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‘Articulation is power.’ Vuntut Gwitchin Elder¹
‘I think the best thing that happened to us First Nations of the Yukon was self-government.’
Former Chief of Carcross/Tagish First Nation²

Introduction

On January 24, 2012 over 800 First Nation Chiefs, youths, and Elders met in Ottawa, Canada for a Crown-First Nations Gathering to renew the historic relationship between the two parties. The summit built upon the important milestones of the administration of Prime Minister Stephen Harper (2006-present) by way of the National Apology in 2008 to former students of Indian residential schools and Canada’s signing of the United Nations Declaration on the Rights of Indigenous Peoples in 2010. The goal is to move forward based on treaties that recognize First Nations constitutionally enshrined inherent right of self-government. First Nations seek to affirm their jurisdiction, secure fair and sustainable funding to build effective governmental and institutional capacity, and advance new public and private sector partnerships (AFN 2012).

The Yukon, the westernmost and smallest of Canada’s territories, is a world leader in modern-day First Nation self-government. More than half of Canada’s formally recognized self-governing First Nations are found in the Yukon. In 1990, the Government of Canada, the Yukon Government, and what is now the Council of Yukon First Nations (CYFN) signed an Umbrella Final Agreement to establish an innovative model for Aboriginal self-government in the territory (Alcantara 2007; Cameron and White 1995). Since that time, eleven of the Yukon’s fourteen First Nations have successfully negotiated comprehensive land claims and self-government agreements that provide them with an impressive array of formal powers, the scope of which are unprecedented in Canada and perhaps the world. The agreements transformed the former Indian Act bands into self-governing First Nations. In terms of territorial rights, self-governing First Nations in the Yukon enjoy surface as well as sub-surface rights to much of their settlement lands, including mineral, oil, and gas rights (CYFN and YTG 1997, 11). Self-governing First Nations also have the jurisdictional authority to pass their own constitutions and laws, including the right to determine citizenship, and to assume full legislative and delivery responsibilities for their own programs and services if and when they so desire. In matters of general application, First Nation law takes precedence over Yukon law (Cameron and White 1995). In short, the governing power of Yukon First Nations is very much comparable to that of provincial and territorial governments in Canada. They are a new order of government. The objective of this chapter is to explain how they did it.

Why were Yukon First Nations able to achieve such a substantial degree of self-governing powers? The chapter refutes the notion that the case of First Nation self-government in the Yukon is an anomaly, based on conditions of geography, timing, and context that cannot be
The chapter begins with an examination of the indigenous demand for autonomy and the debate surrounding self-government in Canada. This section also examines early efforts on the part of Yukon First Nation leaders to press their claims with the Canadian government that eventually led to the formation of the Council for Yukon Indians (CYI). The CYI, which has since changed its name to the Council of Yukon First Nations, is a not-for-profit organization comprised of Aboriginal and non-Aboriginal professionals registered under the territory’s Societies Act (CYFN 2005). The remainder of the chapter focuses on the central role of the CYI in negotiating the Umbrella Final Agreement with the Canadian government on behalf of the Yukon’s Aboriginal peoples. Particular attention is paid to the objective and practice of mediation. The central goal of the CYI was to secure a land base for Yukon First Nations as a foundation for self-government. It sought to achieve this objective by aggregating the interests of the fourteen First Nations at the regional level in a context where First Nations have a history of distinct identities, and a desire for self-government along these distinct lines. To be effective, the CYI had to engage in a mode of interest mediation akin to diplomatic relations between the various First Nations as well as the federal, and later territorial, governments. The chapter concludes with a brief assessment of the current challenges faced by the Council of Yukon First Nations after having successfully accomplished its mandate. The chapter suggests that empowerment can be a double-edged sword for intermediaries, who may find themselves shutout by some of the very groups they once served.

