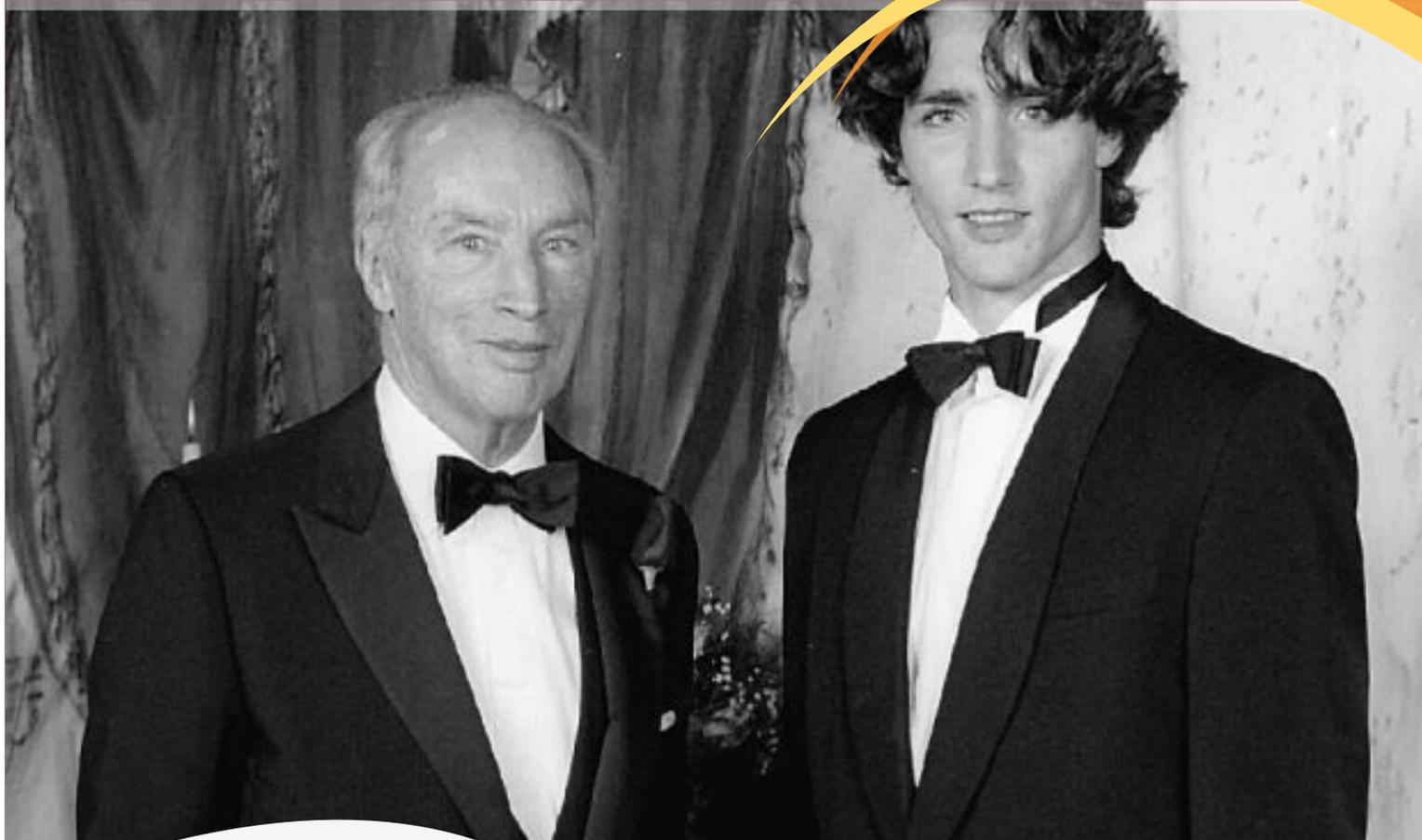


ELIMINATION OF INDIAN RESERVES



THE FIRST NATIONS LAND MANAGEMENT ACT TRUTHS vs. FALSEHOODS

WHITE PAPER 2.0



Left to Right (Back Row): Harold Calla, FNFMB, Robert Louie, LAB, Ernie Daniles, FNFA.

Sitting: Manny Jules, Chief Commissioner FNTC.

