it can be implemented.

First Nations must participate in Reserve Lands and Environmental Training (RLEMP) and complete RLEMP Training before becoming a signatory to the Land Management Framework Agreement

No. RLEMP training is not required or viewed as a prerequisite to a First Nation exerting its inherent right to govern its lands and resources according to their own traditions, laws or policies.

The First Nations Land Management Resource Centre provides practical and experiential *FAFMLM* and Land Code specific training modules for land, resource and environmental governance for signatory First Nations, but these are also not mandatory or a prerequisite.