The Demand for Autonomy

Autonomy is the articulating claim of indigenous peoples around the world. The demand for autonomy centers on the call for greater self-determination and self-government within indigenous territories. The Canadian state has historically assumed a fiduciary role with regard to the nation’s Aboriginal peoples. Regarded as wards of the state, the federal government has intervened in the daily affairs of Aboriginal communities to an extent unparalleled elsewhere on the continent (Maaka and Fleras 2005). The term ‘Aboriginal’ is both an identity and a legal category in Canada. According to the Constitution Act, 1982, section 35, Aboriginal peoples are Indians, Inuit, and Métis. Aboriginal peoples account for almost 4 percent of Canada’s total population. Based on the 2006 national census, 60 percent of Aboriginal respondents identified as Indians or First Nations, 33 percent as Métis, and 4 percent as Inuit. Subsumed within these
legislated categories are approximately forty to sixty distinct nations or peoples (Abele and Prince 2006). The *Indian Act* of 1876 serves as the key mechanism of federal policy over Aboriginal communities (McNeil 2001; Tully 1995; Turner 2006). The *Indian Act* defines who is a status Indian for government administrative and entitlement purposes. Status is conferred to Aboriginal peoples who are signatories or descendants of signatories to a treaty or party to some other exceptional administrative arrangement with the Canadian government. Legal status provides Aboriginal peoples with special rights and benefits, including the right to live on reserve lands, limited tax exemptions, and certain health and education benefits (Abele and Prince 2003). Many Aboriginal peoples do not have status. Federal policy denies any special rights to non-status Indians. The legal distinction between status and non-status Indians tends to reinforce political divisions amongst Aboriginal peoples (Papillon 2008).

Paradoxically, the federal government’s attempt to terminate its special relationship with Aboriginal peoples in the late 1960s stimulated indigenous political mobilization in the country. Prime Minister Pierre Trudeau (1968-1979; 1980-1984) held the view that individual rights should form the basis of a free country. As such, he sought to constitutionally eliminate collective rights based on ethnicity, religion, gender, or shared language (McComber 2007). Although this move was intended to undermine the separatist movement in Quebec, it sparked resistance among First Nations. The White Paper of 1969 put forward by then Minister of Indian Affairs, Jean Chretien, sought to abolish the *Indian Act*, dismantle the Department of Indian Affairs, and eventually eliminate treaty privileges and status in an attempt to assimilate Aboriginal peoples into the dominant society (Ladner and Orsini 2003; Lindau and Cook 2000). The backlash generated by the proposed piece of legislation galvanized a new generation of Aboriginal leaders to press for greater protection of Aboriginal rights. It was within this context that the modern-day self-government movement arose (Belanger 2008). Aboriginal peoples have used the courts and the language of rights to assert their claims. Scholtz (2006) has suggested that the combination of Aboriginal political mobilization alongside landmark court rulings shifted Canada’s policy terrain toward negotiation. Most notably, the 1973 ruling by the Supreme Court of Canada, known as the *Calder decision*, forced the government to reconceptualise its political relationship with Aboriginal peoples as sovereign and self-determining peoples or nations as opposed to dependent wards. The ruling ultimately led to the key revisions in the *Constitution Act*, 1982 that formally recognized and affirmed Aboriginal and treaty rights, including the inherent right of self-government.