FEDERALLY CREATED NATIONAL INSTITUTIONS TO ASSIMILATE FIRST NATIONS INTO CANADA'S PROPERTY & TAX SYSTEMS

- NATIONAL ABORIGINAL LANDS MANAGER'S ASSOCIATION
- LANDS ADVISORY BOARD
- FIRST NATIONS LAND MANAGEMENT RESOURCE CENTRE
- FIRST NATIONS TAX COMMISSION
- FIRST NATIONS FINANCIAL MANAGEMENT BOARD
- FIRST NATIONS FINANCE AUTHORITY

SOME KEY PROBLEMS WITH THE FNLMA INCLUDE:

- Release of the Crowns Fiduciary Obligations for Reserve Land in Future.
- Adopts Corporate Model for Capitalizing on First Nation Lands and Resources.
- Fate of First Nation Tied to Canada's Market Economy.
- Taxation Inevitable with More Legislative Options Readily Available.
- Unknown Impacts for Provincial Laws of General Application.
- Inconsistent with Self-Determination, Indigenous Title and Inherent Rights.
- First Nations Opposition to the FNLMA Concept.
- Lowered Standards for Community Approval and Crown Release.

Is the Framework Agreement on First Nation Land Management (FAFNLMA) or FNLMA part of "Trudeau's White Paper 2.0"?

Yes, **White Paper 2.0** is the **Recognition and Implementation of Indigenous Rights Framework** announced by the PM in the House of Commons on February 14, 2018 and includes federal policies and laws forming a "Framework". Originally, the Trudeau government wanted a one window concept through a single law and proposed a First Nations, Metis, Inuit, pan-Indigenous Bill to be introduced into Parliament by December.

After disclosing an outline of the proposed "Rights Recognition" Bill in September, which had the goal to remove bands from the Indian Act and turn them into federally recognized "Indigenous Governments" or "Nations" that would have authority delegated to them by the Government of Canada and be subject to the Canadian Constitution as a 4th order of government—below not only the federal and provincial governments, but also with less status and power than municipal governments, Chiefs from across Canada immediately rejected the proposed Bill and Minister of Crown-Indigenous Relations, Carolyn Bennett said in November it would be delayed until after the Fall 2019 federal election.

However, since last Fall the Trudeau government has proceeded to implement its **White Paper 2.0** "Framework" in pieces/components through legislative and policy changes disguised as "co-developed" using the co-opted Assembly of First Nations.

The **FNLMA (First Nations Land Management Act)** is alternative legislation that replaces 40 sections of the Indian Act that deal with lands and resources.

It delegates federal authority to allow Band Councils to lease reserve lands without the "red tape" of the Indian Act, allowing reserve lands to be used as capital in promoting economic development.

This legislative option frees the Government of Canada of any future responsibility, reducing federal expenditures and eliminating potential liabilities, while confirming the Crown's unproven assertion to hold the underlying title to reserve lands.

In December 2018, as part of Trudeau government's **White Paper 2.0** "Framework" **Onmibus Budget Bill C-86** became Law, buried in this Bill was legislation amending the First Nations Land Management Act to 1) reduce approval of bands opting into **FNLMA** from the Governor-in-Council to Ministerial level & 2) Give Band Councils control over lower land code voting threshold & 3) provides that monies transferred to a **FNLMA** First Nation cease to be Indian Monies (sec. 19(1)); First Nations Fiscal Management Act was also amended to allow more bands to opt into on-reserve taxation & borrow from a loan fund; **Bill C-86** also amended **Addition-to-Reserve** procedures.

There are many legal questions and implications with this new approach and there are no clear answers, as Canada and First Nations have been in conflict over the Inherent Right to Self-Government for many years.

The **FNLMA** is one component of a larger federal strategy to eliminate Indian Reserves and ultimately the Indian Act by convincing/coercing Bands into signing municipal type Self-Government Agreements or Modern Extinguishment Treaties under a new self-government funding policy that is based on "Own Source Revenue", which means all forms of Canadian taxation. **See section 45(4) of the FNLMA.**

COMPARISON OF LAND REGIMES

The Land Regimes Table to the right is from an April 29, 2019 Protected Federal Document called *"The First Nations Property Ownership (FNPO) Initiative: Summary & Analysis"*, released under an Access To Information Request.

FNPO=First Nations Property Ownership Initiative (Privatization of Reserves)
FNLMA=First Nations Land Management Act

Nisga'a=Comprehensive Land Claim
Sechelt=Self-Government Agreement
Tsawwassen=Comprehensive Land Claim

FNLMA SECTION 45(4) PROVIDES:

"The Minister may, by order, delete from Schedule 1 or 2 the name of a First Nation and delete from Schedule 2 the date on which a land code comes into force with respect to the First Nation's lands, if that First Nation is no longer subject to this Act under the terms of a land claims agreement or a self-government agreement."