The position of the Council for Yukon Indians (CYI) represented a significant breakthrough in terms of the conceptualization of self-government in Canada. The CYI asserted the importance of establishing a land base before becoming self-governing. Belanger and Newhouse (2008, 6) argue that this was the first time in Canada that the link between land and self-government was clearly made. For Yukon First Nations, economic self-sufficiency is the key to community well-being. It opens the door to political independence. This multifaceted vision of self-government became the minimum requirement of the CYI in its talks with the federal government (Coates and Morrison 2008, 106). According to Chief Joe Linklater of the Vuntut Gwichin First Nation, ‘...we had never, ever lost self-government. We simply re-instated it. Our Elders know implicitly what the issues of governance are and what it takes to have that level of authority and
responsibility at the same time.\textsuperscript{3} Aboriginal peoples in the Yukon represent a significant minority of the territorial population, estimated in 2006 at 7,580 individuals or 25 percent of the territory’s total population.\textsuperscript{4} Since the 1898 Klondike Gold Rush that brought a massive influx of outsiders to the territory, Yukon First Nations have struggled for control over their lands and lives. In 1902, Chief Jim Boss of the Ta'an Kwäch’än First Nation wrote in a letter to the Superintendent General of Indian Affairs in Ottawa stating, ‘Tell the King very hard, we want something for our Indians because they take our land and game’ (CYFN 2005, 1). The response from Ottawa was a promise that the police would protect his people and their land from intruders. This exchange of letters is regarded as the first attempt at land claim negotiations in the Yukon.\textsuperscript{5}

In 1973, Chief Elijah Smith of Kwanlin Dün First Nation renewed the call for increased First Nation control over their territories and affairs with the publication of the visionary document, \textit{Together Today for our Children Tomorrow: A Statement of Grievances and an Approach to Settlement}. Chief Smith was the founding president of the Yukon Native Brotherhood (YNB), an organization that represented status Indians (CYFN 2010; Johnston 2011; Joseph-Rear 2011). A delegation of Yukon Chiefs traveled to Ottawa to present the document to Prime Minister Trudeau and his Minister of Indian Affairs. In a speech to the Prime Minister, Chief Smith stated:

\begin{quote}
This is the first time the leaders of the Yukon Indian people have come to the capital of Canada. We are here to talk about the future. The only way we feel we can have a future, is to settle our land claim. This be a future, that will return to us, our lost pride, self-respect, and economic independence. We are not here for a handout. We are here with a plan.\textsuperscript{6}
\end{quote}

At that time, the Yukon Association of Non-Status Indians (YANSI) also submitted a settlement proposal to the federal government on behalf of its members. Together, the Chiefs were able to convince the federal government to negotiate a land claim agreement with the Yukon First Nations. In 1975, the Council for Yukon Indians (CYI) became formally incorporated as a non-governmental organization with an official mandate to negotiate and complete a Yukon land claim on behalf of the fourteen First Nations with the Government of Canada (Jensen 2005). The CYI provided the political front and powerful voice that the Yukon First Nations would need to succeed.

The outcome of land claims negotiations may be subject to myriad factors, including the relative bargaining strength of the parties involved, the quality of leadership, a favorable political and legal context, the commercial value of the territory in question, and its proximity to urban centers (Morse 2008). As Alcantara (2007) has noted, the comprehensive land claims process places First Nation peoples in a weaker position relative to that of the government by forcing them to adopt western forms of knowledge, discourse, and standards of proof to satisfy formal rules and procedures. It is here that the role of interest mediation by a third party becomes paramount to secure a positive outcome; as a positive outcome depends on the ability of weaker actors (First Nations) to influence the stronger actors (federal and
provincial/territorial governments). In the case of the Yukon land claim negotiations, the Council for Yukon Indians managed to tip the scales in favor of the First Nations by effectively brokering their interests.

**Mediation and the Council for Yukon Indians (1975-1995)**

The Council for Yukon Indians (CYI) was born out of the document *Together Today for our Children Tomorrow* (1973). The document proposed a substantial governance role for a central authority that would deliver programs and services to First Nation communities until which time they could be transferred to the local level. A centralized First Nation governing body was viewed as necessary to overcome the potential capacity problems within the individual communities (CYFN 2005; Fred 2005). In keeping with the spirit of unity, the CYI believed that it needed to represent all Yukon First Nation peoples, regardless of their status under the *Indian Act*. The federal government was only willing to negotiate in the interests of status Indians. The government was also resistant to the idea of establishing separate self-governing First Nation communities (Coates and Morrison 2008, 109). In 1980, the Yukon Native Brotherhood joined forces with the Yukon Association of Non-Status Indians in an effort to bolster the CYI’s mandate to negotiate a regional accord that would provide the basis for self-government in the north (CYFN 2010). The newly amalgamated CYI continued to serve as the chief negotiating body for the Yukon First Nations while assuming the program and service delivery responsibilities and political representational role of the two parent organizations. According to former Chief Doris McLean of Carcross/Tagish First Nation, ‘[t]hen came a time when we amalgamated and realized to go anywhere we had to be gathered, to be united and...go for it.’

The CYI worked to create a strong collective political identity that would further First Nation interests in the negotiation process, but that would not undermine community-specific goals and priorities.

Throughout the 1980s, during the height of the CYI’s political authority, the organization counted on more than one-hundred employees and a budget of approximately $350,000 a year in core funding from the federal government to support its operations (CYFN 2005, 10). An elected chair and four vice-chairs headed the CYI. Each were elected for two-year terms through a territorial-wide First Nation-by-First Nation vote. The vice-chairs were responsible for the following areas: land claims; economic development; social programs; and finance. A General Assembly composed of First Nation representatives provided the CYI with direction.

Land claim negotiations were conducted initially as a two-way exchange between the federal Minister of Indian Affairs and Northern Development and the Council for Yukon Indians. In 1979, the territorial government became a party to the negotiations following recognition of that government as an independent ‘junior province’ with legislative and executive functions in the hands of the elected Members of the Legislative Assembly. In that year, the territory achieved status as a representative and responsible government and evolved into a ‘proto-province’ with a significant degree of political autonomy (Cameron & White 1995). The CYI counted on the participation of strong, capable First Nation leaders, such as Dave Joe, in the negotiation process. Joe, the first Aboriginal lawyer admitted to the Yukon Bar, served as the Chief Negotiator for the CYI from 1977-1984 (CYFN 2005). The CYI’s influence during this period
extended to the national level where it played a key role in the development of provisions in Canada’s Constitution Act, 1982 pertaining to Aboriginal self-government.

In January 1984, a tentative agreement was reached between the federal government, the territorial government, and the CYI. The agreement provided Yukon First Nations with a settlement of approximately $620 million to be paid over twenty years and 20,000 square kilometres of land. However, the agreement contained an extinguishment clause under which First Nations would be required to relinquish existing and possibly existing land rights to their remaining territories. The agreement also proposed a limited form of self-government in which First Nations would sit on boards and committees in an advisory capacity to the Yukon Territorial Government, but the government would have final say on all matters. The minimal self-governing powers afforded by the agreement contravened the notion of self-government held by First Nations as well as that put forward by the Parliamentary Task Force on Indian Self-Government chaired by Member of Parliament Keith Penner the year prior. The Penner report recommended the recognition of First Nation peoples as a distinct, constitutionally recognized order of government within Canada with a wide range of powers (Belanger and Newhouse 2008). The tentative agreement went before the General Assembly of the CYI in August 1984 and was rejected by the membership based on five points: the extinguishment clause; the failure to recognize and affirm subsistence hunting; the land selection process; control over lands; and the failure to recognize non-status Indians. When the CYI remained firm in its decision not to accept the agreement in the face of continued pressure by the federal government, talks between the two sides broke off. According to former Chief of the Teslin Tlingit Council, Sam Johnston, a key lesson of the negotiation process was to ‘read the small print too. And if it’s not quite what you want, you wouldn’t sign it.”