FIRST NATIONS PROPERTY OWNERSHIP (FNPO) INITIATIVE HAS BEEN RENAMED BY THE CURRENT TRUDEAU GOVERNMENT AS THE INDIGENOUS LAND TITLE INITIATIVE- BUT IT'S STILL PRIVATIZATION OF INDIAN RESERVES!

STOP TRUDEAU'S ASSIMILATION CAMPAIGN



#WhitePaper2019
 #IdleNoMore

Honour Our Treaties & Nation-to-Nation Relationships

INDIGENOUS NATIONS ARE NOT CANADA'S 4TH LEVEL OF GOVERNMENT!!!

	FNPO		FNLMA		Self-Government	
					Nisga'a	Sechelt
Transfer of land to non-members	Yes- fee simple, leases, etc. (Can exclude all/parts of lands from non-member fee simple ownership)	Yes- long term leasehold interest can be held by non-members.	Yes.	Possible (but lands change from 91 to 92 lands.)	Yes.	
Taxation powers	Yes, under Section 83 of <i>Indian Act</i> or the FNFMSA.	Yes, under Section 83 of <i>Indian Act</i> or the FNFMSA.	Yes. Can tax Nisga'a members. For non-members can grant power to Canada / B.C. or coordinate regimes.	Yes. Interests in land for local purposes. BC agreed to suspend property tax collection.	Yes. Interests in land held by member and non-members. B.C. suspended property tax.	
Section 91(24) lands or Section 92 lands	91(24)	91(24) Section 88 of <i>Indian Act</i> applies	92. Underlying title is 100% with Province.	91(24), but becomes 92 if land is sold.	92 lands.	
Indian Act reserve land	Yes.	Yes.	No.	Yes.	No.	
Registry type (Torrens/Deed) and location: Provincial/Individual / ILR	Torrens Titles Registry for FNPO lands (operated outside department)	Deeds system under the First Nation Land Registry System (operated by AANDC)	Torrens / Individual Registry: Nisga'a Land Registry Office	Torrens / BC land title registry.	Torrens / BC land registry.	Torrens / BC land registry.
Section 89 (Indian Act) applicability / eligibility for mortgages and liens	Section 89 as it pertains to real property would not apply. Individuals can also waive sec 89 for personal property if leveraging for credit.	Sec. 89 applies and lands cannot be mortgaged or taken via legal process. Some land codes may permit mortgages on leasehold (locatee) interests.	Nisga'a has two registries: 1) fee simple, 2) restricted. Titles registered in the Fee Simple Registry can be mortgaged.	<i>Indian Act</i> land provisions continue to apply unless the land is sold and becomes 92 lands.	If not registered in the land titles office, land is not subject to seizure or sale unless allowed under Tsawwassen law.	
Section 87 (Indian Act) Section 35 (Indian Act)	Yes.	Yes.	No.	Yes, unless land is sold.	No.	
Voting Threshold (Community Ratification)	No. Converted to expropriation rights.	No. Converted to expropriation rights.	Converted to rights set out in Agreement.	Expropriation with GIC approval	Unknown	
Own Source Revenue (OSR) provisions	25% plus one of all eligible voters must in favour	25% plus one of all eligible voters must in favour	Absolute majority or approval of an alternative process to ratify by an absolute majority.	Absolute majority or approval of an alternative process to ratify by an absolute majority.	Absolute majority or approval of an alternative process to ratify by an absolute majority.	
Law-making powers for land administration	Cost-sharing and redistribution.	Cost-sharing principle	Yes	Yes	Yes	Yes

Do First Nations become "Municipalities" under the Framework Agreement on First Nation Land Management?

Not Immediately, but many bands who have entered into the **FNLMA** have proceeded to negotiate and sign onto **Self-Government Agreements**, or **Modern Treaties**, thereby opting out of the **FNLMA** in accordance with **section 45(4) of the FNLMA**, to become what Prime Minister Justin Trudeau calls a 4th Level "Indigenous government", lower in status than municipal governments.

Do Provinces gain any authority over First Nations through the Framework Agreement on First Nation Land Management?