The rejection of the 1984 tentative agreement by the Council for Yukon Indians was a critical moment in the struggle for self-government. It represented the depth of the CYI’s commitment to the type of self-government envisioned by First Nation communities and the unwillingness to waver on the part of Yukon First Nations. As a third-party mediator, the CYI recognized the importance of working with institutional allies and taking advantage of favorable political junctures. When the Yukon New Democratic Party (NDP), Canada’s left-of-center social democratic organization, came to power as a minority government in 1985 under the leadership of Tony Penikett, an advocate of Aboriginal and workers’ rights, the CYI seized the opportunity to re-initiate negotiations. In 1988, the Yukon Territorial Government, the CYI, and the federal government reached a new agreement-in-principle. The new agreement provided for $242 million to be paid to First Nations over fifteen years, approximately 25,900 square kilometres of land, and the development of a transformational model of self-government. Although the new agreement provided far less compensation money, the promise of self-government led to its ratification by First Nation communities. After the 1989 territorial elections, the NDP formed a majority government with Penikett as Premier, the first Yukon government leader to take this title.

In 1990, the three parties signed the Umbrella Final Agreement (UFA). The UFA provided the framework within which each of the fourteen Yukon First Nations could negotiate a First Nation
Final Agreement (FNFA) that would include a range of common shared provisions as well as specific provisions unique to each First Nation. The FNFAs are highly significant as they are constitutionally protected legal agreements between the Government of Canada, the Government of Yukon, and the individual First Nation that may only be amended with the consent of the three parties (CYFN and YTG 1997). The signing of the individual First Nation Final Agreement marked the conclusion of the treaty negotiation process for that First Nation. By 1993, four First Nations had reached their final agreements: the First Nation of Na-Cho Nyäk Dun in Mayo, Champagne and Aishihik First Nations in Haines Junction, the Vuntut Gwitchin First Nation in Old Crow, and the Teslin Tlingit Council in Teslin. By 1998, the Little Salmon-Carmacks First Nation in Carmacks, Selkirk First Nation in Pelly Crossing, and Tr’ondëk Hwëch’in First Nation in Dawson City had signed their agreements and become self-governing First Nations. In 2002, the Ta’an Kwäch’an Council in Whitehorse signed its agreement. In 2003, the Kluane First Nation in Burwash Landing reached its final agreement. By 2005, the Kwalin Dün First Nation in Whitehorse and the Carcross/Tagish First Nation in Carcross had finalized their agreements. Three First Nations have yet to conclude land claims and self-government agreements: White River First Nation, the Liard First Nation, and the Ross River Dena Council.14

Yukon First Nation Final Agreements set out the tenure and management of settlement land as well as the rules regarding use of non-settlement land. On Category A settlement land, First Nations have ownership of the surface and subsurface. On Category B settlement land, First Nations have only the right to use the surface of the land. While First Nations do not have ownership of sub-surface minerals, oil, and gas on Category B land, they do have the right to take and use certain specified substances without payment of royalties (CYFN and YTG 1997, 3). The combined total in square kilometres of Category A settlement lands allocated to First Nation communities is equivalent to 5.4 percent of the Yukon land mass (see Table 1).15 The Vuntut Gwitchin First Nation, the Yukon’s northernmost rural community, received the largest Category A land settlement in the negotiation process. It was also one of the first to reach its final agreement. The urban-based First Nations located in the capital city of Whitehorse, Ta’an Kwäch’an and Kwanlin Dün, received comparatively small land allocations given their proximity to the urban core, and were some of the last First Nations to finalize their agreements. Although Aboriginal title is ceded, released, and surrendered (as opposed to extinguished) on non-settlement land, Yukon First Nation peoples retain considerable subsistence rights to crown land as well as the right of access to their traditional routes (CYFN and YTG 1997, 14).

Table 1: Allocation of Yukon First Nation Settlement Land by Square Kilometre under the Umbrella Final Agreement (1990)

<table>
<thead>
<tr>
<th>First Nation</th>
<th>Category A*</th>
<th>Category B**</th>
<th>Combined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carcross/Tagish</td>
<td>1036.00</td>
<td>518.00</td>
<td>1,553.99</td>
</tr>
<tr>
<td>Champagne and Aishihik</td>
<td>1230.24</td>
<td>1,165.49</td>
<td>2,395.74</td>
</tr>
<tr>
<td>Kluane First</td>
<td>647.50</td>
<td>259.00</td>
<td>906.50</td>
</tr>
<tr>
<td>Kwanlin Dün</td>
<td>647.50</td>
<td>388.50</td>
<td>1,036.00</td>
</tr>
</tbody>
</table>
Liard 2,408.69 2,330.99 4,739.68
Little Salmon/Carmacks 1,553.99 1,036.00 2,589.99
Na-Cho Nyäk Dun 2,408.69 2,330.99 4,739.68
Ross River Dena Council 2,382.79 2,330.99 4,713.78
Selkirk 2,408.69 2,330.99 4,739.68
Ta’an Kwäch’an 388.50 388.50 777.00
Teslin Tlingit 1,230.24 1,165.49 2,395.74
Tr’ondëk Hwëch’in 1,553.99 1,036.00 2,589.99
Vuntut Gwitchin 7,744.06 0 7,744.06
White River 259.00 259.00 518.00

TOTAL 25,899.88 15,539.93 41,439.81

*Category A: Yukon First Nations have complete ownership of the surface and sub-surface.
**Category B: Yukon First Nations have complete ownership of only the surface.

A Self-Government Agreement (SGA) accompanies the First Nation Final Agreements. The SGAs are not constitutionally protected documents. The SGA outlines the powers, authorities, and responsibilities of the individual First Nation governments in such areas as taxation, municipal planning, and the management and co-management of land and resources. The Self-Government Agreement also provides for funding in support of program and service delivery at the First Nation level. As Coates and Morrison (2008) point out, the agreements are flexible in the sense that Aboriginal authorities are not required to assume any or all of the governing powers available to them nor are there timelines imposed on the transfer of federal or provincial/territorial responsibilities to First Nation governments. The agreements are also multidirectional, meaning that self-governing First Nations can accept those powers when they deem appropriate but can also return them to the territorial or federal government if needed. Under the SGA, a First Nation has the power to make and enact laws with respect to their lands and citizens. First Nation lawmaking powers are not subject to those of the other governments. According to the legal counsel for the Government of Yukon in the negotiation of the Umbrella Final Agreement:

...when we were negotiating that [the displacement model] we actually thought...we, being Yukon Government, is this what we want? Are we willing to take that risk that the First Nations will have laws that we don’t like and don’t want...? And we just came to the conclusion that...that’s what happens when you deal with another government. You’re not always going to agree. And governments have the right to make laws in respect of their people and in respect of their land that make sense for them, even if it’s not what we might want.17

The various governments work together through a local body called the Yukon Forum to avoid duplication of services and programs and ensure that the needs of all of the territory’s citizens
are met. In matters of federal policy, an intergovernmental forum brings together the Minister of Aboriginal Affairs and Northern Development along with the Yukon Premier and the First Nation government leaders. The completion of the First Nation Final and Self-Government Agreements has fundamentally altered state-society relations in the Yukon.

Self-governing First Nations have their own governing structures. First Nation constitutions establish both a legal and moral authority to govern as well as set out the membership code, governing bodies, and the rights and freedoms of their citizens. While some communities have adopted more liberal democratic institutions and arrangements, others have opted to reintroduce elements of the traditional clan-based system into their governing structures. For example, the Kwanlin Dün First Nation has five separate branches of government: the General Assembly, Elders Council, Youth Council, Judicial Council, and an elected Chief and Council. The government of the Carcross-Tagish First Nation is structured on a clan system. The Constitution of the Ta’an Kwäch’än Council establishes five branches of government, but also recognizes six traditional families and provides for their representation in the General Assembly, the Board of Directors, and the Youth Council. The cultural foundations of Aboriginal governance are not without controversy. As De la Torre (2010, 224) warns us, culture-based political and decision-making processes may not take into account the economic, gender, educational and power differences among individuals within communities or the way in which consensus-building approaches may mask coercive mechanisms that punish those who dissent. Coates and Morrison (2008, 117) have suggested that even though self-government that is rooted in traditional philosophies and practices may not be democratic in the liberal sense, they seem to serve the needs of the communities well by helping to educate Aboriginal youth in the traditional ways, broadening community debates, and providing for greater potential inclusion in government. In all instances, the citizens of self-governing First Nations are not precluded from asserting their rights as Canadian citizens.