Not Immediately, but as you can see from the Table above those First Nations who have entered into Modern Treaties have extinguished their Indigenous Title & Tax Exempt Status by privatizing their Reserves and their fee simple lands now come under provincial jurisdiction. If the Sechelt Band sells its lands they too will become provincial lands subject to property tax. Since the 1995 'Inherent Right' to Self-Government Policy there are now "Self-Governing Indigenous Nations" paying taxes.

In a recent Ontario example, the **Algonquins of Pikwakaganan Vote on Land Code Results are:**

Yes - 308 or 67.4%, No - 149 or 32.6%, 457 ballots were counted. 24% of members participated.

The threshold set by Pikwakaganan Chief & Council was 381 or 20%.

According to this low threshold the Land Code has been accepted by the membership, only 20% of voters were needed to turn out and a majority of those who did turn out to vote "yes" out of, according to them, is 1,905 eligible voters.

The **Algonquins of Pikwakaganan** are also involved in negotiating a Final Agreement under the **"Algonquins of Ontario" Modern Treaty process**, as well as a **Self-Government Agreement** to be included as part of the **Modern Treaty**.

Does the First Nations Fiscal Management Act Apply to Bands under the First Nations Land Management Act?

Not Immediately, but the **FNLMA** adopts a corporate model for capitalizing on First Nation lands and resources. The **FNLMA** represents a fundamental change in the objectives of the land management regime on the reserve, where the land holdings are collective in nature.

If you look at the lists of Bands under both the **FNLMA** and the **FNFMA** you will see many bands have opted out of the **Indian Act** and opted into both laws (**FNLMA & FNFMA**) to accept Canada's property and tax systems being applied to their people and their former Reserve land base.

INCONSISTENT WITH SELF-DETERMINATION, UNDRIP, AMERICA DECLARATION AND INDIGENOUS LAWS & JURISDICTION!

This **FNLMA** approach is inconsistent with the right to self-determination of Indigenous Peoples, as it is just another form of delegated authority from the federal government to First Nations that does not recognize the Inherent jurisdiction of Indigenous Peoples over Indigenous lands and resources.

It should be understood by First Nations members that all non-derogation clauses or stated assurances that Constitutionally protected rights will not be lost is false and ineffective protection against the impacts of the **FNLMA** or agreement.

It may well be that signing on to the **FNLMA** is a legal acceptance of its definition of "reserve land" as title held by the federal Crown for the use and benefit of specific Indians. It depends on the unique legal and historical circumstances of each case, but this acceptance of underlying Crown Title could be used to undermine the First Nations challenge to Canada's assertion of title over Indigenous lands.

FIRST NATIONS OPPOSITION TO THE FNLMA CONCEPT

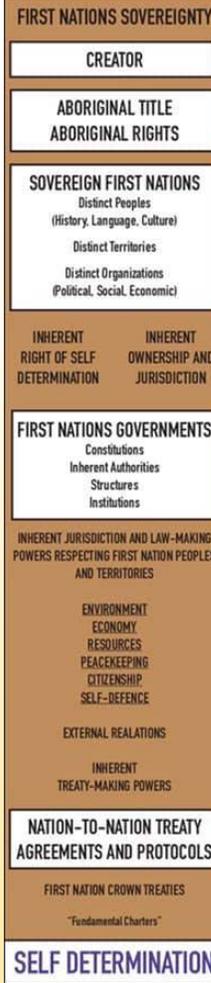
This option for land management was promoted with assistance from Canada, by a small group of 13 First Nations in the 1990's, which were located near urban centres and wanted to earn revenue from leasing lands for residential and business purposes without all the red tape required to lease reserve land under the **Indian Act**.

The majority of First Nations Across Canada opposed this approach and insisted it be made very clear that it was optional, applied only to those First Nations named in the Act and was not to be promoted by Canada as the main option available.

Since that time, Canada has amended the Act six times, making it easier and easier for First Nations to sign on, until this past December 2018, major amendments were made, lowering standards to the point where only a majority of those voting is required, unless the Band Council moves to raise the threshold.

Under the current Trudeau Government, the legislation has been pushed on a new generation of leaders who are unaware of the **FNLMA's** negative reputation as a "sell out" of Inherent Rights and just another form of delegated authority.

In the past two years Canada has committed \$145 million to attract over seventy First Nations to sign on and appears to be reducing other services available under the **Indian Act** for land management, actively promoting and steering unsuspecting First Nations to join this federal off-loading process.



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