**Aboriginal-State Relations and the Council of Yukon First Nations**

The achievement of First Nation self-government in the Yukon was the first step in the process of Aboriginal community empowerment. The successful conclusion of the negotiation process brought to the surface the underlying tension within First Nation communities over the demand for local autonomy and the need for a central governing authority. Yukon First Nations have long preferred a more focused, community-specific approach to self-government as opposed to the incorporation of multiple communities into a single governance structure (Coates and Morrison 2008, 108). In 1990, after the finalization of the Umbrella Final Agreement, the General Assembly of the Council for Yukon Indians voted to undertake a series of community consultations to determine the future of the organization. First Nation communities were clear in their message that self-government authorities were to rest with each First Nation. The consultations led to a process of downsizing and restructuring of the CYI. The chair was reappointed on a temporary basis and the four vice-chair positions were eliminated. A special meeting of the General Assembly in 1994 produced even more resolutions to downsize the organization and transfer much of its power and resources to the individual First Nation governments. The membership felt that a large, powerful central body would stifle the local
exercise of power (CYFN 2005, 8). The CYI was reconstituted by its membership as a land claims implementation office. While the achievement of self-government required First Nation peoples to create a collective political identity, their success allowed them to unbundle this political unity in a way that would lead to their emancipation.

In 1995, the CYI attempted to reclaim its mediator role. A new constitution was drafted and put before the General Assembly. The constitution proposed that the organization be re-named the Council of Yukon First Nations (CYFN). It also advanced a bold new organizational vision. The CYFN would become a governing body, whose power and authority would be derived from those of its members (CYFN 2010). In other words, based on its delegated authority, the CYFN would enjoy a government-to-government relationship with the federal and territorial governments.\(^{22}\) The political structure of the CYFN was re-organized around the office of the Grand Chief, to be elected by the members of the General Assembly for a three-year term to act as the leader and spokesperson for the organization. Eleven of the Yukon’s fourteen First Nations accepted and signed the new constitution. Three First Nations refused to become members of the CYFN: the Kwanlin Dün First Nation, Liard First Nation, and the Ross River Dena Council. The Kwanlin Dün First Nation has assumed its own political representational role, while the Liard First Nation and the Ross River Dena Council generally seek representation through the Kaska Dena Council, a society that advances the interests of the Kaska Dena peoples (MacDonald 2005).

Most recently, the Vuntut Gwitchin First Nation decided to withdraw from the CYFN. As stated by a representative from the Vuntut Gwitchin First Nation Government, ‘[t]hey have nothing to offer us. Vuntut is a self-governing nation; we can do things on our own.’\(^{23}\) According to a press interview with Chief Joe Linklater of the Vuntut Gwitchin First Nation, the First Nation severed ties with the central organization to make it clear to the other levels of government who represents the political interests of the Vuntut Gwitchin people (Tobin 2008). The First Nation balked at the trend in the CYFN to assume greater political influence in areas deemed the responsibility of the individual chiefs of the self-governing First Nations. In particular, Chief Linklater cited concerns over a trip by the executive director of the CYFN to Ottawa during preparations by the Vuntut Gwitchin First Nation to renegotiate its financial transfer agreement with the federal government. The CYFN was seen as interfering in the internal affairs of the First Nation.

Currently, the CYFN is a central body that represents the shared interests of ten Yukon First Nations. In contrast to the individual First Nations, the CYFN does not have constitutional standing. In cases of conflict over representational claims, the individual First Nations have the upper hand. The organizational motto of the CYFN has evolved from that of ‘Together today for our children tomorrow’ to ‘Together today supporting First Nations Governments for empowered people.’\(^{24}\) At times, the CYFN coordinates with the Yukon Government in matters pertaining to the implementation of the Umbrella Final Agreement. It also acts an ambassador, representing the Yukon First Nations at the national and international levels. In 2002, the federal government slashed the core funding for the CYFN. At present, the Council has less than thirty-five employees and operates on a budget of only $170,000 (CYFN 2005, 10). On-
going tensions between the CYFN and its members over their respective roles, responsibilities, authorities, and powers have caused the organization to enter into a period of uncertainty.

Conclusion

This chapter has attempted to explain how Yukon First Nations achieved self-government. Conventional explanations have emphasized the favorable political and legal context, the availability of institutional allies, and the geographic remoteness of the First Nation communities involved as key factors in the successful negotiation process. Instead, I have argued that it was the actors themselves who made the difference. The strength of the Yukon First Nations has been their collective political voice and vision with respect to the demand for territory and autonomy. The Council for Yukon Indians (CYI) played a central role in relaying this message to the state. Important democratic outcomes of the twenty-year negotiation process include persuading the federal government to shift its policy to better accommodate the needs of the Yukon First Nation peoples in such areas as sub-surface land rights, incorporating the interests of non-status Indians into the negotiation process, and obtaining the model of self-government envisioned by Yukon First Nation communities (CYFN 2005). The CYI accomplished its mandate of 1975. It has been an effective mediator on behalf of First Nation communities. Nevertheless, the CYI’s capacity to unify the interests of the Yukon’s fourteen First Nations and to centralize authority in itself has worked against the organization in the post-1995 period. First Nation unity was not intended to come at the expense of individual community interests and identities. As the CYI’s foundational document described, the creation of a central authority was envisioned as a stepping-stone along the path to community empowerment. The evolution of the CYI into the Council of Yukon First Nations and its assumption of governing power have driven a wedge between self-governing First Nations in the Yukon.

The right of First Nation peoples to govern themselves is recognized by both international and domestic law in Canada. First Nation governments are emerging democracies. As such, they face numerous obstacles to realizing their potential. The challenge now lies in the effective implementation of the First Nation Final and Self-Government Agreements. First Nation governments and the Yukon Government often find themselves at odds over jurisdictional and financial matters. This tension has heightened in the context of uncertain federal funding and policy directions (White and Cameron 1995). CYFN Grand Chief Ruth Massie has suggested that an important next step would be for First Nations to participate in greater numbers in the electoral process in order to have allies in positions of power within the Yukon Government.25 Collaboration between First Nation governments would help to achieve economies of scale as well as facilitate best practices in Aboriginal self-government. The CYFN has the capacity to address many of the gaps in governance and institutional capacity that currently exist within Yukon First Nation communities. However, it needs to do so by finding new and supportive ways to enhance First Nation autonomy. There is an additional order of government in the Yukon that needs to be respected by the public government and by third party mediators. In the words of the Executive Director of the Champagne and Aishihik First Nations, ‘We are simply taking our place.’26
References


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1. Darius Elias, Vuntut Gwitchin First Nation MLA for the Liberal Party. Author interview, Whitehorse, June 14, 2012. The quote is from the interviewee’s grandmother, who convinced him to get involved in partisan politics.
5. It was exactly one hundred years later, in 2002, that the Ta’an Kwäch ’än First Nation signed their final land claim and self-government agreements. See http://www.taan.ca/history1.html.
8. Prior to 1979, the Yukon Territory was administered by a commissioner appointed by the federal Minister of Indian Affairs and Northern Development. It had a limited form of government that fell under Ottawa’s direction.
12. Liz Hanson, NDP Caucus Leader and MLA for Whitehorse Centre. Author interview, Whitehorse, June 13, 2012.
22. Ruth Massie, Grand Chief of the CYFN. Author interview, Whitehorse, June 5, 2012.
25. Ruth Massie, Grand Chief of the CYFN. Author interview, Whitehorse, June 5, 2012.